

janitorial services within ten (10) days after Subtenant's receipt of each bill therefore.

14. COMMON AREA CHARGES.

Marina shall pay, prior to delinquency, all charges for exterior lighting, maintenance, upkeep, repairs outside the Premises. For the purposes of this Sublease, the phrase "common area" shall mean all surfaces outside the Premises which are not in the exclusive control of Subtenant.

15. TAXES AND ASSESSMENTS.

(a) Personal Property Tax.

Subtenant shall pay, prior to delinquency, all taxes, assessments, license fees and other charges that are levied and assessed against Subtenant's personal property located in, on, or about the Premises, which taxes become payable during the term of this Sublease. Upon written demand by Marina, Subtenant shall furnish Marina and City with satisfactory evidence of such payments. If any taxes on Subtenant's personal property are levied against Marina or Marina's property and the assessed value of the Building is increased by the inclusion of a value placed upon Subtenant's personal property, and if Marina pays the taxes on the increased assessment, Subtenant, on demand, shall immediately reimburse Marina for the sum of the taxes levied against Marina, or the portion of the taxes resulting from the increase in Marina's assessment. Marina shall have the right to pay such taxes regardless of the validity of the levy.

(b) Real Property and Possessory Interest Taxes.

Subtenant shall pay Subtenant's proportionate share of all real property taxes, possessory interest taxes, and assessments levied and assessed against the Building. Subtenant's proportionate share shall be the ratio of the total real property taxes, possessory interest taxes, and assessments levied and assessed against the Building that the total number of square feet in the Premises bears to the total number of square feet in the Building. Each year Marina shall notify Subtenant of Marina's calculation of Subtenant's proportionate share of the real property taxes, possessory interest taxes, and assessments and together with such notice shall furnish Subtenant with a copy of the tax bill. Subtenant shall pay Subtenant's proportionate share of the real property taxes, possessory interest taxes, and assessments semi-annually no later than ten (10) days before the taxing authority's delinquent date or ten (10) days after Subtenant's receipt of the tax bill, whichever is later. Subtenant shall pay its proportionate share of all increases in real property taxes, possessory interest taxes, and assessments, whether the increase is a result of increased rate and/or valuation, levied and assessed against the Building.

16. INDEMNITY AND INSURANCE.

(a) Indemnity.

Subtenant shall indemnify and hold harmless Marina and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, material liens, judgment liens, and any and all claims of whatsoever kind or character, at any time made, asserted, or claimed by or on behalf of any person or persons against Marina for or on account of any matter or thing, including injury to or death of any person or persons and damage to property, occurring from any cause whatsoever on or about the Premises and/or on or about the sidewalk and streets adjacent to the Premises, resulting from, or arising out of or in any way connected with any condition of the Premises, or resulting from, arising out of, or in any way connected with the use and occupancy of the Premises by Subtenant, or resulting from, arising, out of, or in any way connected with any noncompliance by Subtenant or any of its agents or employees, with any law, ordinance, regulation, or authority concerning the use, occupancy, sanitation, or safety of the Premises, or any part hereof.

Subtenant shall assume the defense of, indemnify, and save harmless Marina and City from all claims, demands, expenses, and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises or from any act or omission of Subtenant, his agents and invitees.

(b) General Public Liability Insurance.

Subtenant shall be insured by an insurance carrier acceptable to Marina and City against loss from public liability arising from the use or condition of or operation conducted on the Premises. Minimum coverage shall be Five Hundred Thousand Dollars (\$500,000.00). A copy of the policy of insurance shall be filed with City and shall name Marina and City as additional insureds. Said policy shall specify that the policy may not be terminated, altered or cancelled without prior written notice to City by the insurance company.

The policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Prior to the commencement date of this Sublease, Subtenant shall deliver to Marina a certificate of certificates of insurance evidencing the existence of such policy or policies of insurance.

(c) Fire and Extended Coverage Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain a policy or policies of fire, extended coverage, and vandalism insurance on the Premises. Such policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Such policy or policies shall be in an amount sufficient to cover at least eighty percent (80%) of the replacement costs of the Premises and all improvements and contents in, on, or about the Premises.

17. NO ASSIGNMENT OR SUBLETTING.

Subtenant shall not assign this Sublease or sublet the Premises or any part thereof without the prior written consent of Marina and City. An assignment by operation of law shall automatically terminate this Sublease.

18. ACCESS TO RESTROOMS.

Marina shall provide Subtenant and Subtenant's agents, employees, and customers with access to the restrooms located in the Building and the restrooms located at the rear of the first (1st) floor of the new structure currently being constructed immediately to the west of the Building during all reasonable hours during which Subtenant's business is in operation. Subtenant acknowledges that Subtenant shall share the restrooms with other Subtenants in the entire complex of which the Building is a part and their agents and customers, and with users of boat slips, the do-it-yourself boatyard located near the Building, and others.

19. ACCESS TO BOATS.

Subtenant shall have walking access, as necessary and appropriate, to all boats located in any of the boatyards or slips that are part of Mission Bay Marina. On the commencement date of the term of this Sublease, Marina shall provide Subtenant with a key to the boat slips that are part of Mission Bay Marina. Subtenant shall have walking access, as necessary and appropriate, to all boats moored in the boat slips. Subtenant shall keep the boat slips locked at all times. Subtenant shall return the boat slip key to Marina immediately upon the expiration or earlier termination of this Sublease.

Subtenant and all of Subtenant's employees shall park on the street outside the Premises, or on a space available basis in Marina parking lot. Subtenant's customers shall park, on a space available basis, in the marina parking lot or on the street.

21. EFFECTIVENESS OF PROVISIONS OF MASTER LEASE

All the provisions of the Master Lease shall control as to Subtenant and shall remain in full force and effect for the entire Term of this Sublease. The provisions of the Master Lease that are relevant and controlling as to Subtenant include, but are not necessarily limited to, the following portions of the Master Lease:

Section I A
Section I B
Section II B
Section IV A I
Section IV B 4
Section IV B 5
Section IV B 6
Section IV B 7
Section IV B 9
Section IV B 11
Section IV B 12
Section IV B 13
Section IV B 14
Section IV B 16
Section IV C 19
Section IV C 20
Section IV C 21
Section IV C 22
Section IV C 23
Section IV C 25
Section IV C 26
Section IV C 27
Section IV C 28

All the relevant provisions of the Master Lease are hereby incorporated herein by reference. Any reference to "City" in the Master Lease shall be deemed to be a reference to Marina for purposes of this Sublease and reference to "Lessee" in the Master Lease shall be deemed to be a reference to Subtenant for the purposes of this Sublease.

22. AMENDMENT

This Sublease may be amended only by a writing signed by both parties.

23. NOTICES

Any notices from one party to another shall be delivered either personally or via United States mail, postage fully prepaid, addressed to the parties as follows:

To Marina:

Mission Bay Marina
1548 Quivira Way
San Diego, Ca. 92109

To Subtenant:

Creative Welding
1548 Quivira Way
San Diego, Ca. 92109

Any notice shall be deemed delivered at the time of personal service or forty-eight (48) hours after the time of deposit in the United States mail, as the case may be. In the event that either party changes its address, the change of address shall be communicated to the other party in the manner set forth in this paragraph.

24. ATTORNEYS' FEES

Should it become necessary for marina or City to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this Sublease, Subtenant shall pay all legal costs in connection therewith, including a reasonable sum as attorneys' fees.

25. HEADINGS AND CAPTIONS

The headings and captions at the beginning of various paragraphs and subparagraphs of this Sublease shall not be construed to be a substantive part of this Sublease and shall not in any way define, limit, expand, or affect any provision of this Sublease.

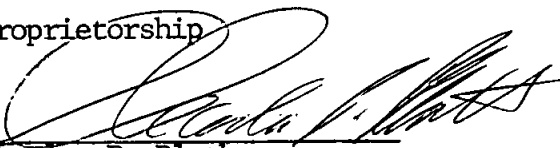
26. COUNTERPARTS

This Sublease may be signed in as many as three(3) counterparts, each of which shall constitute an original, but all of which together shall be one (1) and the same document.

Marina:

MISSION BAY MARINA,
a Proprietorship

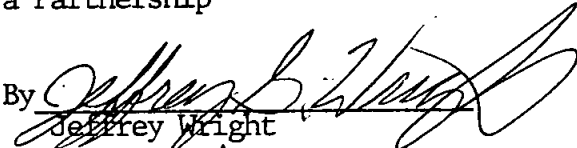
By


Charles P. Bluth

Subtenant:

CREATIVE WELDING
a Partnership

By


Jeffrey Wright

By


Graham McQueen



EXHIBIT "B"

MEMORANDUM OF COMMENCEMENT DATE

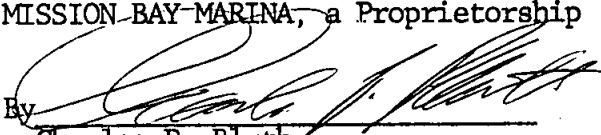
THIS MEMORANDUM OF COMMENCEMENT DATE ('Memorandum') is made as of April 1, 1982, between MISSION BAY MARINA, a Proprietorship, as Sublandlord, and CREATIVE WELDING, a Partnership, as Subtenant.

The parties acknowledge that the Term of that certain written Sublease made as of April 1, 1982, commences on April 1, 1982. Pursuant to the provisions of the Sublease, the Term of the Sublease shall expire at 11:59 p.m., on March 31, 1987.

SUBLANDLORD:

MISSION BAY MARINA, a Proprietorship

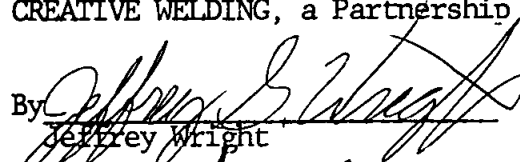
By


Charles P. Bluth

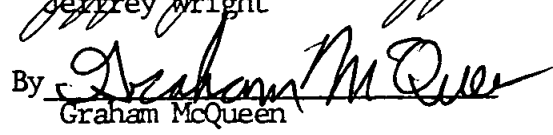
SUBTENANT:

CREATIVE WELDING, a Partnership

By


Jeffrey Wright

By


Graham McQueen

GMM

ADDENDUM TO SUBLEASE DATED
APRIL 1, 1982

To Creative Welding
From Mission Bay Marina

11. USE OF THE PREMISES.

Use of the premises shall be limited to metal
and aluminum fabrication and repair.

We understand the above addendum and sign this in
conjunction with subject Sublease dated April 1, 1982.

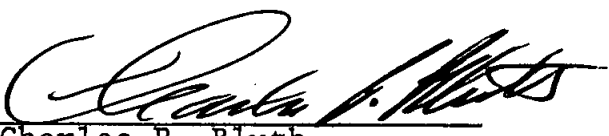
Subtenant:
CREATIVE WELDING, a Partnership

Marina:
MISSION BAY MARINA

By


Jeffrey G. Wright

By


Charles P. Bluth

By


Graham K. McQueen

CONSENT TO SUBLEASE AGREEMENT

COPY

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

MISSION BAY MARINA

(LESSEE) and filed in the Office of the City Clerk as Document No. 766042, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

KARL PHALER d.b.a. FREEDOM MARINE

(SUBLESSEE) dated September 1, 1982. Said Sublease shall be subordinate to the Master Lease in all respects. In addition, this consent is subject to the following conditions: (If None, write "None").

None

Dated

10.13.82

THE CITY OF SAN DIEGO

By:


City Manager

Dated

10/18/82

APPROVED AS TO FORM:
JOHN W. WITT, CITY ATTORNEY

By:


Deputy

S U B L E A S E

THIS SUBLEASE ("Sublease") is made as of September 1, 1982 between MISSION BAY MARINA, a proprietorship ("Marina"), and KARL PHALER doing business as FREEDOM MARINE ("Subtenant"), who agree as follows:

1. FACT RECITALS.

This Sublease is made with reference to the following facts:

(a) Master Lease.

On or about March 5, 1979, THE CITY OF SAN DIEGO a municipal corporation ("City"), as landlord, and Marina, as tenant, signed that certain written Percentage Lease "Master Lease"). The Master Lease was approved by the City Council of City by resolution number 222988 dated March 5, 1979. The Master Lease provided, among other things, that Marina could construct upon the property that was the subject of the Master Lease certain improvements and then sublease space in those improvements to subtenants. Subtenant hereby acknowledges Subtenant's receipt of a true copy of the Master Lease.

(b) Sublease of Office Space.

The subject of this Sublease is a certain space at 1548 Quivira Way, which space is delineated on the plan attached hereto, marked Exhibit "A" and incorporated herein by reference.

(c) Intent of the Parties.

It is the intention of the parties to set forth in this Sublease their agreement concerning Subtenant's use and occupancy of the office space delineated in Exhibit "A" attached hereto. It is the further intention of the parties that Subtenant's use and occupancy of such space shall be subject to each and every relevant provision of the Master Lease, and that this Sublease shall be approved by the appropriate authorities of City prior to the effective date of this Sublease.

2. SUBLEASE SUBJECT TO MASTER LEASE.

This Sublease is subject to the provisions of the Master Lease. The parties acknowledge that this Sublease does not violate any provision of the Master Lease and that no provisions of this Sublease are in conflict with any provisions of the Master Lease. If the Master Lease terminates and this Sublease terminates as a result of the termination of the Master Lease, the parties shall be released from all liabilities and obligations under this Sublease.

This Sublease is in effect a sublease of a portion of the premises covered by that certain Master Lease dated March 5, 1979,

as amended, between Marina, as tenant, and City, as landlord. This Sublease is subject and subordinate to the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. SUBLEASE OF THE PREMISES.

Marina sublets to Subtenant and Subtenant sublets from Marina that certain office space at 1548 Quivira Way, which office space comprises approximately five hundred (500) square feet and which office space is delineated on the plan attached hereto as Exhibit "A". The office space shall hereinafter be called the "Premises." The Premises shall include, but not necessarily be limited to, the structural improvements constituting the office space and any and all interior improvements, such as carpeting, fixtures, wall coverings, ceiling coverings, window coverings, levelor blinds, and all other interior items delivered to Subtenant by Marina at the time of Subtenant's initial occupancy of the Premises.

In addition, Premises shall include the right for subtenant to utilize the approximate six hundred (600) square feet of concrete directly in front of office space as delineated in Exhibit "A" to display new boats. Subtenant shall display not more than two (2) boats at any one time, and the boats shall be no larger than twenty seven (27) feet in length. Subtenant understands that such display of boats will in no way interfere with traffic to and from Marina's deli and other offices and will in all ways conform to provisions of Master Lease and City.

4. PREPARATION AND ACCEPTANCE OF THE PREMISES.

Subtenant shall have access to the Premises and may commence Subtenant's improvement and fixturing process no later than September 1, 1982. Subtenant shall indemnify and hold harmless Marina and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, material liens, judgement liens, and any and all claims of whatsoever kind or character, at any time made, asserted, or claimed by or on behalf of any person or persons resulting from, arising out of, or in any way connected with Subtenant's improvement and fixturing process.

On the commencement date of the term of this Sublease, the Premises shall be in good condition. Subtenant's taking possession of the Premises on the commencement date of the term of this Sublease shall constitute Subtenant's acknowledgement that the Premises are in good condition. Immediately after the commencement date of the term of this Sublease, Subtenant shall, at Subtenant's sole cost and expense, move into the Premises all the furnishings and other items required by Subtenant to conduct Subtenant's business.

5. TERM; COMMENCEMENT DATE: OPTION TO EXTEND.

(a) Initial Term.

The initial term ("Initial Term") of this Sublease shall be for a period of one (1) year. Subtenant's rent shall commence to accrue and Subtenant shall be obligated to commence paying rent on the commencement date regardless of whether Subtenant has actually occupied the Premises on that date. Unless extended as provided in this Sublease, the Initial Term shall expire at 11:59 p.m. Pacific Standard Time on the date one (1) year after September 1, 1982.

(b) Commencement Date.

When the actual commencement date of the Initial Term is determined, the parties shall execute a memorandum setting forth the actual date of commencement of the Initial Term in the form and content of the memorandum attached hereto, marked Exhibit "D" and incorporated herein by reference.

(c) Option to Extend.

Subtenant is granted the option to extend the Initial Term on all the provisions and conditions of this Sublease for one (1) period of one (1) year immediately following termination of the Initial Term provided that Subtenant shall have given to Marina written notice of Subtenant's irrevocable exercise of the option to extend at least ninety (90) days but not more than one hundred eighty (180) days prior to the expiration of the Initial Term, and provided further that there shall be no uncurred default of any of Subtenant's obligations, or no unlawfull detainer action for failure to pay have been filed in the previous year under this Sublease at the time of Marina's receipt of the notice of the exercise of the option and upon the date that the First Extended Term commences. Subtenant's failure to timely exercise the option to extend shall nullify the option and this Sublease shall then terminate upon the expiration of the Initial Term.

6. RENT.

(a) Monthly Rent.

Subtenant shall pay to Marina, in advance, on the first (1st) day of each and every calendar month during the term of this Sublease, beginning on the first (1st) day of the first (1st) full calendar month of the Initial Term, the sum of One Thousand Dollars (\$1,000.00) per month (the "Monthly Rent"). Subtenant shall pay the Monthly Rent to Marina without deduction, set off, prior notice, or demand.

Concurrently with the execution of this Sublease, Subtenant shall pay to Marina the sum of One Thousand Dollars (\$1,000.00) as payment for the first full month's rent.

(b) Annual Cost of Living Adjustment.

Commencing on the first (1st) day of the calendar month after the expiration of ten (10) months of the term of this Sublease and continuing on the corresponding day of each year thereafter during the Initial Term, the First Extended Term, or any other extended term of this Sublease, the Monthly Rent shall be subject to an increase as follows: The base for computing the adjustment shall be the Consumer Price Index for All Urban Consumers (All Items) for the San Diego Metropolitan Area (base year 1967-100) published by United States Department of Labor, Bureau of Labor Statistics (the "Index"), which index is published next preceding the commencement date of the term of this Sublease. The Index published next preceding the commencement date of the term of this Sublease shall hereinafter be called the "Beginning Index." The date upon which an adjustment in Monthly Rent is made shall hereinafter be called the "Adjustment Date". At the time of the Adjustment Date, the parties shall examine the Index published next preceding the first Adjustment Date (the "Adjustment Index"). If the Adjustment Index has increased over the Beginning Index, the Monthly Rent for the following year (until the next annual cost of living rent adjustment) shall be set by multiplying the Monthly Rent payable during the immediately preceding year by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index; provided, however, that in no event shall the Monthly Rent be less than the amount set forth in subparagraph (a) above.

In the event that the Bureau of Labor Statistics of the United States Department of Labor changes its method of computing the consumer price index or in the event that the Bureau of Labor Statistics discontinues the computation of the consumer price index, such other government index or computation with which the consumer price index is replaced shall be used to obtain substantially the same result as would have been obtained if the consumer price index had not been revised or discontinued. If there is no replacement index, the parties shall mutually agree in writing to use another similar consumer price index. In the event that the parties shall fail to agree upon a substitute consumer price index within sixty (60) days after the discontinuance of the consumer price index set forth above, the selection of a new consumer price index shall be submitted to one (1) arbitrator mutually acceptable to the parties. If both parties cannot agree upon one (1) arbitrator, Marina shall choose one (1) arbitrator and Subtenant shall choose one (1) arbitrator. The two arbitrators shall choose one (1) arbitrator, other than themselves, to conduct the arbitration. The selection of arbitrators shall be made within seventy (70) days after the discontinuance of the consumer price index set forth above. The decision of the arbitrator shall be final and conclusive upon the parties and enforceable as provided by the laws of the State of California. The cost of any arbitration shall be divided equally between the parties.

(c) Percentage Rent.

In addition to the Monthly Rent set forth in subparagraph (a) above, Subtenant shall pay to Marina, in arrears, on the fifteenth (15th) day of each and every calendar month during the term of this Sublease, beginning on the fifteenth (15th) day of the second (2nd) full calendar month of the Initial Term, a sum of money equal to:

(i) Four percent (4%) of gross revenue (as hereinafter defined) from the repair of motors and engines, sale of boat parts and motor parts, sale of accessories.

(ii) One percent (1%) of gross revenue from the sale of new or used boats, boat engines, boat motors, boat trailers, and the accessories of such sales. All costs for repairs, maintenance, and make-ready for a boat in preparation for the sale of the boat shall be included in the price of the boat and shall not be again included in the percentage rates for separate repairs, maintenance, etc., as provided in subparagraph (i) above.

The rent payable by Subtenant to Marina according to the provision of subparagraphs (i) and (ii) above shall sometimes hereinafter be called the Percentage Rent. The Percentage Rent shall be due and payable from Subtenant to Marina on the fifteenth (15th) day of the calendar month following that month in which the revenue described in subparagraphs (i) and (ii) above was earned by Subtenant.

For purposes of this Sublease, the phrase "gross revenue" shall mean the gross selling price of all merchandise or services sold, leased, licensed, or delivered in or from the Premises by Subtenant, whether for cash or on credit (whether collected or not), and whether made by Subtenant's personnel or by vending machines. Any transaction on an installment basis, including, but not limited to, and "lay away" or like transaction, or otherwise involving the extension of credit, shall be treated as a sale for the full price at the time of the transaction, irrespective of the time of payment or the time of passage of title. Gross revenue shall not include, or if included there shall be deducted (but only to the extent they have been included), the following:

(1) The selling price of all merchandise returned by customers and accepted for full credit, or the amount of discounts, refunds and allowances made on returned merchandise.

(2) Sums and credits received in the settlement of claims for loss or damage to merchandise.

(3) The price allowed on all merchandise traded in by customers for credit or the amount of credits, discounts, and allowances made instead of acceptance of merchandise.

(4) Sales and use taxes, so-called luxury taxes, consumer's excise taxes, gross receipts taxes, federal income taxes, state income taxes, and other similar taxes now or in the future imposed on the sale or cost of merchandise or services, but only if such taxes are added to the selling price, separately stated, collected separately from the selling price of merchandise or services, and collected from Subtenant's customers.

(5) Sales of fixtures, trade fixtures, or personal property other than in the ordinary course of the business of Subtenant.

Subtenant shall keep accurate and complete records in a manner and in a form satisfactory to Marina from which Marina can at all reasonable times determine the nature and amount of revenue subject to Percentage Rent. Subtenant's books and records shall show all transactions relative to the conduct of Subtenant's business, and such transactions shall be supported by documents of original entry, including, but not limited to, sales slips, cash register tapes, purchase invoices, and tickets issued, or other means satisfactory to Marina. Together with each payment of Percentage Rent, Subtenant shall deliver to Marina in a written statement as to the source of the receipts showing all gross revenue of the preceding calendar month together with the amount payable to Marina as set forth above. Each monthly written statement shall be signed and certified to be correct by Subtenant or its authorized representative, and if Subtenant is or becomes a corporation, the written monthly statements shall be signed and certified to be correct by an officer of Subtenant. Subtenant shall also furnish to Marina copies of Subtenant's quarterly California sales and use tax returns at the time each is filed with the State of California.

After the end of each twelve (12) month period after the commencement date of the term of this Sublease, Subtenant shall cause an audit of the business conducted on the Premises to be made by a certified public accountant. The audit shall be conducted at Subtenant's sole cost and expense. Within sixty (60) days after the end of each such year, Subtenant shall, at Subtenant's sole cost and expense, deliver to Marina a copy of the written audit. In the event that the audit discloses that the Percentage Rent for the audited period has been underpaid in excess of five percent (5%) of the total required Percentage Rent, then Subtenant shall pay to Marina ten percent (10%) of the amount by which the Percentage Rent was underpaid in addition to the unpaid Percentage Rent so shown to be due to Marina as compensation to Marina for administrative costs, loss of interest, and other charges and damages.

(d) Delinquent Rent.

The Monthly Rent is due and payable on the first (1st) day of each calendar month. The Percentage Rent is due and payable on the fifteenth (15th) day of each calendar month immediately after the calendar month in which the relevant revenue is received by Subtenant. In the event that Marina does not receive in its office the full payment of the Monthly Rent from Subtenant at or before 5:00 p.m. on the fourth (4th) day of any calendar month or the full payment of the Percentage Rent at or before 5:00 p.m. on the eighteenth (18th) day of any calendar month, Marina shall have the right to terminate this Sublease or otherwise exercise any of the rights of a landlord available to Marina

at law or in equity. In the event that Marina does not receive in its office the full amount of the Monthly Rent at or before 5:00 p.m. on the fourth (4th) day of any calendar month or the full amount of the Percentage Rent at or before 5:00 p.m. on the eighteenth (18th) day of any calendar month, Subtenant shall be able to cure its delinquency only upon the payment of the full amount of the delinquent Monthly Rent or Percentage Rent, as the case may be, plus a sum equal to ten percent (10%) of the Monthly Rent or Percentage Rent for each month that the Monthly Rent or Percentage Rent is delinquent commencing on the first (1st) month of delinquency. The parties acknowledge that the ten percent (10%) delinquency fee is based upon Marina's actual damages incurred in connection with its administration and collection of delinquent rent.

7. SECURITY DEPOSIT.

Concurrently with the execution of this Sublease, Subtenant shall deposit with Marina, in addition to the first full month's rent, the sum of One Thousand (\$1,000.00) as a security deposit for the performance by Subtenant of all of Subtenant's obligations under this Sublease. If Subtenant is in default of Subtenant's obligations, Marina shall have the right to use the security deposit, or any portion of the security deposit, to cure the default or to compensate Marina for any and all damage sustained by Marina resulting from Subtenant's default. Subtenant shall immediately upon demand pay to Marina a sum equal to the portion of the security deposit expended or applied by Marina as provided in this numbered paragraph so as to maintain the security deposit in the sum initially deposited with Marina. If Subtenant is not in default of Subtenant's obligation at the expiration or earlier termination of this Sublease, Marina shall return the security deposit to Subtenant. Marina's obligations with respect to the security deposit are those of a debtor and not a trustee. Marina may either maintain the security deposit separate and apart from Marina's general funds or co-mingle the security deposit with Marina's general or other funds in Marina's sole and absolute discretion. Marina shall not be required to pay Subtenant any interest on the security deposit.

8. IMPROVEMENTS.

Subtenant shall construct on the Premises no improvements without the prior written consent of Marina.

9. REPAIRS AND MAINTENANCE.

(a) Marina's Nonresponsibility.

Marina shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Premises except for structural defects in the walls, floor, ceiling, electrical facilities, or plumbing facilities of the Premises, which defects were not caused by acts or omissions by Subtenant, Subtenant's agents, or Subtenant's customers. In the event

of a defect caused by Subtenant, Subtenant's agents, or Subtenant's customers, Subtenant shall cause such defect to be remedied or repaired at Subtenant's sole cost and expense. Marina shall maintain the exterior walls, windows, roof, stairways, and common areas of the Building at Marina's sole cost and expense. Subtenant hereby expressly waives the right to make repairs at the expense of Marina as provided for in any statute or law in effect at the time of the execution of this Sublease, or in any other statute or law which may hereafter be enacted.

(b) Subtenant's Duty to Maintain the Premises.

Subtenant shall, at Subtenant's sole cost and expense, maintain the Premises in good condition and repair and in accordance with all applicable laws, and shall make whatever repairs and replacements are required by such laws.

10. MAINTENANCE OF CLEAN WORK AREAS.

The parties acknowledge that a significant portion of Subtenant's business will involve work on boats moored and stored at the Marina Complex delineated on the map attached hereto, marked Exhibit "C", and incorporated herein by reference. Such Marina Complex shall sometimes hereinafter be called "Mission Bay Marina."

In the event that Subtenant, with the permission of Marina, does any work on boats moored in the slips or located in any boatyard at Mission Bay Marina, including, but not limited to, the main boatyard and the do-it-yourself boatyard, then Subtenant shall keep Subtenant's work areas throughout Mission Bay Marina neat and broom clean at all times, and Subtenant shall always clean up Subtenant's equipment, debris, and other items at the end of each business day and at the completion of Subtenant's work on each boat.

11. USE OF THE PREMISES.

Subtenant shall operate its business within the Premises in such a manner to conform to and comply with each, every, and all of the ordinances or regulations of the City, the County of San Diego, the State of California, and the United States of America that are now in force or which may hereinafter be enacted with reference to the use or contemplated use of the Premises. Subtenant's use of the Premises shall at all times be consistent with the uses permitted under the Master Lease. Subtenant shall not compete directly with Mission Bay Marina in the normal repair and maintenance of boats.

12. UTILITIES.

Subtenant shall pay, before delinquency, any and all charges for electricity which are separately metered to the

Premises. Subtenant shall pay, before delinquency, any and all charges for telephone and any other utilities which are separately billed to the Premises. As to utilities which are not separately billed or metered to the Premises but which are billed or metered for the entire Building, including, but not limited to, water, gas and heat, Marina shall pay such utilities prior to delinquency.

13. JANITORIAL AND MAINTENANCE FEES.

As part of Subtenant's obligation to maintain the Premises in good condition and repair, Subtenant shall engage, at Subtenant's sole cost and expense, a competent and efficient janitorial service for the Premises, or otherwise arrange for regular, periodic cleaning and maintenance for the Premises. In the event that Marina engages a janitorial service for the Building, for the entire Mission Bay Marina, or for any part of Mission Bay Marina, Subtenant may, in Subtenant's discretion, elect to participate in such janitorial service and share in the cost thereof. If a janitorial service is made available and if Subtenant elects to participate in it, Subtenant shall notify Marina of Subtenant's election to participate by delivering to Marina a written notice. The written notice shall become effective no earlier than fifteen (15) days after its receipt by Marina. If and when Subtenant elects to participate in the janitorial service, Marina shall cause Subtenant to be billed on a regular basis for Subtenant's share of the cost of the janitorial service. Subtenant's share of the cost of the janitorial service shall be based upon the percentage of square feet in the Building occupied by Subtenant as compared to the total number of leasable square feet in the entire Mission Bay Marina, and on the basis of Subtenant's particular use of the Premises. Subtenant shall pay to Marina Subtenant's share of the cost of janitorial services within ten (10) days after Subtenant's receipt of each bill therefor.

14. COMMON AREA CHARGES.

Marina shall pay, prior to delinquency, all charges for exterior lighting, maintenance, upkeep, repairs outside the Building, and the maintenance and upkeep of the stairs, hallways, and restrooms in the Building. For purposes of this Sublease, the phrase "common area" shall mean all surfaces outside the Building which are not in the exclusive control of Subtenant and the stairways, hallways, common entrances, and restrooms for the Building.

15. TAXES AND ASSESSMENTS.

(a) Personal Property Tax.

Subtenant shall pay, prior to delinquency, all taxes, assessments, license fees, and other charges that are levied and assessed against Subtenant's personal property located in, on, or about the Premises, which taxes become payable during the term of this Sublease. Upon written demand by Marina, Subtenant shall furnish Marina and City with satisfactory evidence of such payments. If any taxes on Subtenant's personal property are levied against Marina or Marina's property and the assessed value of the Building is increased by the inclusion of a value placed upon Subtenant's personal property, and if Marina pays the taxes or the increased assessment, Subtenant, on demand, shall immediately reimburse Marina for the sum of the taxes levied against Marina, or the portion of the taxes resulting from the increase in Marina's assessment. Marina shall have the right to pay such taxes regardless of the validity of the levy.

(b) Real Property and Possessory Interest Taxes.

Subtenant shall pay Subtenant's proportionate share of all real property taxes, possessory interest taxes, and assessments levied and assessed against the Building.

Subtenant's proportionate share shall be the ratio of the total real property taxes, possessory interest taxes, and assessments levied and assessed against the Building that the total number of square feet in the Premises bears to the total number of square feet in the Building.

Each year Marina shall notify Subtenant of Marina's calculation of Subtenant's proportionate share of the real property taxes, possessory interest taxes and assessments and together with such notice shall furnish Subtenant with a copy of the tax bill. Subtenant shall pay Subtenant's proportionate share of the real property taxes, possessory interest taxes, and assessments semi-annually no later than ten (10) days before the taxing authority's delinquent date or ten (10) days after Subtenant's receipt of the tax bill, whichever is later.

Subtenant shall pay its proportionate share of all increases in real property taxes, possessory interest taxes, and assessments, whether the increase is a result of increased rate and/or valuation, levied and assessed against the Building over and above those real property taxes, possessory interest taxes, and assessments, levied and assessed against the Building.

16. INDEMNITY AND INSURANCE.

(a) Indemnity.

Subtenant shall indemnify and hold harmless Marina and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, material liens, judgment liens, and any and all claims of whatsoever kind or character, at any time made, asserted, or claimed by or on behalf of any person or persons against Marina for or on account of any matter or thing, including injury to or death of any person or persons and damage to property, occurring from any cause whatsoever on or about the Premises and/or on or about the sidewalk and streets adjacent to the Premises, resulting

from, or arising out of or in any way connected with any condition of the Premises, or resulting from, arising out of, or in any way connected with the use and occupancy of the Premises by Subtenant, or resulting from, arising out of, or in any way connected with any noncompliance by Subtenant or any of its agents or employees, with any law, ordinance, regulation, or authority concerning the use, occupancy, sanitation, or safety of the Premises, or any part thereof.

Subtenant shall assume the defense of, indemnify and save harmless Marina and City from all claims, demands, expenses, and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises or from any act or omission of Subtenant, his agents and invitees.

(b) General Public Liability Insurance.

Subtenant shall be insured by an insurance carrier acceptable to Marina and City against loss from public liability arising from the use or condition of or operations conducted on the Premises, along with products liability and completed operations insurance. Minimum coverage shall be Five Hundred Thousand Dollars (\$500,000.00). A copy of the policy of insurance shall be filed with City and shall name Marina and City as additional insureds. Said policy shall specify that the policy may not be terminated, altered or cancelled without prior written notice to City by the insurance company.

The policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Prior to the commencement date of this Sublease, Subtenant shall deliver to Marina a certificate or certificates of insurance evidencing the existence of such policy or policies of insurance.

(c) Fire and Extended Coverage Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain a policy or policies of fire, extended coverage, and vandalism insurance on the Premises. Such policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Such policy or policies shall be in an amount sufficient to cover at least eighty percent (80%) of the replacement costs of the Premises and all improvements and contents in, on, or about the Premises.

(d) Ship Repairer's Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain a policy or policies of ship repairer's insurance for all work done by Subtenant in, on, or about the Premises. Such policy or policies shall be in an amount sufficient to cover the reasonable need of a business such as the one in which Subtenant is engaged.

(e) Other Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain any other necessary policy or policies of insurance covering and insuring against risks which reasonably may be anticipated in a business such as the one in which Subtenant is engaged.

17. NO ASSIGNMENT OR SUBLETTING.

Subtenant shall not assign this Sublease or sublet the Premises or any part thereof without the prior written consent of Marina and City. An assignment by operation of law shall automatically terminate this Sublease.

18. ACCESS TO RESTROOMS.

Marina shall provide Subtenant and Subtenant's agents, employees, and customers with access to the restrooms located at the rear of the first (1st) floor of the Building during all reasonable hours during which Subtenant's business is in operation. Subtenant acknowledges that Subtenant shall

share the restrooms with other Subtenants in the Building and their agents and customers, and with users of boat slips, the do-it-yourself boatyard located near the Building, and others.

19. ACCESS TO BOATS.

Subtenant shall have walking access, as necessary and appropriate, to all boats located in any of the boatyards or slips that are part of Mission Bay Marina. On the commencement date of the term of this Sublease, Marina shall provide Subtenant with a key to the boat slips that are part of Mission Bay Marina. Subtenant shall have walking access, as necessary and appropriate, to all boats moored in the boat slips. Subtenant shall keep the boat slips locked at all times. Subtenant shall return the boat slip key to Marina immediately upon the expiration or earlier termination of this Sublease. In the event that Subtenant loses or otherwise does not return the boat slip key, Subtenant shall reimburse Marina for the entire cost of rekeying the boat slips within ten (10) days after Subtenant's receipt from Marina of a written statement setting forth the cost of the rekeying process.

20. USE OF STORAGE FACILITIES.

The parties acknowledge that a significant portion of Subtenant's business will involve work on boats brought to Marina by boat owners and moored or stored at Mission Bay Marina. Provided that Subtenant complies with the provisions of the numbered paragraph of this Sublease entitled "MAINTENANCE OF CLEAN WORK AREAS," Subtenant shall be entitled to work on such boats without the payment of storage or other charges. In the event that, independent of Marina, Subtenant brings to Mission Bay Marina Subtenant's customers whose boats require storage in the do-it-yourself boatyard, or in any other area of Mission Bay Marina, then Subtenant shall pay to Marina the normal daily rates charged by Marina from time to time for use of the do-it-yourself boatyard or for storage of the boats of Subtenant's customers in any other area of Mission Bay Marina;

provided, however that Subtenant shall not be required to pay to Marina the daily storage charge or lay day charge for any day if, through arrangements made by Subtenant, Marina's personnel perform four (4) or more hours of work on the boat belonging to Subtenant's customer during the course of that particular day. For any day that Marina's personnel perform less than four (4) hours on a boat belonging to Subtenant's customer, Subtenant shall pay the normal daily storage or lay day rate. In the event that a boat originally stored by Marina is delayed or held over as a result of the need for Subtenant to do additional work on that boat, then Subtenant shall pay to Marina the normal daily storage or lay day rate charged by Marina for that boat.

21. USE OF MARINA EQUIPMENT.

Subtenant shall have the right to rent from Marina Marina's equipment at standard rates charged by Marina from time to time.

22. PARKING.

Subtenant and all of Subtenant's employees shall park on the street outside the Premises. Subtenant's customers shall park, on a space available basis, in the Marina parking lot or on the street.

23. EFFECTIVENESS OF PROVISIONS OF MASTER LEASE.

Except as the provisions of the Master Lease are varied by this Sublease, and except as the provisions of the Master Lease are irrelevant to Subtenant, all the provisions of the Master Lease shall control as to Subtenant and shall remain in full force and effect for the entire term of this Sublease. The provisions of the Master Lease that are relevant and controlling as to Subtenant include, but are not necessarily limited to, the following portions of the Master Lease:

Section I A
Section I B
Section II B
Section IV A 1
Section IV B 4
Section IV B 5
Section IV B 6
Section IV B 7
Section IV B 9
Section IV B 11
Section IV B 12
Section IV B 13

Section IV B 14
Section IV B 16

Section IV C 21
Section IV C 22
Section IV C 23
Section IV C 25
Section IV C 26
Section IV C 27
Section IV C 28

All the relevant provisions of the Master Lease are hereby incorporated herein by reference. Any reference to "City" in the Master Lease shall be deemed to be a reference to Marina for the purposes of this Sublease and any reference to "Lessee" in the Master Lease shall be deemed to be a reference to Subtenant for the purposes of this Sublease.

24. AMENDMENT.

This Sublease may be amended only by a writing signed by both parties.

25. NOTICES.

Any notice from one party to another shall be delivered either personally or via United States mail, postage fully prepaid, addressed to the parties as follows:

To Marina:	Mr. Charles P. Bluth Mission Bay Marina 1548 Quivira Way San Diego, CA 92109
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To Subtenant:	Karl Phaler Freedom Marine at the Premises
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Any notice shall be deemed delivered at the time of personal service or forty-eight (48) hours after the time of deposit in the United States mail, as the case may be. In the event that either party changes its address, the change of address shall be communicated to the other party in the manner set forth in this numbered paragraph.

26. ATTORNEYS' FEES.

Should it become necessary for Marina or City to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this Sublease, Subtenant shall pay all legal costs in connection therewith, including a reasonable sum as attorneys' fees.

27. HEADINGS AND CAPTIONS.

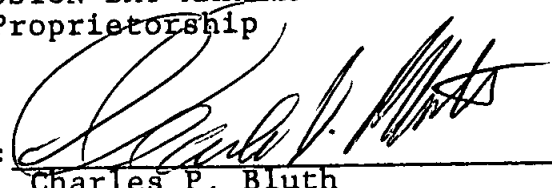
The headings and captions at the beginning of various paragraphs and subparagraphs of this Sublease shall not be construed to be a substantive part of this Sublease and shall not in any way define, limit, expand, or affect any provision of this Sublease.

28. COUNTERPARTS.

This Sublease may be signed in as many as three (3) counterparts, each of which shall constitute an original, but all of which together shall be one (1) and the same document.

MARINA:

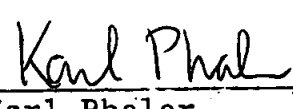
MISSION BAY MARINA
A Proprietorship

By: 

Charles P. Bluth

SUBTENANT:

FREEDOM MARINE

By: 

Karl Phaler

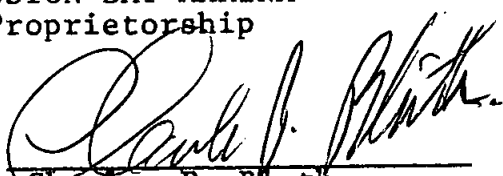
MEMORANDUM OF COMMENCEMENT DATE

This MEMORANDUM OF COMMENCEMENT DATE ("Memorandum") is made as of September 1, 1982, between MISSION BAY MARINA, a proprietorship, as Sublandlord, and KARL PHALER, doing business as FREEDOM MARINE, as Subtenant.

The parties acknowledge that the term of that certain written Sublease made as of September 1, 1982 commenced on September 1, 1982. Pursuant to the provisions of the Sublease, the Initial Term of the Sublease shall expire at 11:59 p.m. on August 31, 1983 unless the term is extended pursuant to provisions of subparagraph 5 (c) of the Sublease.

SUBLANDLORD:

MISSION BAY MARINA
a Proprietorship

By: 
Charles P. Bluth

SUBTENANT:

FREEDOM MARINA

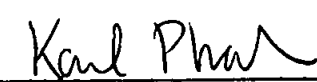
By: 
Karl Phaler

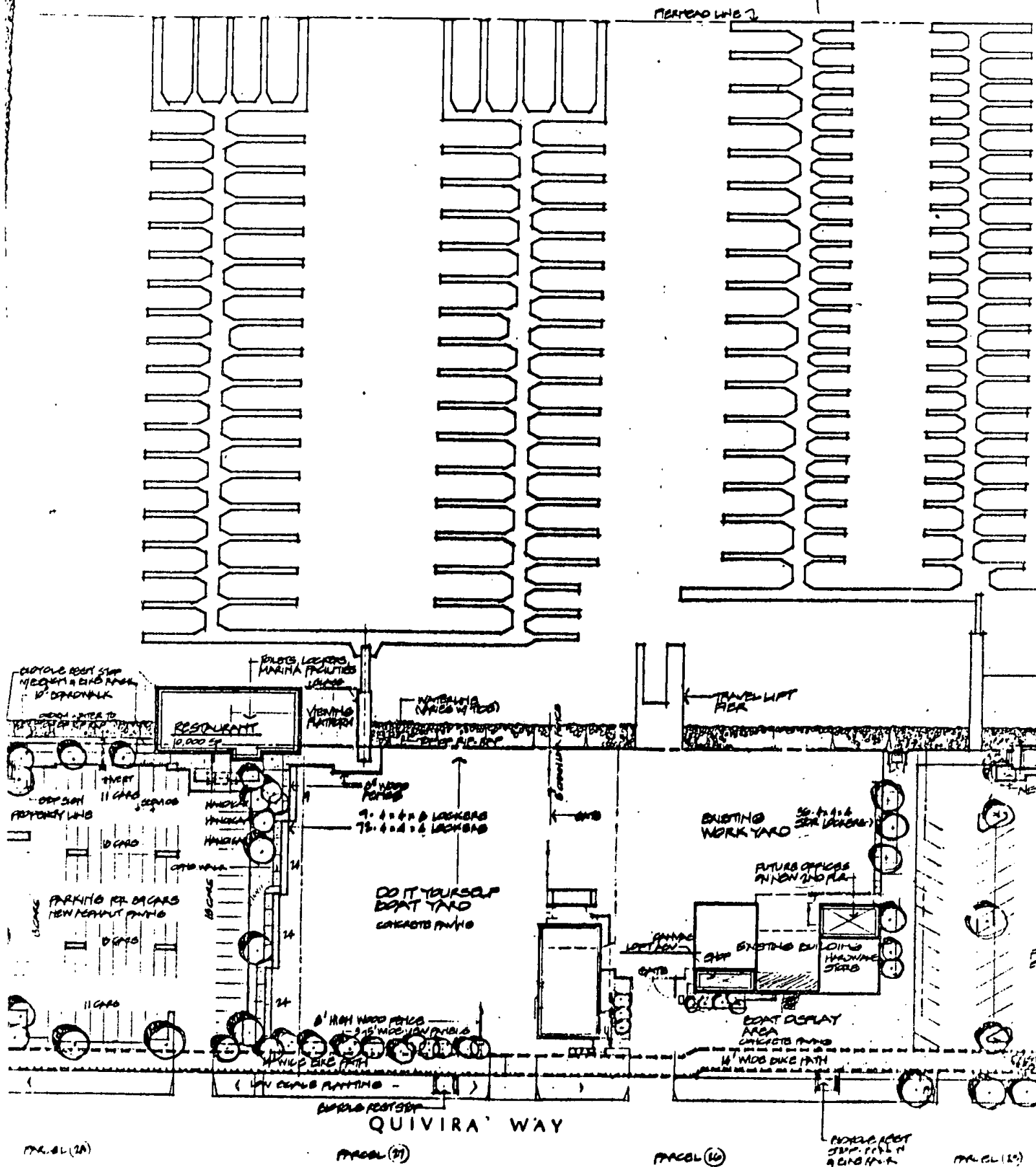
Exhibit "D" to Sublease

MASTER PLAN

1490 Quivira Way Suite 2
San Diego, California 92109

EXHIBIT "A"
500 sq. ft.

QUIVIRA BASIN



CONSENT TO SUBLEASE AGREEMENT

FORM OF

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

MISSION BAY MARINA

(LESSEE) and filed in the Office of the City Clerk as Document No. 766042, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

EDMOND TAYLOR d.b.a. MARINE PROPULSION SYSTEMS

(SUBLESSEE) dated April 20, 1980. Said Sublease shall be subordinate to the Master Lease in all respects. In addition, this consent is subject to the following conditions: (If None, write "None").

NONE

Dated 11-24-82

THE CITY OF SAN DIEGO

By: 

City Manager

Dated 11/18/82

APPROVED AS TO FORM:
JOHN W. WITT, CITY ATTORNEY

By: 

Deputy

O. MERRITT BURRUS II

1850 FIFTH AVENUE
FIFTH AVENUE PROFESSIONAL CENTER
SAN DIEGO, CALIFORNIA 92101
(714) 233-8191F. D. Z. M. E. Cr
APR 29 1982
D. WAGNER, DeputyAttorneys for PlaintiffIN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGOMISSION BAY MARINA, a General
Partnership,

Plaintiff,

vs.

EDMOND TAYLOR, dba MARINE
PROPULSION SYSTEMS,

Defendant.

CASE NO. 473902

JUDGMENT

This cause came on regularly for trial on November 25, 1981 in Department 25 of the above-entitled court, the Honorable Joseph A. Kilgarif, Judge, presiding, sitting without a jury. Plaintiff MISSION BAY MARINA, a general partnership, appeared represented by attorney O. Merritt Burrus II. Defendant EDMOND TAYLOR, dba MARINE PROPULSION SYSTEMS appeared with his attorney Robert M. Bennet. The matter was further heard on March 26, 1982, both parties being represented by their same attorneys. Evidence, both oral and documentary, having been presented.

IT IS ORDERED, ADJUDGED AND DECREED that judgment be for the defendant, EDMOND TAYLOR, upon this unlawful detainer

1 action and that he recover his cost of suit.

2 IT IS FURTHER ADJUDGED that EDMOND TAYLOR pay rent,
3 slip rent and percentage estimates within 30 days for the
4 months of July, August, September, October, and November.

5 IT IS FURTHER ADJUDGED that the provisions of the lease
6 presented as Plaintiffs Exhibit 1 on March 26, 1982, are
7 ordered complied with by all parties.

8
9 Dated: APR 29 1982

JOSEPH A. KILGARIE

JUDGE OF SUPERIOR COURT

10
11 Approved as to form:

12
13 Dated: _____

O. Merritt Burrus, Attorney for
Plaintiff

14
15
16 Dated: _____

Robert. M. Bennett, Attorney for
Defendant

S U B L E A S E

THIS SUBLEASE ("Sublease") is made as of April 20, 1980 between MISSION BAY MARINA, a proprietorship ("Marina"), and EDMUND TAYLOR doing business as MARINE PROPULSION SYSTEMS ("Subtenant"), who agree as follows:

1. FACT RECITALS.

This Sublease is made with reference to the following facts:

(a) Master Lease.

On or about March 5, 1979, THE CITY OF SAN DIEGO, a municipal corporation ("City"), as landlord, and Marina, as tenant, signed that certain written Percentage Lease ("Master Lease"). The Master Lease was approved by the City Council of City by resolution number 222988 dated March 5, 1979. The Master Lease provided, among other things, that Marina could construct upon the property that was the subject of the Master Lease certain improvements and then sublease space in those improvements to subtenants. Subtenant hereby acknowledges Subtenant's receipt of a true copy of the Master Lease.

(b) Construction of Improvements.

Marina is in the process of constructing on the real property that is the subject of the Master Lease improvements in the form of a two (2) story building (the "Building"), the first (1st) floor of which Building shall be occupied by Subtenant's engine shop and the second (2nd) floor of which Building shall be used as offices. The location of the Building on the property that is the subject of the Master Lease is set forth on the map attached hereto, marked Exhibit "A" and incorporated herein by reference.

(c) Sublease of Office Space and Building.

The subject of this Sublease is the engine shop on the first (1st) floor of the Building, which engine shop is delineated on the plan attached hereto, marked Exhibit "B" and incorporated herein by reference.

(d) Intent of the Parties.

It is the intention of the parties to set forth in this Sublease their agreement concerning Subtenant's use and occupancy of the engine shop delineated in Exhibit "B" attached hereto. It is the further intention of the parties that Subtenant's use and occupancy of such space shall be subject to each and every relevant provision of the Master Lease, and that this Sublease shall be approved by the appropriate authorities of City prior to the effective date of this Sublease.

2. SUBLEASE SUBJECT TO MASTER LEASE.

This Sublease is subject to the provisions of the Master Lease. The parties acknowledge that this Sublease does not violate any provision of the Master Lease and that no provisions of this Sublease are in conflict with any provisions of the Master Lease. If the Master Lease terminates and this Sublease terminates as a result of the termination of the Master Lease, the parties shall be released from all liabilities and obligations under this Sublease.

This Sublease is in effect a sublease of a portion of the premises covered by that certain Master Lease dated March 5, 1979, as amended, between Marina, as tenant, and City, as landlord. This Sublease is subject and subordinate to the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. SUBLEASE OF THE PREMISES.

Marina sublets to Subtenant and Subtenant sublets from Marina that certain engine shop on the first (1st) floor of the Building, which engine shop comprises approximately two thousand four hundred (2400) square feet and which engine shop is

delineated on the plan attached hereto as Exhibit "B." The engine shop shall hereinafter be called the "Premises." The Premises shall include, but not necessarily be limited to, the structural improvements constituting the office space and any and all interior improvements, such as carpeting, fixtures, wall coverings, ceiling coverings, window coverings, levelor blinds, and all other interior items delivered to Subtenant by Marina at the time of Subtenant's initial occupancy of the Premises.

Marina additionally sublets to Subtenant and Subtenant sublets from Marina that certain space near the parts washing rack outside the Premises, which space is delineated on the plan attached hereto, marked Exhibit "C" and incorporated herein by reference. Such space shall hereinafter be called the "Boat Repair Space."

Marina additionally sublets to Subtenant and Subtenant sublets from Marina one (1) due-it-yourself storage space located in the do-it-yourself boatyard adjacent to the Premises. Such do-it-yourself storage space shall hereinafter be called the "Do-It-Yourself Space."

Marina shall sublet to Subtenant the Boat Repair Space and the Do-It-Yourself Space at no extra charge in addition to the rent set forth in the numbered paragraph of this Sublease entitled "RENT."

4. PREPARATION AND ACCEPTANCE OF THE PREMISES.

The parties acknowledge that, as of the date of this Sublease, the Premises are under construction and are not yet ready for occupancy. Marina shall use its reasonable best efforts to diligently complete construction of the Premises and to render the Premises ready for occupancy by Subtenant. Subtenant shall have access to the Premises and may commence Subtenant's improvement and fixturing process no later than April 1, 1980; provided, however, that Subtenant's improvement and fixturing process shall in no way interfere with the activities of any contractors, subcontractors, or other personnel

performing construction work in, on, or about the Premises on or after April 1, 1980. Subtenant shall indemnify and hold harmless Marina and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, material liens, judgment liens, and any and all claims of whatsoever kind or character, at any time made, asserted, or claimed by or on behalf of any person or persons resulting from, arising out of, or in any way connected with Subtenant's improvement and fixturing process.

On the commencement date of the term of this Sublease, the Premises shall be in good condition. Subtenant's taking possession of the Premises on the commencement date of the term of this Sublease shall constitute Subtenant's acknowledgement that the Premises are in good condition. Immediately after the commencement date of the term of this Sublease, Subtenant shall, at Subtenant's sole cost and expense, move into the Premises all the furnishings and other items required by Subtenant to conduct Subtenant's business.

5. TERM; COMMENCEMENT DATE; OPTION TO EXTEND.

(a) Initial Term.

The initial term ("Initial Term") of this Sublease shall be for a period of five (5) years. The Initial Term shall commence on the date that construction of the Premises by Marina is completed and a certificate of occupancy is issued by the appropriate governmental agency, but in no event later than April 20, 1980. Subtenant's rent shall commence to accrue and Subtenant shall be obligated to commence paying rent on the commencement date regardless of whether Subtenant has actually occupied the Premises on that date. Unless extended as provided in this Sublease, the Initial Term shall expire at 11:59 p.m. Pacific Standard Time on the date five (5) years after the date that a certificate of occupancy for the Premises is issued by the appropriate governmental agency but in no event later than five (5) years after April 20, 1980.

(b) Commencement Date.

When the actual commencement date of the Initial Term is determined, the parties shall execute a memorandum setting forth the actual date of commencement of the Initial Term in the form and content of the memorandum attached hereto, marked Exhibit "D" and incorporated herein by reference.

(c) Option to Extend.

Subtenant is granted the option to extend the Initial Term on all the provisions and conditions of this Sublease for one (1) period of five (5) years immediately following termination of the Initial Term provided that Subtenant shall have given to Marina written notice of Subtenant's irrevocable exercise of the option to extend at least sixty (60)

days but not more than one hundred eighty (180) days prior to the expiration of the Initial Term, and provided further that there shall be no uncured default of any of Subtenant's obligations under this Sublease at the time of Marina's receipt of the notice of the exercise of the option and upon the date that the First Extended Term commences. Subtenant's failure to timely exercise the option to extend shall nullify the option and this Sublease shall then terminate upon the expiration of the Initial Term.

6. RENT.

(a) Monthly Rent.

Subtenant shall pay to Marina, in advance, on the first (1st) day of each and every calendar month during the term of this Sublease, beginning on the first (1st) day of the first (1st) full calendar month of the Initial Term, the sum of Two Thousand Four Hundred (\$2400.00) per month (the "Monthly Rent"). Subtenant shall pay the Monthly Rent to Marina without deduction, set off, prior notice, or demand. In the event that the commencement date of the term of this Sublease is other than the first (1st) day of a calendar month and in the event that the last day of the term of this Sublease is a day other than the last day of a calendar month, the Monthly Rent for the first and last month of the term of this Sublease, as appropriate, shall be prorated on the basis of a thirty (30) day month.

Concurrently with the execution of this Sublease, Subtenant shall pay to Marina the sum of Two Thousand Four Hundred Dollars (\$2400.00) as payment for the first full month's rent. In the event that the commencement date of the term of this Sublease is a date other than the first (1st) day of a calendar month, Subtenant shall pay to Marina on the commencement date of this Sublease the prorated amount of Monthly Rent due from Subtenant to Marina on account of the first (1st) partial month of the term of this Sublease. In such event, Marina shall retain the Two Thousand Four Hundred Dollars (\$2400.00) paid by Subtenant to Marina as the Monthly Rent for the first (1st) full month of the term of this Sublease, and apply the Two Thousand Four Hundred Dollars (\$2400.00) to the first (1st) full month of the term of this Sublease. Subtenant's next payment of Monthly Rent shall then be due and payable on the first (1st) day of the second (2nd) full calendar month of the term of this Sublease.

(b) Annual Cost of Living Adjustment.

Commencing on the first (1st) day of the calendar month after the expiration of ten (10) months of the term of this Sublease and continuing on the corresponding day of each year thereafter during the Initial Term, the First Extended Term, or any other extended term of this Sublease, the Monthly Rent shall be subject to an increase based upon any cost of living increase as follows: The base for computing the adjustment shall be the Consumer Price Index for All Urban Consumers (All Items) for the San Diego Metropolitan Area (base year 1967=100) published by United States Department of Labor, Bureau of Labor Statistics (the "Index"), which index is published next preceding the commencement date of the term of this Sublease. The Index published next preceding the commencement date of the term of this Sublease shall hereinafter be called the "Beginning Index." The date upon which an adjustment in Monthly Rent is made shall hereinafter be called the "Adjustment Date." At the time of the Adjustment Date, the parties shall examine the Index published next preceding the first Adjustment Date (the "Adjustment Index"). If the Adjustment Index has increased over the Beginning Index, the Monthly Rent for the following year (until the next annual cost of living rent adjustment) shall be set by multiplying the Monthly Rent payable during the immediately preceding year by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index; provided, however, that in no event shall the Monthly Rent be less than the amount set forth in subparagraph (a) above.

In the event that the Bureau of Labor Statistics of the United States Department of Labor changes its method of computing the consumer price index or in the event that the Bureau of Labor Statistics discontinues the computation of the consumer price index, such other government index or computation with which the consumer price index is replaced shall be used to obtain substantially the same result as would have been obtained if the consumer price index had not been revised or discontinued. If there is no replacement index, the parties shall mutually agree in writing to use another similar consumer price index. In the event that the parties shall fail to agree upon a substitute consumer price index within sixty (60) days after the discontinuance of the consumer price index set forth above, the selection of a new consumer price index shall be submitted to one (1) arbitrator mutually acceptable to the parties. If both parties cannot agree upon one (1) arbitrator, Marina shall choose one (1) arbitrator and Subtenant shall choose one (1) arbitrator.

The two arbitrators shall choose one (1) arbitrator, other than themselves, to conduct the arbitration. The selection of arbitrators shall be made within seventy (70) days after the discontinuance of the consumer price index set forth above. The decision of the arbitrator shall be final and conclusive upon the parties and enforceable as provided by the laws of the State of California. The cost of any arbitration shall be divided equally between the parties.

(c) Percentage Rent.

In addition to the Monthly Rent set forth in subparagraph (a) above, Subtenant shall pay to Marina, in arrears, on the fifteenth (15th) day of each and every calendar month during the term of this Sublease, beginning on the fifteenth (15th) day of the second (2nd) full calendar month of the Initial Term, a sum of money equal to:

(i) Four percent (4%) of gross revenue (as hereinafter defined) from the repair and painting of boats, repair of motors and engines, sale of boat parts and motor parts, sale of accessories, and sale of marine hardware; and

(ii) One half of one percent (1/2%) of gross revenue from the sale of new or used boats, boat engines, boat motors, boat trailers, and the accessories of such sales. All costs for repairs, maintenance, and make-ready for a boat in preparation for the sale of the boat shall be included in the price of the boat and shall not be again included in the percentage rates for separate repairs, maintenance, etc., as provided in subparagraph (i) above.

The rent payable by Subtenant to Marina according to the provision of subparagraphs (i) and (ii) above shall sometimes hereinafter be called the Percentage Rent. The Percentage Rent shall be due and payable from Subtenant to Marina on the fifteenth (15th) day of the calendar month following that month in which the revenue described in subparagraphs (i) and (ii) above was earned by Subtenant.

Commencing on the first (1st) day of the calendar month eleven (11) calendar months after the first full calendar month of the Initial Term, the one-half of one percent (1/2%) Percentage Rental figure set forth in subparagraph (ii) above shall be increased to one percent (1%) during the remainder of the term of this Sublease.

For purposes of this Sublease, the phrase "gross revenue" shall mean the gross selling price of all merchandise or services sold, leased, licensed, or delivered in or from the Premises by Subtenant, whether for cash or on credit (whether collected or not), and whether made by Subtenant's personnel or by vending machines. Any transaction on an installment basis, including, but not limited to, and "lay away" or like transaction, or otherwise involving the extension of credit, shall be treated as a sale for the full price at the time of the transaction, irrespective of the time of payment or the time of passage of title. Gross revenue shall not include, or if included there shall be deducted (but only to the extent they have been included), the following:

(1) The selling price of all merchandise returned by customers and accepted for full credit, or the amount of discounts, refunds and allowances made on returned merchandise.

(2) Sums and credits received in the settlement of claims for loss or damage to merchandise.

(3) The price allowed on all merchandise traded in by customers for credit or the amount of credits, discounts, and allowances made instead of acceptance of merchandise.

(4) Sales and use taxes, so-called luxury taxes, consumer's excise taxes, gross receipts taxes, federal income taxes, state income taxes, and other similar taxes now or in the future imposed on the sale or cost of merchandise or services, but only if such taxes are added to the selling price, separately stated, collected separately from the selling price of merchandise or services, and collected from Subtenant's customers.

(5) Sales of fixtures, trade fixtures, or personal property other than in the ordinary course of the business of Subtenant.

Subtenant shall keep accurate and complete records in a manner and in a form satisfactory to Marina from

which Marina can at all reasonable times determine the nature and amount of revenue subject to Percentage Rent. Subtenant's books and records shall show all transactions relative to the conduct of Subtenant's business, and such transactions shall be supported by documents of original entry, including, but not limited to, sales slips, cash register tapes, purchase invoices, and tickets issued, or other means satisfactory to Marina.

Together with each payment of Percentage Rent, Subtenant shall deliver to Marina in a written statement as to the source of the receipts showing all gross revenue of the preceding calendar month together with the amount payable to Marina as set forth above. Each monthly written statement shall be signed and certified to be correct by Subtenant or its authorized representative, and if Subtenant is or becomes a corporation, the written monthly statements shall be signed and certified to be correct by an officer of Subtenant. Subtenant shall also furnish to Marina copies of Subtenant's quarterly California sales and use tax returns at the time each is filed with the State of California.

After the end of each twelve (12) month period after the commencement date of the term of this Sublease, Subtenant shall cause an audit of the business conducted on the Premises to be made by a certified public accountant. The audit shall be conducted at Subtenant's sole cost and expense. Within sixty (60) days after the end of each such year, Subtenant shall, at Subtenant's sole cost and expense, deliver to Marina a copy of the written audit. In the event that the audit discloses that the Percentage Rent for the audited period has been underpaid in excess of five percent (5%) of the total required Percentage Rent, then Subtenant shall pay to Marina ten percent (10%) of the amount by which the Percentage Rent was underpaid in addition to the unpaid Percentage Rent so shown to be due to Marina as compensation to Marina for administrative costs, loss of interest, and other charges and damages.

(d) Delinquent Rent.

The Monthly Rent is due and payable on the first (1st) day of each calendar month. The Percentage Rent is due and payable on the fifteenth (15th) day of each calendar month immediately after the calendar month in which the relevant revenue is received by Subtenant. In the event that Marina does not receive in its office the full payment of the Monthly Rent from Subtenant at or before 5:00 p.m. on the sixth (6th) day of any calendar month or the full payment of the Percentage Rent at or before 5:00 p.m. on the twenty-first (21st) day of any calendar month, Marina shall have the right to terminate this Sublease or otherwise exercise any of the rights of a landlord available to Marina at law or in equity. In the event that Marina does not receive in its office the full amount of the Monthly Rent at or before 5:00 p.m. on the sixth (6th) day of any calendar month or the full amount of the Percentage Rent at or before 5:00 p.m. on the twenty-first (21st) day of any calendar month, Subtenant shall be able to cure its delinquency only upon the payment of the full amount of the delinquent Monthly Rent or Percentage Rent, as the case may be, plus a sum equal to ten percent (10%) of the Monthly Rent or Percentage Rent for each month that the Monthly Rent or Percentage Rent is delinquent commencing on the first (1st) month of delinquency. The parties acknowledge that the ten percent (10%) delinquency fee is based upon Marina's actual damages incurred in connection with its administration and collection of delinquent rent.

7. SECURITY DEPOSIT.

Concurrently with the execution of this Sublease, Subtenant shall deposit with Marina, in addition to the first full month's rent, the sum of Two Thousand Four Hundred Dollars (\$2400.00) as a security deposit for the performance by Subtenant of all of Subtenant's obligations under this Sublease. If Subtenant is in default of Subtenant's obligations, Marina shall have the right to use the security deposit, or any portion of the security deposit, to cure the default or to compensate Marina for any and all damage sustained by Marina resulting from Subtenant's

default. Subtenant shall immediately upon demand pay to Marina a sum equal to the portion of the security deposit expended or applied by Marina as provided in this numbered paragraph so as to maintain the security deposit in the sum initially deposited with Marina. If Subtenant is not in default of Subtenant's obligation at the expiration or earlier termination of this Sublease, Marina shall return the security deposit to Subtenant. Marina's obligations with respect to the security deposit are those of a debtor and not a trustee. Marina may either maintain the security deposit separate and apart from Marina's general funds or commingle the security deposit with Marina's general or other funds in Marina's sole and absolute discretion. Marina shall not be required to pay Subtenant any interest on the security deposit.

8. IMPROVEMENTS.

Subtenant shall construct on the Premises no improvements without the prior written consent of Marina.

9. REPAIRS AND MAINTENANCE.

(a) Marina's Nonresponsibility.

Marina shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Premises except for structural defects in the walls, floor, ceiling, electrical facilities, or plumbing facilities of the Premises, which defects were not caused by acts or omissions by Subtenant, Subtenant's agents, or Subtenant's customers. In the event of a defect caused by Subtenant, Subtenant's agents, or Subtenant's customers, Subtenant shall cause such defect to be remedied or repaired at Subtenant's sole cost and expense. Marina shall maintain the exterior walls, windows, roof, stairways, and common areas of the Building at Marina's sole cost and expense. Subtenant hereby expressly waives the right to make repairs at the expense of Marina as provided for in any statute or law in effect at the time of the execution of this Sublease, or in any other statute or law which may hereafter be enacted.

(b) Subtenant's Duty to Maintain the Premises.

Subtenant shall, at Subtenant's sole cost and expense, maintain the Premises in good condition and repair and in accordance with all applicable laws, and shall make whatever repairs and replacements are required by such laws.

10. MAINTENANCE OF CLEAN WORK AREAS.

The parties acknowledge that a significant portion of Subtenant's business will involve work on boats moored and stored at the Marina Complex delineated on the map attached hereto, marked Exhibit "C", and incorporated herein by reference. Such Marina Complex shall sometimes hereinafter be called "Mission Bay Marina."

In the event that Subtenant, with the permission of Marina, does any work on boats moored in the slips or located in any boatyard at Mission Bay Marina, including, but not limited to, the main boatyard and the do-it-yourself boatyard, then Subtenant shall keep Subtenant's work areas throughout Mission Bay Marina neat and broom clean at all times, and Subtenant shall always clean up Subtenant's equipment, debris, and other items at the end of each business day and at the completion of Subtenant's work on each boat.

11. USE OF THE PREMISES.

Subtenant shall operate its business within the Premises in such a manner to conform to and comply with each, every, and all of the ordinances or regulations of City, the County of San Diego, the State of California, and the United States of America that are now in force or which may hereinafter be enacted with reference to the use or contemplated use of the Premises. Subtenant's use of the Premises shall at all times be consistent with the uses permitted under the Master Lease.

12. UTILITIES.

Subtenant shall pay, before delinquency, any and all charges for electricity which are separately metered to the

Premises. Subtenant shall pay, before delinquency, any and all charges for telephone and any other utilities which are separately billed to the Premises. As to utilities which are not separately billed or metered to the Premises but which are billed or metered for the entire Building, including, but not limited to, water, gas and heat, Marina shall pay such utilities prior to delinquency.

13. JANITORIAL AND MAINTENANCE FEES.

As part of Subtenant's obligation to maintain the Premises in good condition and repair, Subtenant shall engage, at Subtenant's sole cost and expense, a competent and efficient janitorial service for the Premises, or otherwise arrange for regular, periodic cleaning and maintenance for the Premises. In the event that Marina engages a janitorial service for the Building, for the entire Mission Bay Marina, or for any part of Mission Bay Marina, Subtenant may, in Subtenant's discretion, elect to participate in such janitorial service and share in the cost thereof. If a janitorial service is made available and if Subtenant elects to participate in it, Subtenant shall notify Marina of Subtenant's election to participate by delivering to Marina a written notice. The written notice shall become effective no earlier than fifteen (15) days after its receipt by Marina. If and when Subtenant elects to participate in the janitorial service, Marina shall cause Subtenant to be billed on a regular basis for Subtenant's share of the cost of the janitorial service. Subtenant's share of the cost of the janitorial service shall be based upon the percentage of square feet in the Building occupied by Subtenant as compared to the total number of leasable square feet in the entire Mission Bay Marina, and on the basis of Subtenant's particular use of the Premises. Subtenant shall pay to Marina Subtenant's share of the cost of janitorial services within ten (10) days after Subtenant's receipt of each bill therefor.

14. COMMON AREA CHARGES.

Marina shall pay, prior to delinquency, all charges for exterior lighting, maintenance, upkeep, repairs outside the Building, and the maintenance and upkeep of the stairs, hallways, and restrooms in the Building. For purposes of this Sublease, the phrase "common area" shall mean all surfaces outside the Building which are not in the exclusive control of Subtenant and the stairways, hallways, common entrances, and restrooms for the Building.

15. TAXES AND ASSESSMENTS.

(a) Personal Property Tax.

Subtenant shall pay, prior to delinquency, all taxes, assessments, license fees, and other charges that are levied and assessed against Subtenant's personal property located in, on, or about the Premises, which taxes become payable during the term of this Sublease. Upon written demand by Marina, Subtenant shall furnish Marina and City with satisfactory evidence of such payments. If any taxes on Subtenant's personal property are levied against Marina or Marina's property and the assessed value of the Building is increased by the inclusion of a value placed upon Subtenant's personal property, and if Marina pays the taxes or the increased assessment, Subtenant, on demand, shall immediately reimburse Marina for the sum of the taxes levied against Marina, or the portion of the taxes resulting from the increase in Marina's assessment. Marina shall have the right to pay such taxes regardless of the validity of the levy.

(b) Real Property and Possessory Interest Taxes.

CP Subtenant shall pay Subtenant's proportionate share of all real property taxes, possessory interest taxes, and assessments levied and assessed against the Building, provided, however, that in no event shall Subtenant be required to pay more than \$ N/A per year in real property taxes, possessory interest taxes, and assessments.

Subtenant's proportionate share shall be the ratio of the total real property taxes, possessory interest taxes, and assessments levied and assessed against the Building that the total number of square feet in the Premises bears to the total number of square feet in the Building.

Each year Marina shall notify Subtenant of Marina's calculation of Subtenant's proportionate share of the real property taxes, possessory interest taxes and assessments and together with such notice shall furnish Subtenant with a copy of the tax bill. Subtenant shall pay Subtenant's proportionate share of the real property taxes, possessory interest taxes, and assessments semi-annually no later than ten (10) days before the taxing authority's delinquent date or ten (10) days after Subtenant's receipt of the tax bill, whichever is later.

Subtenant shall pay its proportionate share of all increases in real property taxes, possessory interest taxes, and assessments, whether the increase is a result of increased rate and/or valuation, levied and assessed against the Building over and above those real property taxes, possessory interest taxes, and assessments, levied and assessed against the Building.

16. INDEMNITY AND INSURANCE.

(a) Indemnity.

Subtenant shall indemnify and hold harmless Marina and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, material liens, judgment liens, and any and all claims of whatsoever kind or character, at any time made, asserted, or claimed by or on behalf of any person or persons against Marina for or on account of any matter or thing, including injury to or death of any person or persons and damage to property, occurring from any cause whatsoever on or about the Premises and/or on or about the sidewalk and streets adjacent to the Premises, resulting

from, or arising out of or in any way connected with any condition of the Premises, or resulting from, arising out of, or in any way connected with the use and occupancy of the Premises by Subtenant, or resulting from, arising out of, or in any way connected with any noncompliance by Subtenant or any of its agents or employees, with any law, ordinance, regulation, or authority concerning the use, occupancy, sanitation, or safety of the Premises, or any part thereof.

Subtenant shall assume the defense of, indemnify and save harmless Marina and City from all claims, demands, expenses, and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises or from any act or omission of Subtenant, his agents and invitees.

(b) General Public Liability Insurance.

Subtenant shall be insured by an insurance carrier acceptable to Marina and City against loss from public liability arising from the use or condition of or operations conducted on the Premises, along with products liability and completed operations insurance. Minimum coverage shall be Five Hundred Thousand Dollars (\$500,000.00). A copy of the policy of insurance shall be filed with City and shall name Marina and City as additional insureds. Said policy shall specify that the policy may not be terminated, altered or cancelled without prior written notice to City by the insurance company.

The policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Prior to the commencement date of this Sublease, Subtenant shall deliver to Marina a certificate or certificates of insurance evidencing the existence of such policy or policies of insurance.

(c) Fire and Extended Coverage Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain a policy or policies of fire, extended coverage, and vandalism insurance on the Premises. Such policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Such policy or policies shall be in an amount sufficient to cover at least eighty percent (80%) of the replacement costs of the Premises and all improvements and contents in, on, or about the Premises.

(d) Ship Repairer's Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain a policy or policies of ship repairer's insurance for all work done by Subtenant in, on, or about the Premises. Such policy or policies shall be in an amount sufficient to cover the reasonable need of a business such as the one in which Subtenant is engaged.

(e) Other Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain any other necessary policy or policies of insurance covering and insuring against risks which reasonably may be anticipated in a business such as the one in which Subtenant is engaged.

17. NO ASSIGNMENT OR SUBLETTING.

Subtenant shall not assign this Sublease or sublet the Premises or any part thereof without the prior written consent of Marina and City. An assignment by operation of law shall automatically terminate this Sublease.

18. ACCESS TO RESTROOMS.

Marina shall provide Subtenant and Subtenant's agents, employees, and customers with access to the restrooms located at the rear of the first (1st) floor of the Building during all reasonable hours during which Subtenant's business is in operation. Subtenant acknowledges that Subtenant shall

share the restrooms with other Subtenants in the Building and their agents and customers, and with users of boat slips, the do-it-yourself boatyard located near the Building, and others.

19. ACCESS TO BOATS.

Subtenant shall have walking access, as necessary and appropriate, to all boats located in any of the boatyards or slips that are part of Mission Bay Marina. On the commencement date of the term of this Sublease, Marina shall provide Subtenant with a key to the boat slips that are part of Mission Bay Marina. Subtenant shall have walking access, as necessary and appropriate, to all boats moored in the boat slips. Subtenant shall keep the boat slips locked at all times. Subtenant shall return the boat slip key to Marina immediately upon the expiration or earlier termination of this Sublease. In the event that Subtenant loses or otherwise does not return the boat slip key, Subtenant shall reimburse Marina for the entire cost of rekeying the boat slips within ten (10) days after Subtenant's receipt from Marina of a written statement setting forth the cost of the rekeying process.

20. USE OF STORAGE FACILITIES.

The parties acknowledge that a significant portion of Subtenant's business will involve work on boats brought to Marina by boat owners and moored or stored at Mission Bay Marina. Provided that Subtenant complies with the provisions of the numbered paragraph of this Sublease entitled "MAINTENANCE OF CLEAN WORK AREAS," Subtenant shall be entitled to work on such boats without the payment of storage or other charges. In the event that, independent of Marina, Subtenant brings to Mission Bay Marina Subtenant's customers whose boats require storage in the do-it-yourself boatyard, or in any other area of Mission Bay Marina, then Subtenant shall pay to Marina the normal daily rates charged by Marina from time to time for use of the do-it-yourself boatyard or for storage of the boats of Subtenant's customers in any other area of Mission Bay Marina;

provided, however that Subtenant shall not be required to pay to Marina the daily storage charge or lay day charge for any day if, through arrangements made by Subtenant, Marina's personnel perform four (4) or more hours of work on the boat belonging to Subtenant's customer during the course of that particular day. For any day that Marina's personnel perform less than four (4) hours on a boat belonging to Subtenant's customer, Subtenant shall pay the normal daily storage or lay day rate. In the event that a boat originally stored by Marina is delayed or held over as a result of the need for Subtenant to do additional work on that boat, then Subtenant shall pay to Marina the normal daily storage or lay day rate charged by Marina for that boat.

21. SIDE TIES AND WORK SLIPS.

The parties acknowledge that Subtenant shall require on a regular basis access to side ties and work slips located in the boat slips near the Premises. Marina shall provide to Subtenant during the term of this Sublease a total of Ninety (90) feet of side tie space in the boat slips near the Premises. In addition to the Monthly Rent and the Percentage Rent set forth in the numbered paragraph of this Sublease entitled "RENT," Subtenant shall pay to Marina, in advance, on the first (1st) day of each and every calendar month during the term of this Sublease, beginning on the first (1st) day of the first (1st) full calendar month of the Initial Term, the sum of Three Dollars (\$3.00) per foot per month for each foot of side tie space reserved by Subtenant pursuant to the preceeding sentence. Commencing on the date one (1) year after the date of this Sublease and continuing on the corresponding day of each calendar year thereafter, Marina shall have the right, in Marina's sole and absolute discretion, to increase the Three Dollar (\$3.00) per foot per month rent for the side tie space by a percentage equal to the percentage increase in slip

rentals made effective throughout Mission Bay Marina during the preceeding year.

Subtenant shall use the side tie space for the mooring of any boats belonging to Subtenant or Subtenant's customers. Subtenant shall be entitled, in Subtenant's discretion, to charge Subtenant's customer lay day charges for the use of the side tie space; provided, however, that any lay day charges charged by Subtenant to subtenant's customers shall be reported in writing on a monthly basis to Marina and provided further that any lay day charges charged by Subtenant shall not exceed the rate then being charged by Marina for Subtenant's use of the side tie space.

22. USE OF MARINA EQUIPMENT.

The parties acknowledge that Subtenant shall have the frequent need to utilize certain Marina equipment as follows:

(a) Large Crane.

Subtenant shall have the right to rent from Marina during the term of this Sublease the large crane that Marina maintains. The rental rate for the large crane, including the services of one (1) operator only, shall be Sixty Dollars (\$60.00) per hour during the first (1st) year of this Sublease. Commencing on the date one (1) year after date of this Sublease and continuing on the corresponding day of each calendar year thereafter, Marina shall have the right, in Marina's sole and absolute discretion, to increase the hourly rate for the large crane by a percentage equal to the percentage increase charged by Marina for the use of the crane by other persons during the preceeding year.

(b) Travel Lift.

Subtenant shall have the right to rent from Marina Marina's travel lift at standard rates charged by Marina from time to time.

(c) Large A-Frame.

Subtenant shall have the use of Marina's large A-Frame during the term of this Sublease without additional charge to Subtenant.

(d) Fork Lift.

Subtenant shall have the use of Marina's large fork lift during the term of this Sublease without additional charge to Subtenant; provided, however, that Marina's fork lift must at all times be operated by a qualified operator.

(e) Sand Blaster.

Subtenant shall have the use of Marina's sand blaster during the term of this Sublease without additional charge to Subtenant.

(f) Other Tools.

Any and all other tools necessary to or incidental in Subtenant's trade or business shall be provided by Subtenant at Subtenant's sole cost and expense.

Subtenant's use of any of Marina's equipment shall be coordinated with Marina's boatyard foreman.

23. SUBTENANT'S TRUCKS AND VEHICLES.

The parties acknowledge that, as of the date of this Sublease, Subtenant currently maintains, and plans to locate in, on, or about, the Premises, the following trucks and other vehicles:

- One (1) Ford Courier pick-up truck;
- One (1) Ford Econoline half-ton pick-up truck;
- One (1) large truck with a crane mounted on it;
- One (1) regular crane approximately thirty (30) feet high.

Subtenant may park any and all of the Subtenant's trucks and other vehicles in, on, or about the Premises; provided, however, that at no time may any of Subtenant's trucks or other vehicles block the driveway immediately to the west of the Premises or otherwise inhibit access to the do-it-yourself boatyard or any other portion of Mission Bay Marina.

At Marina's request, when Subtenant leaves Subtenant's trucks in the driveway during the day, Subtenant shall leave ignition keys either in the trucks or in a mutually agreed spot so that Marina's employees may move the trucks at their convenience as necessary in order to provide access to the do-it-yourself boatyard and any other portion of Mission Bay Marina. To avoid congestion as much as possible, Subtenant shall attempt to park Subtenant's trucks and vehicles on the street outside the Premises as much as possible.

24. PARKING.

Subtenant and all of Subtenant's employees shall park on the street outside the Premises. Subtenant's customers shall park, on a space available basis, in the Marina parking lot or on the street.

25. EFFECTIVENESS OF PROVISIONS OF MASTER LEASE.

Except as the provisions of the Master Lease are varied by this Sublease, and except as the provisions of the Master Lease are irrelevant to Subtenant, all the provisions of the Master Lease shall control as to Subtenant and shall remain in full force and effect for the entire term of this Sublease. The provisions of the Master Lease that are relevant and controlling as to Subtenant include, but are not necessarily limited to, the following portions of the Master Lease:

Section I A

Section I B

Section II B

Section IV A 1

Section IV B 4

Section IV B 5

Section IV B 6

Section IV B 7

Section IV B 9

Section IV B 11

Section IV B 12

Section IV B 13

Section IV B 14
Section IV B 16
Section IV C 19
Section IV C 20
Section IV C 21
Section IV C 22
Section IV C 23
Section IV C 25
Section IV C 26
Section IV C 27
Section IV C 28

All the relevant provisions of the Master Lease are hereby incorporated herein by reference. Any reference to "City" in the Master Lease shall be deemed to be a reference to Marina for purposes of this Sublease and any reference to "Lessee" in the Master Lease shall be deemed to be a reference to Subtenant for purposes of this Sublease.

26. AMENDMENT.

This Sublease may be amended only by a writing signed by both parties.

27. NOTICES.

Any notice from one party to another shall be delivered either personally or via United States mail, postage fully pre-paid, addressed to the parties as follows:

To Marina:	Mr. Charles P. Bluth Mission Bay Marina 1548 Quivira Way San Diego, Ca. 92109
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To Subtenant:	Mr. Edmund Taylor Marine Propulsion Systems at the Premises
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Any notice shall be deemed delivered at the time of personal service or forty-eight (48) hours after the time of deposit in the United States mail, as the case may be. In the event that either party changes its address, the change of address shall be communicated to the other party in the manner set forth in this numbered paragraph.

28. ATTORNEYS' FEES.

Should it become necessary for Marina or City to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this Sublease, Subtenant shall pay all legal costs in connection therewith, including a reasonable sum as attorneys' fees.

29. HEADINGS AND CAPTIONS.

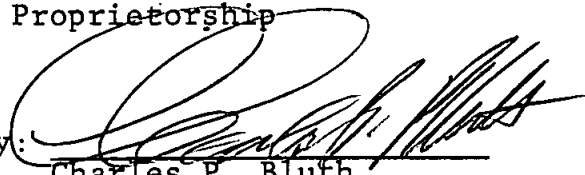
The headings and captions at the beginning of various paragraphs and subparagraphs of this Sublease shall not be construed to be a substantive part of this Sublease and shall not in any way define, limit, expand, or affect any provision of this Sublease.

39. COUNTERPARTS.

This Sublease may be signed in as many as three (3) counterparts, each of which shall constitute an original, but all of which together shall be one (1) and the same document.

MARINA:

MISSION BAY MARINA
a Proprietorship

By: 

Charles P. Bluth

SUBTENANT:

MARINE PROPULSION SYSTEMS

By: _____

Edmund Taylor

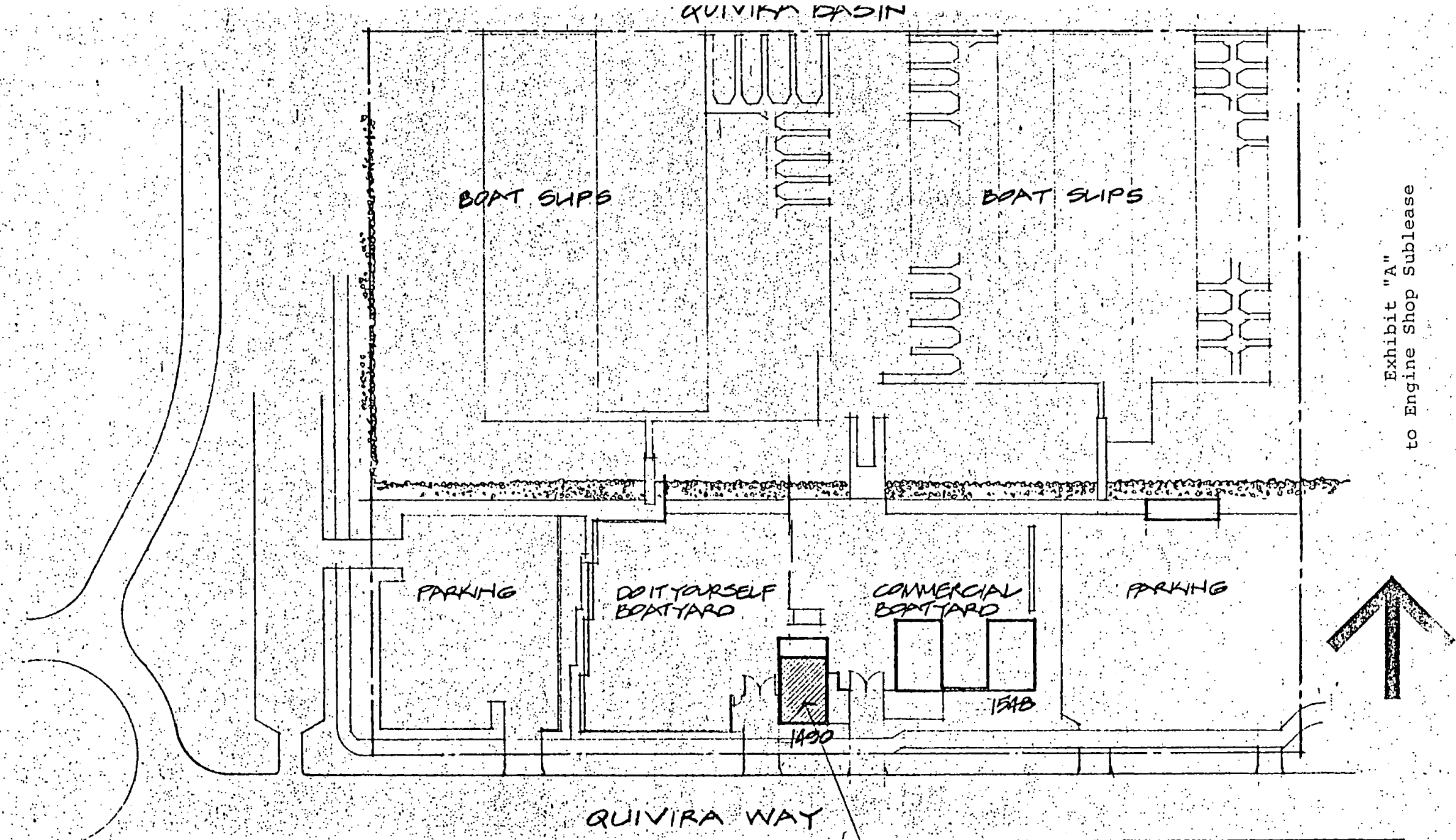
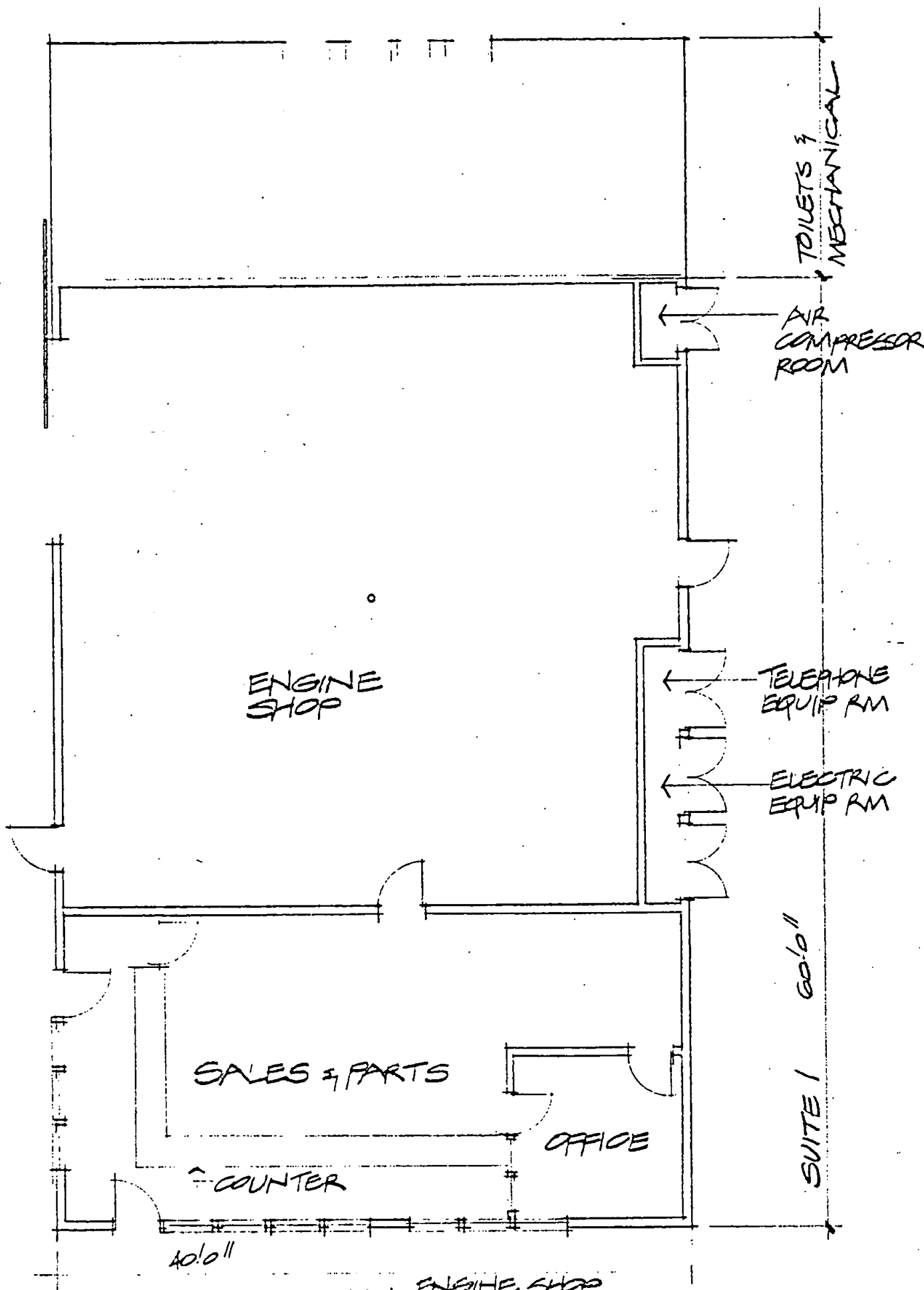


Exhibit "A"
to Engine Shop Sublease

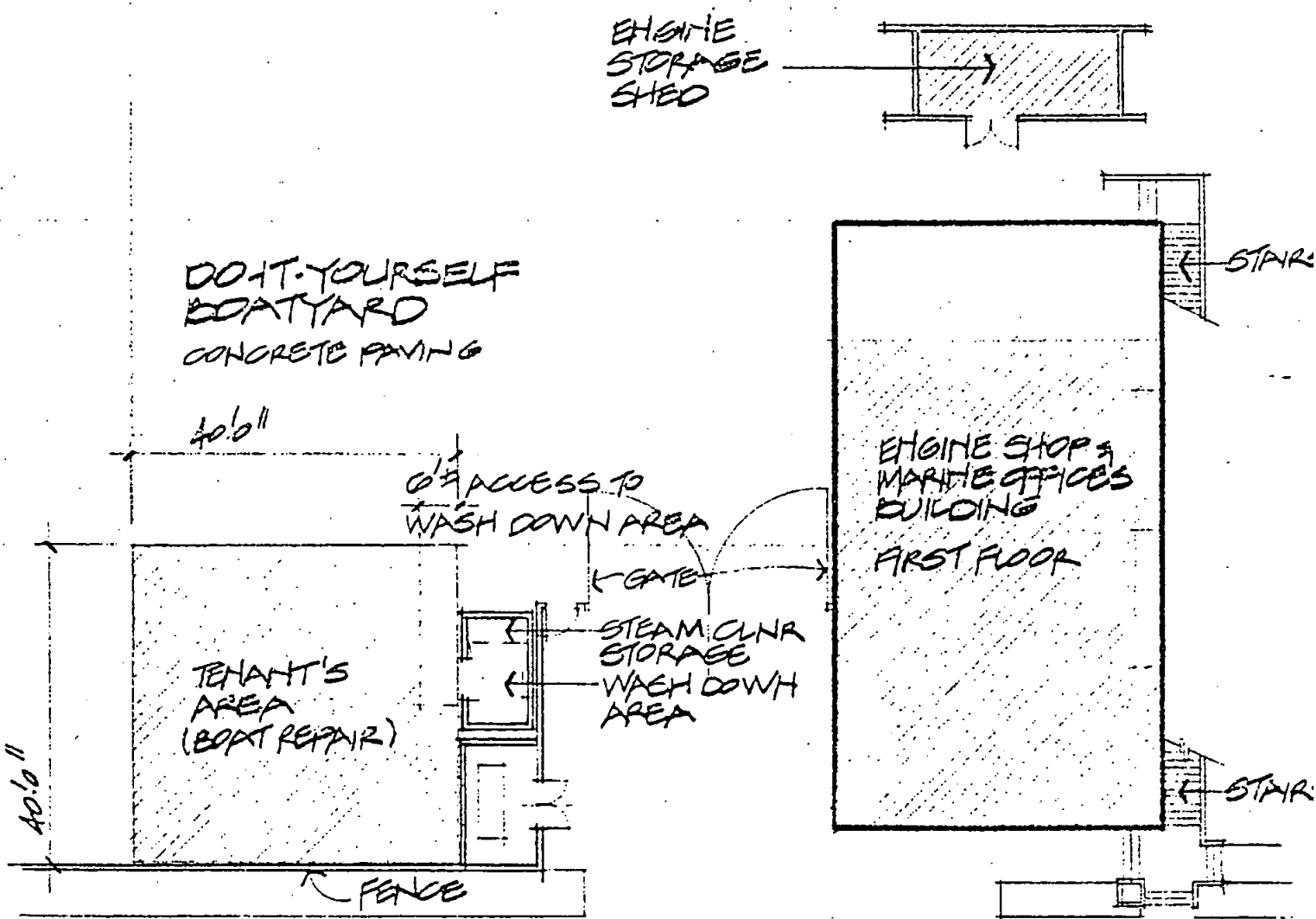
MISSION BAY MARINA
MISSION BAY PARK
SAN DIEGO, CALIFORNIA

LEASE SPACE SUITE 1
FIRST FLOOR
ENGINE SHOP & MARINE OFFICES BUILDING



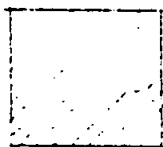
SUITE 1 ENGINE SHOP
2400 SF & ENGINE SALES
FIRST FLOOR

ENGINE SHOP &
MARINE OFFICES BUILDING
MISSION BAY MARINA



← DRIVEWAY →

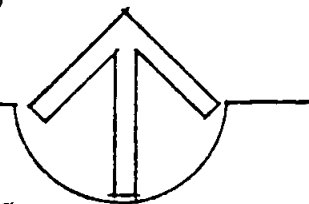
KEY:
AREAS OF
EXCLUSIVE
USE BY THIS
TENANT



SUITE 1 ENGINE SHOP & ENGINE SALES

AREAS OF EXCLUSIVE USE

ENGINE SHOP &
MARINE OFFICES BUILDING
MISSION BAY MARINA



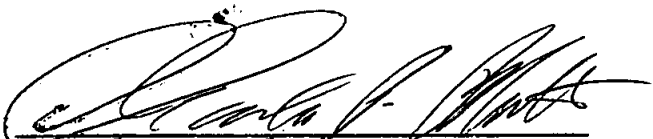
MEMORANDUM OF COMMENCEMENT DATE

This MEMORANDUM OF COMMENCEMENT DATE ("Memorandum") is made as of April 20, 1980, between MISSION BAY MARINA, a proprietorship, as Sublandlord, and EDMUND TAYLOR, doing business as MARINE PROPULSION SYSTEMS, as Subtenant.

The parties acknowledge that the term of that certain written Sublease made as of April 20, 1980 commenced on April 20, 1980. Pursuant to the provisions of the Sublease, the Initial Term of the Sublease shall expire at 11:59 p.m. on April 19, 1985 unless the term is extended pursuant to provisions of subparagraph 5 (c) of the Sublease.

SUBLANDLORD:

MISSION BAY MARINA,
a Proprietorship

By 
Charles P. Bluth

SUBTENANT:

MARINE PROPULSION SYSTEMS

By: _____
Edmund Taylor

*Void without
signature of
Edmund Taylor
accompanied by
document
813*

Exhibit "D" to
Sublease

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

MISSION BAY MARINA

(LESSEE) and filed in the Office of the City Clerk as Document No. 766042, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

WILLIAM L. ROBERTS

(SUBLESSEE) dated November 20, 1981. Said Sublease shall be subordinate to the Master Lease in all respects. In addition, this consent is subject to the following conditions: (If None, write "None").

NONE

Dated

5.17.82

THE CITY OF SAN DIEGO

By:


City Manager

Dated

5/18/82

APPROVED AS TO FORM:
JOHN W. WITT, CITY ATTORNEY

By:


Deputy

SUBLEASE

THIS SUBLEASE ("Sublease") is made as of November 20, 1981 between MISSION BAY MARINA, a proprietorship ("Marina"), and William L. Roberts doing business as MISSION BAY YACHT SALES, who agree as follows:

1. FACT RECITALS.

This Sublease is made with reference to the following facts:

(a) Master Lease.

On or about March 5, 1979, THE CITY OF SAN DIEGO, a municipal corporation ("City"); as landlord and Marina, as tenant, signed that certain written Percentage Lease ("Master Lease"). The Master Lease was approved by the City Council of City by resolution number 222988 dated March 5, 1979. The Master Lease provided, among other things, that Marina could construct upon the property that was the subject of the Master Lease certain improvements and then sublease space in those improvements to subtenants. Subtenant acknowledges Subtenant's receipt of a true copy of the Mastter Lease.

(b) Sublease of Office Space

The subject of this Sublease is a certain space at 1548 Quivira Way, which space is delineated on the plan attached hereto, marked Exhibit "A", and incorporated herein by reference.

(c) Intent of the Parties.

It is the intent of the parties to set forth in this sublease their agreement concerning Subtenant's use and occupancy of the portion of the Building delineated in Exhibit "A", attached hereto. It is the further intention of the parties that Subtenant's use and occupancy of such space shall be subject to each and every relevant provision of the Master Lease, and that this Sublease shall be approved by the appropriate authorities of City prior to the effective date of this Sublease.

2. SUBLEASE SUBJECT TO MASTER LEASE.

This Sublease is subject to the provisions of the Master Lease. The parties acknowledge that this Sublease does not violate any provision of the Master Lease and that no provisions of this Sublease are in conflict with any provisions of the Master Lease. If the Master Lease terminates and this Sublease terminates as a result of the termination of the Master Lease, the parties shall be released from all liabilities and obligations under this Sublease.

This Sublease is in effect a Sublease of a portion of the premises covered by the certain Master Lease dated March 5, 1979, as amended, between Marina, as tenant, and City, as landlord. This Sublease is subject and subordinate to the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. SUBLEASE OF THE PREMISES.

Marina sublets to Subtenant and Subtenant sublets from Marina, that certain space, which office space comprises approximately five hundred (500) square feet and which office space is delineated on the plan attached hereto as Exhibit "A". The office space shall hereinafter be called the "Premises". The Premises shall include, but not necessarily be limited to, the structural improvements constituting the office space and any and all interior improvements, such as carpeting, fixtures, wall coverings, ceiling coverings, window coverings, levelor blinds, and all other interior items.

4. ACCEPTANCE OF THE PREMISES.

On the commencement date of the term of this Sublease, the Premises shall be in good condition. Subtenant's taking possession of the Premises on the commencement date of the term of this Sublease shall constitute Subtenant's acknowledgement that the Premises are in good condition. Immediately after the commencement date of the term of this Sublease, Subtenant shall, at Subtenant's sole cost and expense, move into the Premises all the furnishings, equipment and other items required by Subtenant to conduct Subtenant's business.

5. TERM.

The term ("Term") of this Sublease shall be for a period of two (2) years. The Term shall commence on the date set forth on this Sublease. Subtenant's rent shall commence to accrue and Subtenant shall be obligated to commence paying rent on the commencement date regardless of whether Subtenant has actually occupied the Premises on that date. The term shall expire at 11:59 p.m. Pacific Time on the date two (2) years after the commencement date.

6. RENT.

(a) Monthly Rent.

Subtenant shall pay to Marina, in advance, on the first (1st) day of each and every calendar month during the term of this Sublease, beginning on the first (1st) day of the first (1st) full calendar month of the Initial Term, the sum of Fifty (\$50.00) Dollars per month (the "Monthly Rent"). Subtenant shall pay the Monthly Rent to Marina without deduction, set off, prior notice, or demand. In the event that the commencement date of the term of this Sublease is other than the first (1st) day of a calendar month and in the event that the last day of the term of this Sublease is a day other than the last day of a calendar month, the Monthly Rent for the first and last month of the term of this Sublease, as appropriate, shall be prorated on the basis of a thirty (30) day month.

Concurrently with the execution of this Sublease, Subtenant shall pay to Marina the sum of Fifty (\$50.00) Dollars as payment for the first full month's rent. In the event that the commencement date of the term of this Sublease is a date other than the first (1st) day of a calendar month, Subtenant shall pay to Marina on the commencement date of this Sublease the prorated amount of Monthly Rent due from Subtenant to Marina on account of the first (1st) partial month of the term of this Sublease. In such event, Marina shall retain the Fifty (\$50.00) Dollars paid by Subtenant to Marina as the Monthly RENT for the first (1st) full month of the term of this Sublease, and apply the Fifty (\$50.00) Dollars

to the first (1st) full month of the term of this Sublease. Subtenant's next payment of Monthly Rent shall then be due and payable on the first (1st) day of the second (2nd) full calendar month of the term of this Sublease.

(b) Annual Cost of Living Adjustment.

Commencing on the first (1st) day of the calendar month after the expiration of ten (10) months of the term of this Sublease and continuing on the corresponding day of each year thereafter during the Initial Term, the First Extended Term, or any other extended term of this Sublease, the Monthly Rent shall be subject to an increase based upon any cost of living increase as follows: The base for computing the adjustment shall be the Consumer Price Index for All Urban Consumers (All Items) for the San Diego Metropolitan Area (base year 1967=100) published by United States Department of Labor, Bureau of Labor Statistics (the "Index"), which index is published next preceding the commencement date of the term of this Sublease. The Index published next preceding the commencement date of the term of this Sublease shall hereinafter be called the "Beginning Index." The date upon which an adjustment in Monthly Rent is made shall hereinafter be called the "Adjustment Date." At the time of the Adjustment Date, the parties shall examine the Index published next preceding the first Adjustment Date (the "Adjustment Index"). If the Adjustment Index has increased over the Beginning Index, the Monthly Rent for the following year (until the next annual cost of living rent adjustment) shall be set by multiplying the Monthly Rent payable during the immediately preceding year by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index; provided, however, that in no event shall the Monthly Rent be less than the amount set forth in subparagraph (a) above.

In the event that the Bureau of Labor Statistics of the United States Department of Labor changes its method of computing the consumer price index or in the event that the Bureau of Labor Statistics discontinues the computation of the consumer price index, such other government index or computation with which the consumer price index is replaced shall be used to obtain substantially the same result as would have been obtained if the consumer price index had not been revised or discontinued. If there is no replacement index, the parties shall mutually agree in writing to use another similar consumer price index. In the event that the parties shall fail to agree upon a substitute consumer price index within sixty (60) days after the discontinuance of the consumer price index shall be submitted to one (1) arbitrator mutually acceptable to the parties. If both parties cannot agree upon one (1) arbitrator, Marina shall choose one (1) arbitrator and Subtenant shall choose one (1) arbitrator.

The two (2) arbitrators shall choose one (1) arbitrator, other than themselves, to conduct the arbitration. The selection of arbitrators shall be made within seventy (70) days after the discontinuance of the consumer price index set forth above. The decision of the arbitrator shall be final and conclusive upon the parties and enforceable as provided by the laws of the State of California. The cost of any arbitration shall be divided equally between the parties.

(c) Percentage Rent.

In addition to the Monthly Rent set forth in subparagraph (a) above, Subtenant shall pay to Marina, in arrears, on the fifteenth (15th) day of each and every calendar month during the Term of this Sublease, beginning on the fifteenth (15th) day of the second (2nd) full calendar month of the Term, a sum of money equal to:

(i) One-half percent (.5%) of gross revenue from the sale of new boats and the accessories of such sales. All costs for repairs, maintenance, and make-ready for a boat in preparation for the sale of the boat shall be included in the price of the boat.

(ii) One-half percent (.5%) of gross revenue from the sale of used boats owned by Subtenant.

(iii) Five Percent (5%) of Subtenant's retained commissions (as hereinafter defined) from Subtenant's brokerage activities in selling new and used boats.

The rent payable by Subtenant to Marina according to the provisions of subparagraphs (i) through (iii) above shall sometimes hereinafter be called the Percentage Rent. The Percentage Rent shall be due and payable from Subtenant to Marina on the fifteenth (15th) day of the calendar month immediately following the month in which the revenue described in subparagraphs (i) through (iii) above was earned by Subtenant.

It is the intention of Subtenant and Marina that the Percentage Rents payable herein shall cover those percentages charged by the City and which would be due and payable to the City if Subtenant were the original Lessee to the Master Lease. Subtenant will not be liable to City for any Percentage Rents over and above those already collected by Marina as provided for herein.

For the purposes of this Sublease, the phrase "gross revenue" shall mean the gross selling price of all boats and accessories and charter and instruction services sold, licensed or delivered in or from the Premises by Subtenant whether for cash or on credit (whether collected or not), and whether made by Subtenant's personnel or others.

Any transaction on an installment basis, including, but not limited to, any "lay away" or like transaction or otherwise involving the extension of credit, shall be treated as a sale for the full price at the time of the transaction, irrespective of the time of payment or the time of passage of title. Gross revenue shall not include, or if included there shall be deducted (but only to the extent they have been included) the following:

(1) The selling price of all merchandise returned by customers and accepted for full credit, or the amount of discounts, refunds, and allowances made on returned merchandise.

(2) Sums and credits received in the settlement of claims for loss or damage to merchandise.

(3) The price allowed on all merchandise traded in by customers for credit or the amount of credits, discounts, and allowances made instead of acceptance of merchandise.

(4) Sales and use taxes, so-called luxury taxes, consumer's excise taxes, gross receipts taxes, federal income taxes, state income taxes, and other similar taxes now or in the future imposed on the sale or cost of merchandise or services, but only if such taxes are added to the selling price, separately stated, collected separately, from the selling price of merchandise or services, and collected from Subtenant's customers.

(5) Sales of fixtures, trade fixtures, or personal property other than in the ordinary course of the business of Subtenant.

For purposes of this Sublease, the phrase "retained commissions" shall mean that sum of money retained by Subtenant or Subtenant's agents or employees only from the sale of new or used boats. The commissions that may be paid from boat sales proceeds to a cooperating broker, agent, or salesperson shall not be included in Subtenant's gross revenues and shall not be subject to a Percentage Rental under subparagraph (iii) of this numbered paragraph.

Subtenant shall keep accurate and complete records in a manner and in a form satisfactory to Marina from which Marina can at all times determine the nature and amount of revenue subject to Percentage Rent. Subtenant's books and records shall show all transactions relative to the conduct of Subtenant's business, and such transactions shall be supported by documents of original entry, including, but not limited to, sales slips, cash register tapes, purchase invoices, and tickets issued, or other means satisfactory to Marina. Together with each payment of Percentage Rent, Subtenant shall deliver to Marina in a written statement as to the source of the receipts showing all gross revenue of the preceding month together with the amount payable to Marina as set forth above. Each monthly written statement shall be signed and certified to be correct by Subtenant. Subtenant shall also furnish to Marina copies of Subtenant's quarterly California Sales and Use Tax returns at the time each is filed with the State of California.

After the end of each twelve (12) month period after the commencement date of the term of this Sublease, Subtenant shall cause an audit of the business conducted on the Premises to be made by a certified public accountant. The audit shall be conducted at Subtenant's sole cost and expense. Within sixty (60) days after the end of each such year, Subtenant shall, at Subtenant's sole cost and expense, deliver to Marina a copy of the written audit. In the event that the audit discloses that the Percentage Rent for the audited period has been underpaid in excess of five percent (5%) of the total required Percentage Rent, then Subtenant shall pay to Marina ten percent (10%) of the amount by which the Percentage Rent so shown to be due to Marina, as compensation to Marina for administrative costs, loss of interest, and other charges and damages.

(c) Delinquent Rent

The Monthly Rent is due and payable on the first (1st) day of each calendar month. The Percentage Rent is due and payable after the calendar month in which the relevant revenue is received by Subtenant. In the event that Marina does not receive in its office the full payment of the Monthly Rent from Subtenant at or before 5:00 p.m. on the sixth (6th) day of any calendar month or the full payment of the Percentage Rent at or before 5:00 p.m. on the twenty-first (21st) day of any calendar month, Marina shall have the right to terminate this Sublease or otherwise exercise any of the rights of a landlord available to Marina at law or in equity. In the event that Marina does not receive in its office the full amount of the Monthly Rent at or before 5:00 p.m. on the sixth (6th) day of any calendar month or the full amount of the Percentage Rent at or before 5:00 p.m., on the twenty-first (21st) day of any calendar month, Subtenant shall be able to cure its delinquency only upon the payment of the full amount of the delinquent Monthly Rent or Percentage Rent, as the case may be, plus a sum equal to ten percent (10%) of the Monthly Rent or Percentage Rent for each month that the Monthly Rent or Percentage Rent is delinquent commencing on the first (1st) month of delinquency. The parties acknowledge that the ten percent (10%) delinquency fee is based upon Marina's actual damages incurred in connection with its administration and collection of delinquent rent.

7. SECURITY DEPOSIT

Subtenant shall deposit with Marina, the sum of Fifty (\$50.00) Dollars as a security deposit, after one (1) year of commencement of the Term, for the performance by Subtenant of all of Subtenant's obligations under this Sublease. If Subtenant is in default of Subtenant's obligations, Marina shall have the right to use the security deposit, or any portion of the security deposit, to cure the default or to compensate Marina for any and all damages sustained by Marina resulting from Subtenant's default. Subtenant shall immediately upon demand pay to Marina a sum equal to the portion of the security deposit expended or applied by Marina as provided in this numbered paragraph so as to maintain the security deposit in the sum initially deposited with Marina. If Subtenant is not in default of Subtenant's obligation at the expiration or earlier termination of this Sublease, Marina shall return the security deposit to Subtenant. Marina's obligations with respect to the security

deposit are those of a debtor and not a trustee. Marina may either maintain the security deposit separate and apart from Marina's general funds or commingle the security deposit with Marina's general or other funds in Marina's sole and absolute discretion. Marina shall not be required to pay Subtenant any interest on the security deposit.

8. IMPROVEMENTS.

Subtenant shall construct on the Premises no improvements without the prior written consent of Marina.

9. REPAIRS AND MAINTENANCE

(a) Marina's nonresponsibility

Marina shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Premises except for structural defects in the walls, floor, ceiling, electrical facilities, or plumbing facilities of the Premises, which defects were not caused by acts or omissions by Subtenant, Subtenant's agents, or Subtenant's customers.

In the event of a defect caused by Subtenant, Subtenant's agents, or Subtenant's customers, Subtenant shall cause such defect to be remedied or repaired at Subtenant's sole cost and expense.

Marina shall maintain the exterior walls, windows, roof, stairways, and common areas of the Building at Marina's sole cost and expense. Provided Marina makes necessary repairs in a timely manner, Subtenant hereby expressly waives the right to make repairs at the expense of Marina as provided for in any statute or law in effect at the time of the execution of this Sublease, or in any other statute or law which may hereafter be enacted.

(b) Subtenant's Duty to Maintain the Premises

Subtenant shall, at Subtenant's sole cost and expense, maintain the Premises in good condition and repair and in accordance with all applicable laws, and shall make whatever repairs and replacements are required by such laws.

10. USE OF THE PREMISES

Subtenant shall operate its business within the Premises in such manner to conform to and comply with each, every and all of the ordinances or regulations of City, the County of San Diego, the State of California, and the United States of America that are now in force or which may hereinafter be enacted. With reference to the use or contemplated use of the Premises. Subtenant's use of the Premises shall at all times be consistent with the uses permitted under the Master Lease.

11. UTILITIES

Subtenant shall pay, before delinquency, any and all charges for electricity which are separately metered to the Premises. Subtenant shall pay, before delinquency, any and all charges for

telephone and any other utilities which are separately billed to the Premises. As to utilities which are separately billed to the Premises, but which are billed or metered for the entire Building, including, but not limited to, water, gas and heat, Marina shall pay such utilities prior to delinquency.

12. JANITORIAL AND MAINTENANCE FEES

As part of Subtenant's obligation to maintain the Premises in good condition and repair, Subtenant shall engage, at Subtenant's sole cost and expense, a competent and efficient janitorial service for the Premises, or otherwise arrange for regular, periodic cleaning and maintenance for the Premises. In the event that Marina engages a janitorial service for the Building, for the entire Mission Bay Marina, or for any part of Mission Bay Marina, Subtenant may in Subtenant's discretion, elect to participate in such janitorial service and share in the cost thereof. If a janitorial service is made available and if Subtenant elects to participate in it, Subtenant shall notify Marina of Subtenant's election to participate by delivering to Marina a written notice. The written notice shall become effective no earlier than fifteen (15) days after its receipt by Marina. If and when Subtenant elects to participate in the janitorial service, Marina shall cause Subtenant to be billed on a regular basis for Subtenant's share of the cost of the janitorial service. Subtenant's share of the cost of the janitorial service shall be based upon the percentage of square feet in the Building occupied by Subtenant as compared to the total number of leasable square feet in the entire Mission Bay Marina, and on the basis of Subtenant's particular use of the Premises. Subtenant shall pay to Marina Subtenant's share of the cost of janitorial services within ten (10) days after Subtenant's receipt of such bill therefore.

13. COMMON AREA CHARGES

Marina shall pay, prior to delinquency, all charges for exterior lighting, maintenance, upkeep, repairs outside the Building, and the maintenance and upkeep of the stairs, hallways and restrooms in the Building. For purposes of this Sublease, the phrase "common area" shall mean all surfaces outside the Building which are not in the exclusive control of Subtenant and the stairways, hallways, common entrances, and restrooms for the Building.

14. TAXES AND ASSESSMENTS

(a) Personal Property Tax

Subtenant shall pay, prior to delinquency, all taxes, assessments, license fees, and other charges that are levied and assessed against Subtenant's personal property located in, on, or about the Premises, which taxes become payable during the term of this Sublease. Upon written demand by Marina, Subtenant shall furnish Marina and City with satisfactory evidence of such payments. If any taxes on Subtenant's personal property are levied against Marina or Marina's property and the assessed value of the Building is increased by the inclusion of a value placed upon Subtenant's personal property, and if Marina pays the taxes or the increased assessment, Subtenant, on demand, shall immediately reimburse Marina for the sum of the taxes levied against Marina,

or the portion of the taxes resulting from the increase in Marina's assessment. Marina shall have the right to pay such taxes regardless of the validity of the levy.

(b) Real Property and Possessory Interest Taxes

Subtenant shall pay Subtenant's proportionate share of all real property taxes, possessory interest taxes, and assessments levied and assessed against the Building. Subtenant's proportionate share shall be the ratio of the total real property taxes, possessory interest taxes, and assessments levied and assessed against the Building that the total number of square feet in the Premises bears to the total number of square feet in the Building.

Each year Marina shall notify Subtenant of Marina's calculation of Subtenant's proportionate share of the real property taxes, possessory interest taxes and assessments and together with such notice shall furnish subtenant with a copy of the tax bill. Subtenant shall pay Subtenant's proportionate share of the real property taxes, possessory interest taxes, and assessments semi-annually no later than ten (10) days before the taxing authority's delinquent date or ten (10) days after Subtenant's receipt of the tax bill, whichever is later.

Subtenant shall pay its proportionate share of all increases in real property taxes, possessory interest taxes, and assessments, whether the increase is a result of increased rate and/or valuation, levied and assessed against the Building.

15. INDEMNITY AND INSURANCE

(a) Indemnity

Subtenant shall indemnify and hold harmless Marina and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, materialmen's liens, judgment liens, and any and all claims of whatsoever kind or character at any time made, asserted, or claimed by or on behalf of any person or persons against Marina for or on account of any matter or thing including injury to or death of any person or persons and damage to property, occurring from any cause whatsoever on or about the Premises and/or on or about the sidewalk and streets adjacent to the Premises, resulting from or arising out of or in any way connected with any condition of the Premises, or resulting from, arising out of, or in any way connected with the use and occupancy of

the Premises by Subtenant, or resulting from, arising out of, or in any way connected with any noncompliance by Subtenant or any of its agents or employees, with any law, ordinance, regulation, or authority concerning the use, occupancy, sanitation, or safety of the Premises, or any part thereof.

Subtenant shall assume the defense of, indemnify and save harmless Marina and City from all claims, demands, expenses, and liability of every nature, directly or indirectly arising from or alleged to have arisen from the operations conducted on the Premises or from any act or omission of Subtenant, his agents and invitees.

(b) Indemnity

Marina shall indemnify and hold harmless Subtenant and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, materialmen's liens, judgment liens, and any and all claims of whatsoever kind or character at any time made, asserted, or claimed by or on behalf of any person or persons against Subtenant for or on account of any matter of thing, including injury to or death of any person or persons and damage to property, occurring from any cause whatsoever on or about the Premises and/or on or about the sidewalk and streets adjacent to the Premises, resulting from, or arising out of or in any way connected with any condition of the Premises, or resulting from, arising out of, or in any way connected with the use and occupancy of the Premises by Marina, or resulting from, arising out of, or in any way connected with any noncompliance by Marina or any of its agents or employees, with any law, ordinance, regulation, or authority concerning the use, occupancy, sanitation, or safety of the Premises, or any part thereof.

Marina shall assume the defense of, indemnify and save harmless Subtenant from all claims, demands, expenses, and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises or from any act or omission of Marina, his agents and invitees.

(c) General Public Liability Insurance

Subtenant shall be insured by an insurance carrier acceptable to Marina and city against loss from public liability arising from the use or condition of or operations conducted on the Premises, along with products liability and completed operations insurance. Minimum coverage shall be Five Hundred Thousand Dollars (\$500,000.00). A copy of the policy of insurance shall be filed with City and shall name Marina and City as additional insureds. Said policy shall specify that the policy may not be terminated, altered or cancelled without prior written notice to City by the insurance company.

The policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Prior to the commencement date of this Sublease, Subtenants shall deliver to Marina a certificate or certificates of insurance evidencing the existence of such policy or policies of insurance.

(d) Fire and Extended Coverage Insurance

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain a policy or policies of fire, extended coverage, and vandalism insurance on the Premises. Such policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Such policy or policies shall be in an amount sufficient to cover at least eighty percent (80%) of the replacement cost of the Premises and all improvements and contents in, on, or about the Premises. If required insurance is not secured by Subtenant, Marina may, in its sole and absolute discretion, engage an insurer to provide the insurance coverage set forth in this subparagraph (d). In such event, Marina shall arrange with the insurer to have the premiums for such insurance itemized according to the use and square footage occupied by Subtenant and the other occupants of the Building. In the event that Marina elects to engage Marina's own insurance company, Marina shall cause copies of the insurance premium statements to be sent to Subtenant at least twenty (20) days prior to the date that such insurance premiums are due and payable. Subtenant shall remit Subtenant's proportionate share of such insurance premiums to Marina within ten (10) days after Subtenant's receipt of the insurance premium statement. The policy or policies shall provide that they shall not be cancelled or materially changed except after thirty (30) days prior written notice to Marina..

16. NO ASSIGNMENT OR SUBLETTING

Subtenant shall not assign this Sublease nor sublet the Premises or any part thereof or interest therein. Subtenant shall not permit the occupancy of any part of the Premises by any other person, nor permit the transfer of possession of the premises to a new person or entity by virtue of any merger or dissolution, nor permit the transfer of a controlling interest in the voting stock or partnership interests in any entity that now or hereafter may become. It is mutually

understood and acknowledged that the personal qualifications of the individual signing this Sublease as or on behalf of Subtenant are a material consideration for this Sublease and such individual does hereby agree to maintain active control and supervision of the operations conducted in, on, and about the Premises. An assignment by operation of law shall automatically terminate this Sublease.

17. ACCESS TO RESTROOMS

Marina shall provide Subtenant and Subtenant's agents, employees, and customers with access to the restrooms located at the rear of the first (1st) floor of the Building during all reasonable hours during which Subtenant's business is in operation. Subtenant acknowledges that Subtenant shall share the restrooms with other Subtenants in the Building and their agents and customers, and with users of boat slips, the do-it-yourself boatyard located near the Building, and others.

18. ACCESS TO BOATS

Subtenant shall have walking access, as necessary and appropriate, to all boats located in any of the boatyards or slips that are part of Mission Bay Marina. On the commencement date of the Term of this Sublease, Marina shall provide Subtenant with a key to the boat slips that are part of Mission Bay Marina. Subtenant shall have walking access, as necessary and appropriate, to all boats moored in the boat slips. Subtenant shall keep the boat slips locked at all times. Subtenant shall return the boat slip key to Marina immediately upon the expiration or earlier termination of this Sublease.

19. PARKING

Subtenant and all of Subtenant's employees shall park on the street outside the Premises, or on a space available basis in Marina parking lot. Subtenant's customers shall park, on a space available basis, in the Marina parking lot or on the street.

20. EFFECTIVENESS OF PROVISIONS OF MASTER LEASE

All the provisions of the Master Lease shall control as to Subtenant and shall remain in full force and effect for the entire Term of this Sublease. The provisions of the Master Lease that are relevant and controlling as to Subtenant include, but are not necessarily limited to, the following portions of the Master Lease:

Section I A
Section I B
Section II B
Section IV A 1
Section IV B 4
Section IV B 5
Section IV B 6
Section IV B 7
Section IV B 9
Section IV B 11
Section IV B 12
Section IV B 13
Section IV B 14
Section IV B 16
Section IV C 19
Section IV C 20
Section IV C 21
Section IV C 22
Section IV C 23
Section IV C 25
Section IV C 26
Section IV C 27
Section IV C 28

All the relevant provisions of the Master Lease are hereby incorporated herein by reference. Any reference to "City" in the Master Lease shall be deemed to be a reference to Marina for purposes of this Sublease and reference to "Lessee" in the Master Lease shall be deemed to be a reference to Subtenant for the purposes of this Sublease.

21. AMENDMENT

This Sublease may be amended only by a writing signed by both parties.

22. NOTICES

Any notices from one party to another shall be delivered either personally or via United States mail, postage fully prepaid, addressed to the parties as follows:

To Marina: MISSION BAY MARINA
1548 Quivira Way
San Diego, Ca, 92109

To Subtenant: WILLIAM L. ROBERTS
1548 Quivira Way
San Diego, Ca, 92109

Any notice shall be deemed delivered at the time of personal service or forty-eight (48) hours after the time of deposit in the United States mail, as the case may be. In the event that either party changes its address, the change of address shall be communicated to the other party in the manner set forth in this paragraph.

23. ATTORNEYS' FEES

Should it become necessary for Marina or City to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this Sublease, Subtenant shall pay all legal costs in connection therewith, including a reasonable sum as attorneys' fees.

24. HEADINGS AND CAPTIONS

The headings and captions at the beginning of various paragraphs and subparagraphs of this Sublease shall not be construed to be a substantive part of this Sublease and shall not in any way define, limit, expand, or affect any provision of this Sublease.

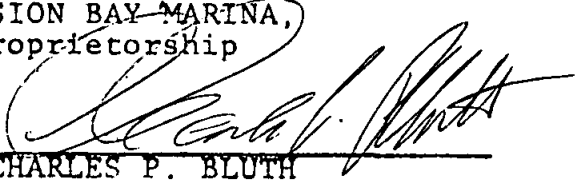
25. COUNTERPARTS

This Sublease may be signed in as many as three (3) counterparts, each of which shall constitute an original, but all of which together shall be one (1) and the same document.

MARINA:

MISSION BAY MARINA,
a Proprietorship

By

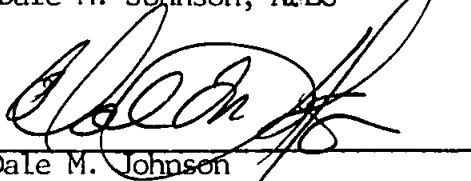

CHARLES P. BLUTH

WILLIAM L. ROBERTS

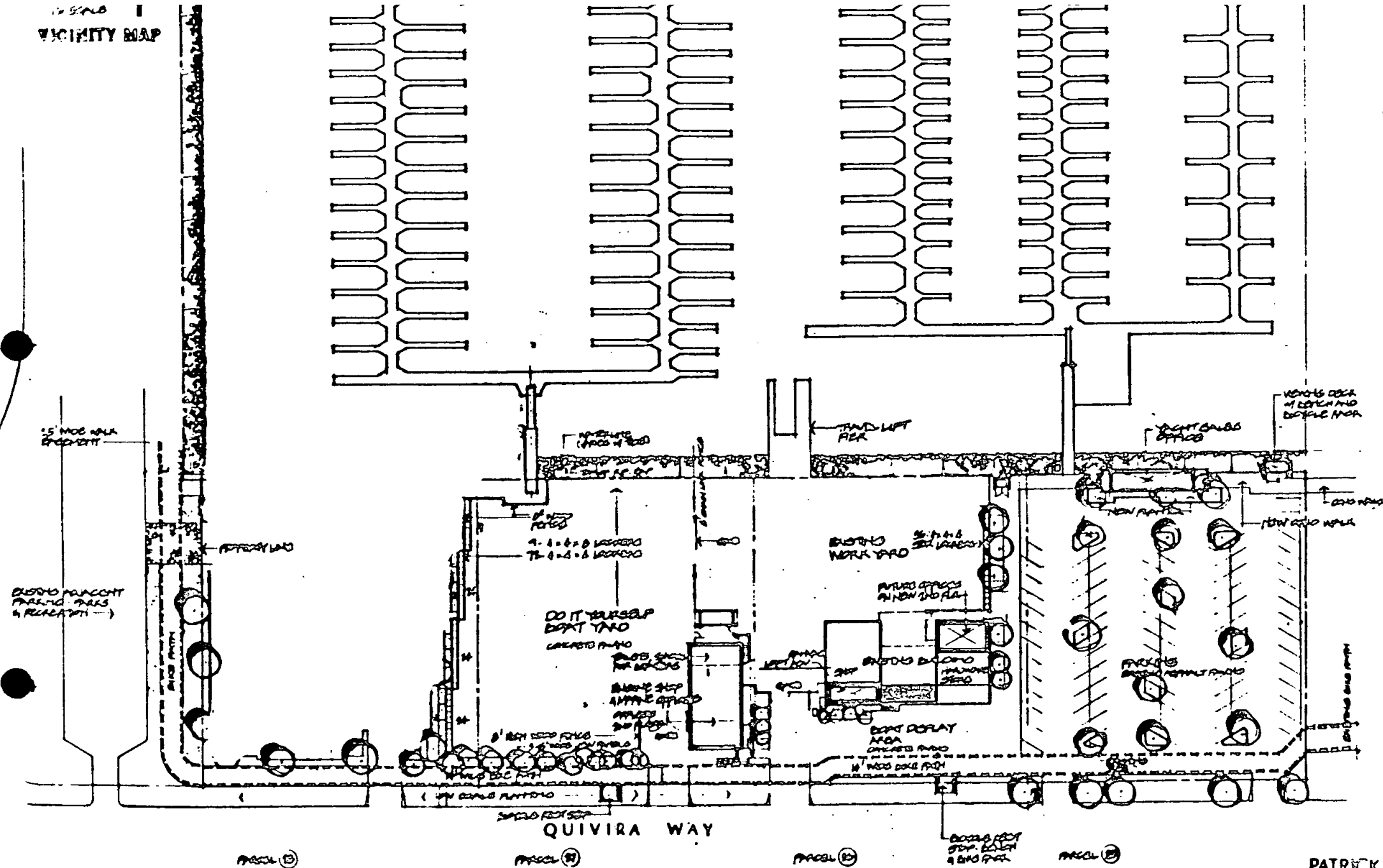
By

WILLIAM L. ROBERTS

Approved and consented to by
Dale M. Johnson, APLC


Dale M. Johnson
Attorney-in-Fact
for William L. Roberts

VICINITY MAP



MISSION BAY MARINA

MASTER PLAN

PATRICK J. CROWLEY AIA, AIAA
ARCHITECT/URBAN PLANNING

1490 Quivira Way Suite 2
San Diego, California 92109

EXHIBIT "A"

500 sq. ft.

WILLIAM ROBERTS SUBLEASE

ADDENDUM TO SUBLEASE DATED
NOVEMBER 20, 1981

To William L. Roberts
From Mission Bay Marina

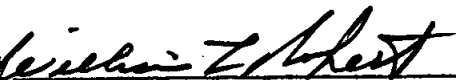
10. USE OF THE PREMISES.

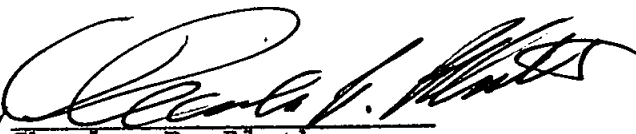
Use of the premises shall be limited to the sale of new and used boats. William L. Roberts will be acting as a dealer for the Grand Banks line of vessels.

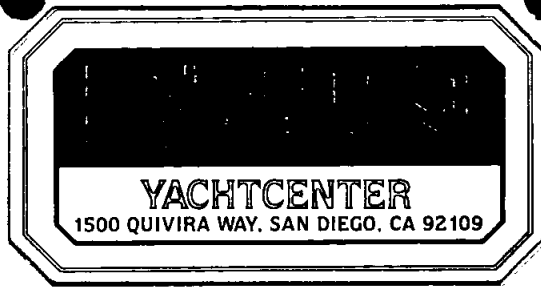
I understand the above addendum and sign this in conjunction with subject Sublease dated November 20, 1981.

Subtenant:
WILLIAM L. ROBERTS

Marina:
MISSION BAY MARINA

By 
William L. Roberts

By 
Charles P. Bluth



AMENDMENT TO SUBLEASE

This amendment to sublease is executed between Knight & Carver Yachtcenter Inc. and Mission Bay Marina Delicatessen.

This is to amend Item 13. Indemnity and Insurance, paragraph (b) General Public Liability Insurance.

Line two of said paragraph is amended to read: Minimum coverage shall be One Million Dollars (\$1,000,000.00).

Nothing herein is intended to change any other terms or conditions of the existing lease agreement.

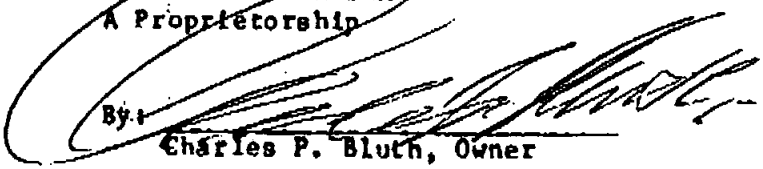
Dated: AUGUST 7, 1990

Knight & Carver Yachtcenter, Inc.
John R. Knight
John R. Knight, President

Dated: 8-7-90, 1990

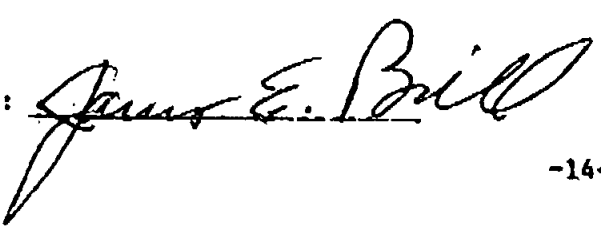
Mission Bay Marina Delicatessen
James Brill
James Brill, Owner

MISSION BAY MARINA
A Proprietorship

By: 

Charles P. Bluth, Owner

SUBTENANT:

By: 

-14-

Attach to your policy with the same policy number shown on this endorsement.

E4103

1st Edition

Named Insured: **JIM BRILL**
DBA: **MISSION BAY DELI**
Mailing Address: **1548 QUIVIRA WAY**
SAN DIEGO, CA 92109

Agent
99-56-0369

Policy Number
01492-94-63
of the Company
designated in the
Declarations

Location: **1548 QUIVIRA WAY SAN DIEGO, CA 92109**
(Same as above unless otherwise stated here)

Effective Date: **3/2/97**

Limit of Liability: **\$1,000,000** each occurrence

Additional Insured Endorsement **(Special Sentinel)**

In consideration of the premium we agree with you to the following:

1. The insurance provided by this policy for bodily injury liability and property damage liability under Coverage D- Business Liability insurance shall also apply to the additional insured named below, but only with respect to an occurrence arising out of the ownership, maintenance or use of that part of the insured location occupied by you.
2. This insurance does not apply to:
 - (a) Any occurrence which takes place after you cease to occupy the insured location.
 - (b) Any structure alterations, new construction or demolition operations performed by or for any additional insured named below.
3. The additional insured shall not be construed or deemed to be a subscriber to the Company issuing this policy.
4. The additional insured shall not be or become liable for any premium payments due upon this policy.
5. If this policy is terminated for any reason we shall give 30 days notice in writing to the additional insured named below.

This endorsement is part of your policy. It supersedes and controls anything to the contrary.
It is otherwise subject to all other terms of the policy.

Additional Insured: **CITY OF SAN DIEGO**
202 "C" STREET
SAN DIEGO, CA 92101

Countersigned

Cherie Meyer
Authorized Representative



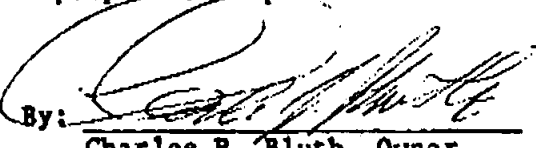
MEMORANDUM OF COMMENCEMENT DATE

This MEMORANDUM OF COMMENCEMENT DATE ("Memorandum") is made as of September 1 , 1983, between MISSION BAY MARINA, a proprietorship, as Sublandlord, and James Brill, as Subtenant, dba Mission Bay Delicatessen.

The parties acknowledge that the term of that certain written Sublease made as of September 1 , 1983 commenced on September 1 , 1983. Pursuant to the provisions of the Sublease, the Initial Term of the Sublease shall expire at 11:59 p.m. on August 31 , 1988.

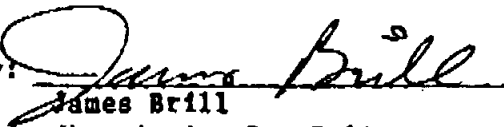
SUBLANDLORD:

MISSION BAY MARINA
A proprietorship

By: 

Charles P. Bluth, Owner

SUBTENANT:

MISSION BAY DELICATESSENBy: 

James Brill

dba Mission Bay Delicatessen

ADMENDMENT TO SUBLEASE
BETWEEN MISSION BAY MARINA, A PROPRIETORSHIP, AS LESSEE
AND JAMES BRILL, DBA MISSION BAY MARINA DELICATESSEN
DATED SEPTEMBER 1, 1983

This is to amend Item 6 Rent,
Paragraph (c) Percentage Rent - To Marina

The original lease is amended to delete said percentage rent paid to Mission Bay Marina over and above the normal monthly rent. It is further understood that the percentages to the City of San Diego do still apply.

This adjustment is being made because of the unusual nature of the delicatessen business with a high volume in the summer and the low volume in the winter months which makes it an unfair provision.

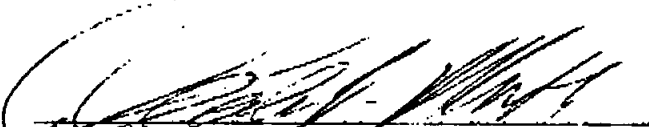
Dated November 11, 1983

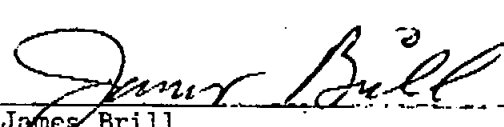
SUBLANDLORD

SUBLESSEE

MISSION BAY MARINA

MISSION BAY MARINA
DELICATESSEN


Charles P. Bluth


James Brill

SECOND AMENDMENT TO SUBLEASE

BETWEEN MISSION BAY MARINA, A PROPRIETORSHIP, AS LESSEE
AND JAMES BRILL, DBA MISSION BAY MARINA DELICATESSEN, AS SUBLESSEE

DATED SEPTEMBER 1, 1983

This sublease was originally amended November 17, 1983 and deleted Paragraph (c) Percentage Rent - To Marina of Item 6 Rent that pertained to percentage rent paid to Mission Bay Marina only and was over and above the normal monthly rent paid to Marina.

Parties now desire to amend and change said lease as follows:

Item 3 Sublease of Premises

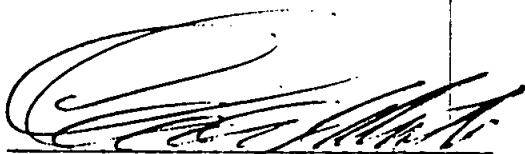
The original lease is amended to change the storage facilities, which are considered part of the subtenant's total rentable area. This adjustment is made in conjunction with Knight & Carver's, dba MBM Associates, requests and no compensation is being paid for this adjustment to or by any of the parties involved.

Exhibit attached depicts the new storage facilities for Mission Bay Marina Delicatessen.

Dated: April 7, 1986

SUBLANDLORD

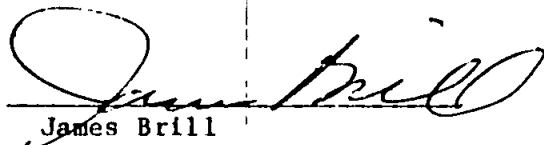
MISSION BAY MARINA



Charles P. Bluth

SUBLESSEE

MISSION BAY MARINA
DELICATESSEN

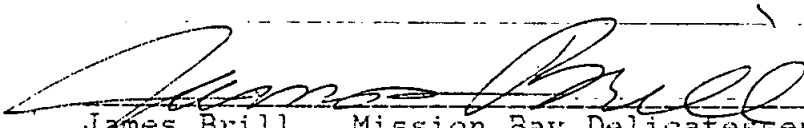


James Brill

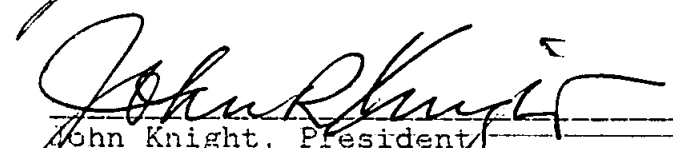
James Brill
Mission Bay Delicatessen
1500 Quivira Way
San Diego, CA 92109

Mission Bay Marina,

This letter is to inform you that I will accept the option to extend my sublease with Mission Bay Marina per section 5-C of the sublease made as of September 1, 1983. This will put the expiration date at August 31, 1993.



James Brill, Mission Bay Delicatessen



John Knight, President
Knight & Carver Yachtcenter, Inc.

ADMENDMENT TO SUBLEASE

BETWEEN MISSION BAY MARINA, A PROPRIETORSHIP, AS LESSEE

AND JAMES BRILL, DBA MISSION BAY MARINA DELICATESSEN

DATED SEPTEMBER 1, 1983

This is to amend Item 6 Rent,

Paragraph (c) Percentage Rent - To Marina

The original lease is amended to delete said percentage rent paid to Mission Bay Marina over and above the normal monthly rent. It is further understood that the percentages to the City of San Diego do still apply.

This adjustment is being made because of the unusual nature of the delicatessen business with a high volume in the summer and the low volume in the winter months which makes it an unfair provision.

Dated November 11, 1983

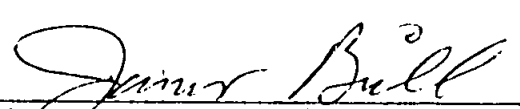
SUBLANDLORD

SUBLESSEE

MISSION BAY MARINA

MISSION BAY MARINA
DELICATESSEN


Charles P. Bluth


James Brill

SUBLEASE

THIS SUBLEASE ("Sublease") is made as of September 1, 1983
between MISSION BAY MARINA, a Proprietorship ("Marina"), and _____
James Brill ("Subtenant") who agree as follows:

1. FACT RECITALS.

This Sublease is made with reference to the following facts:

(a) Master Lease.

On or about March 5, 1979, THE CITY OF SAN DIEGO a municipal corporation ("City"), as landlord, and Marina, as tenant, signed that certain written Percentage Lease ("Master Lease"). The Master Lease was approved by the City Council of City by Resolution Number 222988 dated March 5, 1979. The Master Lease provided, among other things, that Marina could construct upon the property that was the subject of the Master Lease certain improvements and then sublease space in those improvements to subtenants. Subtenant hereby acknowledges Subtenant's receipt of a true copy of the Master Lease.

(b) Sublease of Shop Space.

The subject of this Sublease is a certain space at 1548 Quivira Way designated as "Delicatessen", which space is delineated on the plan attached hereto, marked Exhibit "A" and incorporated herein by this reference.

(c) Intent of the Parties.

It is the intention of the parties to set forth in this Sublease their agreement concerning Subtenant's use and occupancy of the Delicatessen space delineated in Exhibit "A" and attached hereto. It is the further intention of the parties that Subtenant's use and occupancy of such space shall be subject to each and every relevant provision of the Master Lease, and that this Sublease shall be approved by the appropriate authorities of City prior to the effective date of this Sublease.

2. SUBLEASE SUBJECT TO MASTER LEASE.

This Sublease is subject to the provisions of the Master Lease. The parties acknowledge that this Sublease does not violate any provision of the Master Lease and that no provisions of this Sublease are in conflict with any provisions of the Master Lease. If the Master Lease terminates and this Sublease terminates as a result of the termination of the Master Lease,

the parties shall be released from all liabilities and obligations under this Sublease.

This Sublease is in effect a sublease of a portion of the premises covered by that certain Master Lease dated March 5, 1979, as amended, between Marina, as tenant, and City, as landlord. This Sublease is subject and subordinate to the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. SUBLEASE OF THE PREMISES.

Marina sublets to Subtenant and Subtenant sublets from Marina that certain Deli space at 1548 Quivira Way, "Delicatessen"(Deli), which Deli space comprises approximately Six Hundred Eighty-Four (684) square feet ⁰ (inside dimensions & Sixteen Hundred (1,600) sq. ft. (outside dimensions) and which Deli space is delineated on the plan attached hereto as Exhibit "A". The shop space shall hereinafter be called the "Premises". The Premises shall include, but not necessarily be limited to, the structural improvements constituting the Deli space and any and all interior improvements constituting the Deli space and any and all interior improvements such as carpeting, fixtures, wall coverings, ceiling coverings, window coverings, levelor blinds, and all other interior items delivered to Subtenant by Marina at the time of Subtenant's initial occupancy of the Premises. (See Exhibit)

It is understood that Premises shall be used for the sole purpose of Delicatessen, and subtenant's operations will in no way conflict, interfere or compete with operations by Marina.

4. PREPARATION AND ACCEPTANCE OF THE PREMISES.

Subtenant shall have access to the Premises and may commence Subtenant's improvement and fixturing process no later than September 1, 1983. Subtenant shall indemnify and hold harmless Marina and the Premises from any and all claims, demands, liability, mechanic's liens, labor liens, material liens, judgment liens, and any and all claims of whatsoever kind or character, at any time made, asserted, or claimed by or on behalf of any person or persons relating from, arising out of, or in any way connected with Subtenant's improvement and fixturing process.

On the commencement date of the term of this Sublease, the Premises shall be in good condition. Subtenant's taking possession of the Premises on the commencement date of the term of this Sublease shall constitute Subtenant's acknowledgement that the Premises are in good condition.

Immediately after the commencement date of the term of this Sublease, Subtenant shall, at Subtenant's sole cost and expense, move into the Premises all the furnishings and other items required by Subtenant to conduct Subtenant's business.

5. TERM: COMMENCEMENT DATE.

(a) Initial Term.

The initial term ("Initial Term") of this Sublease shall be for a period of five (5) years. Subtenant's rent shall commence to accrue and Subtenant shall be obligated to commence paying rent on the commencement date regardless of whether Subtenant has actually the Premises on that date.

The initial term shall expire at 11:59 p.m. Pacific Standard Time on

September 1, 1988

(b) Commencement Date.

When the actual commencement date of the Initial Term is determined, the parties shall execute a memorandum setting forth the actual date of commencement of the Initial Term in the form and content of the memorandum attached hereto, marked Exhibit "D" and incorporated herein by reference.

(c) Option to Extend.

Subtenant is granted the option to extend the Initial Term on all the provisions and conditions of this Sublease for one (1) period of five (5) years immediately following termination of the Initial Term provided that Subtenant shall have given to Marina written notice of Subtenant's irrevocable exercise of the option to extend at least ninety (90) days but not more than one hundred eighty (180) days prior to the expiration of the Initial Term, and provided further that there shall be no uncured default of any of Subtenant's obligations or no Unlawful Detainer for Failure to Pay have been filed in the Initial Term of this Sublease at the time of Marina's Receipt.

6. RENT.

(a) Monthly Rent.

Subtenant shall pay to Marina, in advance, on the first (1st) day of each and every calendar month during the term of this Sublease, beginning on the first (1st) day of the first (1st) full calendar month of

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the Initial Term, a sum of Six Hundred Ninety-five Dollars (\$695) per month (the "Monthly Rent"). Subtenant shall pay the Monthly Rent to Marina without deduction, set off, prior notice, or demand.

Concurrently with the execution of this Sublease, Subtenant shall pay to Marina the sum of Six Hundred Ninety-five Dollars (\$695) as payment for the first full month's rent.

(b) Percentage Rent - City.

In addition to the Monthly Rent set forth in subparagraph (a) above, Subtenant shall pay to Marina, in arrears, on the fifteenth (15th) day of each and every calendar month during the term of this Sublease, beginning on the fifteenth (15th) day of the second (2nd) full calendar month of the Initial Term, a sum of money equal to:

(i) Three Percent (3%) of gross income from sale of food, and non-alcoholic beverages;

(ii) Five Percent (5%) from sale of alcoholic beverages.

The rent payable by Subtenant to Marina according to the provision of subparagraphs (i) and (ii) above shall sometimes hereinafter be called the Percentage Rent. The Percentage Rent shall be due and payable from Subtenant to Marina on the fifteenth (15th) day of the calendar month following that month in which the revenue described in subparagraphs (i) and (ii) above was earned by Subtenant.

(c) Percentage Rent - To Marina.

1. 2% of gross income from the sale of food, alcoholic and non-alcoholic beverages when such gross income exceeds Fifteen Thousand Dollars (\$15,000) in any given month.

2. It is understood that this percentage is over and above the flat monthly rate.

The rent payable by Subtenant to Marina according to the provision of subparagraphs (i) and (ii) above shall sometimes hereinafter be called the Percentage Rent. The Percentage Rent shall be due and payable from Subtenant to Marina on the fifteenth (15th) day of the calendar month following that month in which the revenue described in subparagraphs (i) and (ii) above was earned by Subtenant.

For purposes of this Sublease, the phrase "gross revenue" shall mean the gross selling price of all merchandise or services sold, leased, licensed, or delivered in or from the Premises by Subtenant, whether for cash or on credit (whether collected or not), and whether made by Subtenant's personnel or by vending machines. Any transaction on an installment basis, including, but not limited to, any "lay away" or like transaction, or otherwise involving the extension of credit, shall be treated as a sale for the full price at the time of the transaction, irrespective of the time of payment or the time of passage of title. Gross revenue shall not include, or if included there shall be deducted (but only to the extent

they have been included), the following:

(1) The selling price of all merchandise returned by customers and accepted for full credit, or the amount of discounts, refunds, and allowances made on returned merchandise.

(2) Sums and credits received in the settlement of claims for loss or damage to merchandise.

(3) The price allowed on all merchandise traded in by customers for credit or the amount of credits, discounts, and allowances made instead of acceptance of merchandise.

(4) Sales and use taxes, so-called luxury taxes, consumer's excise taxes, gross receipts taxes, federal income taxes, state income taxes, and other similar taxes now or in the future imposed on the sale or cost of merchandise or services, but only if such taxes are added to the selling price, separately stated, collected separately from the selling price of merchandise or services, and collected from Subtenant's customers.

(5) Sales of fixtures, trade fixtures, or personal property other than in the ordinary course of the business of Subtenant.

Subtenant shall keep accurate and complete records in a manner and in a form satisfactory to Marina from which Marina can at all reasonable times determine the nature and amount of revenue subject to Percentage Rent. Subtenant's books and records shall show all transactions relative to the conduct of Subtenant's business, and such transactions shall be supported by documents of original entry, including, but not limited to, sales slips, cash register tapes, purchase invoices, and tickets issued, or other means satisfactory to Marina. Together with each payment of Percentage Rent, Subtenant shall deliver to Marina in a written statement as to the source of the receipts showing all gross revenue of the preceding calendar month together with the amount payable to Marina as set forth above. Each monthly written statement shall be signed and certified to be correct by Subtenant or its authorized representative, and if Subtenant is or becomes a corporation, the written monthly statements shall be signed and certified to be correct by an officer of Subtenant. Subtenant shall also furnish to Marina copies of Subtenant's quarterly California sales and use tax returns at the time each is filed with the State of California.

After the end of each twelve (12) month period after the commencement date of the term of this Sublease, Subtenant shall cause an audit of the business conducted on the Premises to be made by a

certified public accountant. The audit shall be conducted at Subtenant's sole cost and expense. Within sixty (60) days after the end of each such year, Subtenant shall, at Subtenant's sole cost and expense, deliver to Marina a copy of the written audit. In the event that the audit discloses that the Percentage Rent for the audited period has been underpaid in excess of five percent (5%) of the total required Percentage Rent, then Subtenant shall pay to Marina ten percent (10%) of the amount by which the Percentage Rent was underpaid in addition to the unpaid Percentage Rent so shown to be due to Marina as compensation to Marina for administrative costs, loss of interest, and other charges and damages.

(c) Annual Cost of Living Adjustment.

Commencing on the first (1st) day of the calendar month after the expiration of ten (10) months of the term of this Sublease and continuing on the corresponding day of each year thereafter during the Initial Term, the First Extended Term, or any other extended term of this Sublease, the Monthly Rent shall be subject to an increase as follows: The base for computing the adjustment shall be the Consumer Price Index for All Urban Consumers (All Items) for the San Diego Metropolitan Area (base year 1967-100) published by United States Department of Labor, Bureau of Labor Statistics (the "Index"), which index is published next preceding the commencement date of the term of this Sublease. The Index published next preceding the commencement date of the term of this Sublease shall hereinafter be called the "Beginning Index." The date upon which an adjustment in Monthly Rent is made shall hereinafter be called the "Adjustment Date". At the time of the Adjustment Date, the parties shall examine the Index published next preceding the first Adjustment Date (the "Adjustment Index"). If the Adjustment Index has increased over the Beginning Index, the Monthly Rent for the following year (until the next annual cost of living rent adjustment) shall be set by multiplying the Monthly Rent payable during the immediately preceding year by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index; provided, however, that in no event shall the Monthly Rent be less than the amount set forth in subparagraph (a) above.

In the event that the Bureau of Labor Statistics of the United States Department of Labor changes its method of computing the consumer price index or in the event that the Bureau of Labor Statistics dis-

continues the computation of the consumer price index, such other government index or computation with which the consumer price index is replaced shall be used to obtain substantially the same result as would have been obtained if the consumer price index had not been revised or discontinued. If there is no replacement index, the parties shall mutually agree in writing to use another similar consumer price index. In the event that the parties shall fail to agree upon a substitute consumer price index within sixty (60) days after the discontinuance of the consumer price index set forth above, the selection of a new consumer price index shall be submitted to one (1) arbitrator mutually acceptable to the parties. If both parties cannot agree upon one (1) arbitrator, Marina shall choose one (1) arbitrator and Subtenant shall choose one (1) arbitrator. The two arbitrators shall choose one (1) arbitrator, other than themselves, to conduct the arbitration. The selection of arbitrators shall be made within seventy (70) days after the discontinuance of the consumer price index set forth above. The decision of the arbitrator shall be final and conclusive upon the parties and enforceable as provided by the laws of the State of California. The cost of any arbitration shall be divided equally between the parties.

(d) Delinquent Rent.

The monthly Rent is due and payable on the first (1st) day of each calendar month. The Percentage Rent is due and payable on the fifteenth (15th) day of each calendar month immediately after the calendar month in which the relevant revenue is received by Subtenant. In the event that Marina does not receive in its office the full payment of the Monthly Rent from Subtenant at or before 5:00 p.m. on the fourth (4th) day of any calendar month or the full payment of the Percentage Rent at or before 5:00 p.m. on the eighteenth (18th) day of any calendar month, Marina shall have the right to terminate this Sublease or otherwise exercise any of the rights of a landlord available to Marina at law or in equity. In the event that Marina does not receive in its office the full amount of the Monthly Rent at or before 5:00 p.m. on the fourth (4th) day of any calendar month or the full amount of the Percentage Rent at or before 5:00 p.m. on the eighteenth (18th) day of any calendar month, Subtenant shall be able to cure its delinquency only upon the payment of the full amount of the delinquent

Monthly Rent or Percentage Rent, as the case may be, plus a sum equal to ten percent (10%) of the Monthly Rent or Percentage Rent for each month that the Monthly Rent or Percentage Rent is delinquent commencing on the first (1st) month of delinquency. The parties acknowledge that the ten percent (10%) delinquency fee is based upon Marina's actual damages incurred in connection with its administration and collection of delinquent rent.

7. SECURITY DEPOSIT.

Concurrently with the execution of this Sublease, Subtenant shall deposit with Marina, in addition to the first full month's rent, the sum of Six Hundred Ninety-five Dollars (\$695.00) security deposit for the performance by Subtenant of all of Subtenant's obligations under this Sublease. If Subtenant is in default of Subtenant's obligations, Marina shall have the right to use the security deposit, or any portion of the security deposit, to cure the default or to compensate Marina for any and all damage sustained by Marina resulting from Subtenant's default. Subtenant shall immediately upon demand pay to Marina a sum equal to the portion of the security deposit expended or applied by Marina as provided in this numbered paragraph so as to maintain the security deposit in the sum initially deposited with Marina. If Subtenant is not in default of Subtenant's obligation at the expiration or earlier termination of this Sublease, Marina shall return the security deposit to Subtenant. Marina's obligations with respect to the security deposit are those of a debtor and not a trustee. Marina may either maintain the security deposit separate and apart from Marina's general funds or commingle the security deposit with Marina's general or other funds in Marina's sole and absolute discretion. Marina shall not be required to pay Subtenant any interest on the security deposit.

8. IMPROVEMENTS.

Subtenant shall construct on the Premises no improvements without the prior written consent of Marina.

9. REPAIRS AND MAINTENANCE.

(a) Marina's Nonresponsibility.

Marina shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Premises except for structural defects in the walls, floor, ceiling, electrical facilities, or plumbing facilities of the Premises, which defects were not caused by acts or omissions by Subtenant, Subtenant's agents, or Subtenant's

tenant's customers. In the event of a defect caused by Subtenant, Subtenant's agents, or Subtenant's customers, Subtenant shall cause such defect to be remedied or repaired at Subtenant's sole cost and expense. Marina shall maintain the exterior walls, windows, roof, stairways, and common areas of the Building at Marina's sole cost and expense. Subtenant hereby expressly waives the right to make repairs at the expense of Marina as provided for in any statute or law in effect at the time of the execution of this Sublease, or in any other statute or law which may hereafter be enacted.

(b). Subtenant's Duty to Maintain the Premises.

Subtenant shall at Subtenant's sole cost and expense, maintain the Premises in good condition and repair and in accordance with all applicable laws, and shall make whatever repairs and replacements are required by such laws.

10. USE OF THE PREMISES.

Subtenant shall operate its business within the Premises in such a manner to conform to and comply with each, every, and all of the ordinances or regulations of the City, the County of San Diego, the State of California, and the United States of America that are now in force or which may hereinafter be enacted with reference to the use or contemplated use of the Premises. Subtenant's use of the Premises shall at all times be consistent with the uses permitted under the Master Lease. Subtenant shall not compete directly with Mission Bay Marina in the normal repair and maintenance of boats.

It is understood that Premises shall be used for the purposes of Delicatessen, and subtenant's operations will in no way conflict, interfere or compete with operations by Marina.

11. UTILITIES.

Subtenant shall pay, before delinquency, any and all charges for electricity which are separately metered to the Premises. Subtenant shall pay, before delinquency, any and all charges for telephone and any other utilities which are separately billed or metered to the Premises but which are billed or metered for the entire Building, including, but not limited to, water, gas and heat, Marina shall pay such utilities prior to delinquency.

12. TAXES AND ASSESSMENTS.

(a) Personal Property Tax.

Subtenant shall pay, prior to delinquency, all taxes, assessments, license fees, and other charges that are levied and assessed against Subtenant's personal property located in, on, or about the Premises, which taxes become payable during the term of this Sublease. Upon written demand by Marina, Subtenant shall furnish Marina and City with Satisfactory evidence of such payments. If any taxes on Subtenant's personal property are levied against Marina or Marina's property and the assessed value of the Building is increased by the inclusion of a value placed upon Subtenant's personal property, and if Marina pays the taxes or the increased assessment, Subtenant, on demand, shall immediately reimburse Marina for the sum of the taxes levied against Marina, or the portion of the taxes resulting from the increase in Marina's assessment. Marina shall have the right to pay such taxes regardless of the validity of the levy.

(b) Real Property and Possessory Interest Taxes.

Subtenant shall pay Subtenant's proportionate share of all real property taxes, possessory interest taxes, and assessments levied and assessed against the Building in excess of 1984 property tax bill.

Subtenant's proportionate share shall be the ratio of the total real property taxes, possessory interest taxes, and assessments levied and assessed against the Building that the total number of square feet in the Premises bears to the total number of square feet in the Building.

After 1984, if property taxes increase, Marina shall notify Subtenant of Marina's calculation of Subtenant's proportionate share of the real property taxes, possessory interest taxes and assessments and together with such notice shall furnish Subtenant with a copy of the tax bill. Subtenant shall pay Subtenant's proportionate share of the real property taxes, possessory interest taxes, and assessments semi-annually no later than ten (10) days after Subtenant's receipt of the tax bill, whichever is later.

Subtenant shall pay its proportionate share of all increases in real property taxes, possessory interest taxes, and assessments, whether the increase is a result of increased rate and/or valuation, levied and assessed against the Building over and above those real property taxes, possessory interest taxes and assessments, levied and assessed against the Building.

13. INDEMNITY AND INSURANCE.

(a) Indemnity.

Subtenant shall indemnify and hold harmless Marina and the Premises from and against any and all claims, demands, liability, mechanic's liens, labor liens, material liens, judgment liens, and any and all claims of whatsoever kind or character, at any time made, asserted, or claimed by or on behalf of any person or persons against Marina for or on account of any matter or thing, including injury to or death of any person or persons and damage to property, occurring from any cause whatsoever on or about the Premises and/or on or about the sidewalk and streets adjacent to the Premises, resulting from or arising out of or in any way connected with any condition of the Premises, or resulting from, arising out of, or in any way connected with the use and occupancy of the Premises by Subtenant, or resulting from, arising out of, or in any way connected with any noncompliance by Subtenant or any of its agents or employees, with any law, ordinance regulation, or authority concerning the use, occupancy, sanitation, or safety of the Premises, or any part thereof.

Subtenant shall assume the defense of, indemnify and save harmless Marina and City from all claims, demands, expenses, and liability of every nature, directly or indirectly arising from or alleged to have arisen from the operations conducted on the Premises or from any act or omission of Subtenant, his agents and invitees.

(b) General Public Liability Insurance.

Subtenant shall be insured by an insurance carrier acceptable to Marina and City against loss from public liability arising from the use or condition of or operations conducted on the Premises, along with products liability and completed operations insurance. Minimum coverage shall be Five Hundred Thousand Dollars (\$500,000.00). A copy of the policy of insurance shall be filed with City and shall name Marina and City as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without prior written notice to City by the insurance company.

The policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Prior to the commencement date of this Sublease, Subtenant shall deliver to Marina a certificate or certificates of insurance evidencing the existence of such policy or policies of insurance.

(c) Fire and Extended Coverage Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain a policy or policies of fire, extended coverage, and vandalism insurance on the Premises. Such policy or policies shall be issued by an insurance company or companies licensed to do business in the State of California. Such policy or policies shall be in an amount sufficient to cover at least eighty percent (80%) of the replacement costs of the Premises and all improvements and contents in, on, or about the Premises.

(d) Other Insurance.

Subtenant shall, at its sole cost and expense, during the term of this Sublease, pay for and maintain any other necessary policy or policies of insurance covering and insuring against risks which reasonably may be anticipated in a business such as the one in which Subtenant is engaged.

14. NO ASSIGNMENT OR SUBLETTING.

Subtenant shall not assign this Sublease or sublet the Premises or any part thereof without the prior written consent of Marina and City. An assignment by operation of Law shall automatically terminate this Sublease.

15. ACCESS TO RESTROOMS

Marina shall provide Subtenant and Subtenant's agents, employees, and customers with access to the restrooms located at the rear of the first (1st) floor of the Building during all reasonable hours during which Subtenant's business is in operation. Subtenant acknowledges that Subtenant shall share the restrooms with other Subtenants in the Building and their agents and customers, and with users of boat slips, the do-it-yourself boatyard located near the Building, and others.

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17. PARKING

Subtenant and all of Subtenant's employees shall park on the street outside the Premises. Subtenant's customers shall park on a space available basis, in the Marina parking lot or on the street.

18. EFFECTIVENESS OF PROVISIONS OF MASTER LEASE.

Except as the provisions of the Master Lease are varied by this Sublease, and except as the provisions of the Master Lease are irrelevant to Subtenant, all the provisions of the Master Lease shall control as to Subtenant and shall remain in full force and effect for the entire term of this Sublease. The provisions of the Master Lease that are relevant and controlling as to Subtenant include, but are not necessarily limited to, the following portions of the Master Lease.

Section I A
Section I B
Section II B
Section IV A 1
Section IV B 4
Section IV B 5
Section IV B 6
Section IV B 7
Section IV B 9
Section IV B 11
Section IV B 12
Section IV B 13
Section IV B 14
Section IV B 16
Section IV C 21
Section IV C 22
Section IV C 23
Section IV C 25
Section IV C 26
Section IV C 27
Section IV C 28

All the relevant provisions of the Master Lease are hereby incorporated herein by reference. Any reference to "City" in the Master Lease shall be deemed to be a reference to Marina for the purposes of this Sublease and any reference to "Lessee" in the Master Lease shall be deemed to be a reference to Subtenant for the purposes of this Sublease.

19. AMENDMENT.

This Sublease may be amended only by a writing signed by both parties.

20. NOTICES.

Any notice from one party to another shall be delivered either personally or via United States mail, postage fully prepaid, addressed to the parties as follows:

To Marina:

Mr. Charles P. Bluth
MISSION BAY MARINA
1548 Quivira Way, San Diego, CA 92109

To Subtenant:

At the premises.

Any notice shall be deemed delivered at the time of personal service or forty-eight (48) hours after the time of deposit in the United States mail, as the case may be. In the event that either party changes its address, the change of address shall be communicated to the other party in the manner set forth in this numbered paragraph.

21. ATTORNEYS' FEES.

Should it become necessary for Marina or City to commence legal proceedings to collect rent, to recover possession or enforce any other problem of this Sublease, Subtenant shall pay all legal costs in connection therewith, including a reasonable sum as attorney's fees.

22. HEADINGS AND CAPTIONS.

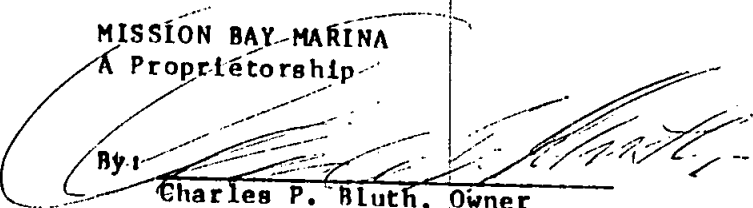
The headings and captions at the beginning of various paragraphs and subparagraphs of this Sublease shall not be construed to be a substantive part of this Sublease and shall not in any way define, limit, expand, or affect any provision of this Sublease.

23. COUNTERPARTS.

This Sublease may be signed in as many as three (3) counterparts, each of which shall constitute an original, but all of which together shall be one (1) and the same document.

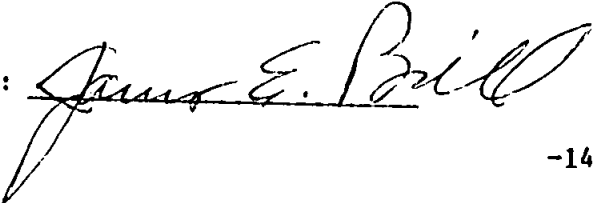
MARINA:

MISSION BAY MARINA
A Proprietorship

By: 

Charles P. Bluth, Owner

SUBTENANT:

By: 

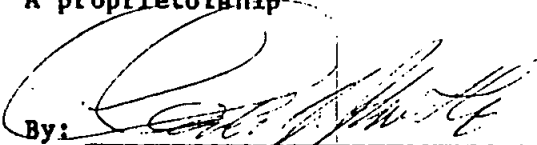
MEMORANDUM OF COMMENCEMENT DATE

This MEMORANDUM OF COMMENCEMENT DATE ("Memorandum") is made as of September 1 , 1983, between MISSION BAY MARINA, a proprietorship, as Sublandlord, and James Brill, as Subtenant, dba Mission Bay Delicatessen.

The parties acknowledge that the term of that certain written Sublease made as of September 1 , 1983 commenced on September 1 , 1983. Pursuant to the provisions of the Sublease, the Initial Term of the Sublease shall expire at 11:59 p.m. on August 31 , 1988.

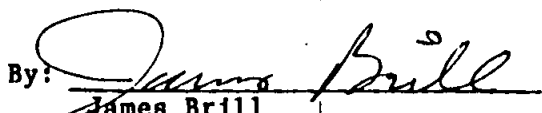
SUBLANDLORD:

MISSION BAY MARINA
A proprietorship

By: 
Charles P. Bluth, Owner

SUBTENANT:

MISSION BAY DELICATESSEN

By: 
James Brill
dba Mission Bay Delicatessen



THE CITY OF

SAN DIEGO

CITY ADMINISTRATION BUILDING • 202 C STREET • SAN DIEGO, CALIF. 92101

January 15, 1982

OFFICE OF THE
CITY MANAGER
236-6363

File: Leases - Mission Bay Marina

Mr. Charles P. Bluth, President
Mission Bay Marina
1548 Quivira Way
San Diego, CA 92109

Dear Mr. Bluth:

Re: Request for Approval of Delicatessen on Premises of Mission Bay Marina,
City Clerk Lease Document 766042

Your request of December 30, 1981 to be allowed to convert a portion of your Marine Hardware Store into a delicatessen is hereby approved on the following conditions:

1. Any structural changes or signing shall be accomplished with appropriate building permits and shall be subject to the usual approvals of the Park and Recreation Department, Coastal Division, and the City Manager.
2. All items sold shall be subject to the approval of the City Manager.
3. All benches, chairs and tables to be utilized by delicatessen customers on the adjacent patio shall be subject to the approval of the City Manager as to design, number and location. In addition, said patio furniture shall be maintained in a safe, clean and attractive manner, in the opinion of the City Manager, at all times.
4. Lessee shall operate only under a Class "A" Health Permit and shall make appropriate rest room facilities available to delicatessen customers.
5. Nothing herein shall be construed as relieving Lessee of the obligation to provide a major restaurant on the premises in accordance with the Master Development Plan for Mission Bay Marina.

If these conditions of approval are acceptable to you, please sign and return a copy of this letter to the City Property Department, Attention: Guy W. Walker, Property Agent, 1222 First Avenue, San Diego, California 92101.

Very truly yours,


John P. Fowler
Deputy City Manager

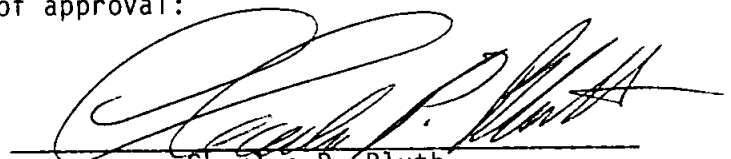
JLS:GWW:mh

Enclosure

cc: George Loveland, Park and Recreation
Karl Schnizler, District Manager
Roy Quon, Lease Audit Manager

I hereby accept the above conditions of approval:

Date 2-4-82


Charles P. Bluth

RECEIVED
CITY OF SAN DIEGO

99 OCT -1 PM 1:12

REAL ESTATE ASSETS DEPT.

September 30, 1999

Mr. Madison Wiggins
Real Estate Assets Department
Civic Center Plaza, M.S. 51-A
1200 Third Avenue, Suite 1700
San Diego, CA 92101

1500 Quivira Way
San Diego
California
92109

Boatyard
Ph (619) 221-8456
Fx (619) 221-8458
Marina
Ph (619) 223-5191
Fx (619) 223-5098

Dear Madison,

The purpose of this letter is to amend the file of Mr. Jay Ferland, dba One Eyed Jacks.

Effective October 1, 1999, Mr. Jay Ferland dba One Eyed Jacks' official business name will change to Dive Connection, Inc., a California company. The function of Dive Connection, Inc., will remain unchanged from that of One Eyed Jacks. The liability insurance policy is being changed over to the new business name and the city of San Diego will receive a new additional insured copy as will Driscoll Mission Bay.

All other aspects of the sublease agreement and city consent remain unchanged. A copy of this amendment letter should be attached to the sublease consent file.

Sincerely,



R.S. Evasick
Marina Manager

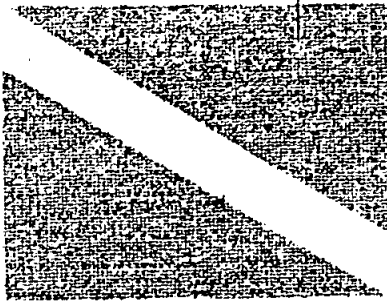
*changed name to
Dive Connections*

Driscoll

The Name for Quality Marine Services

red flag

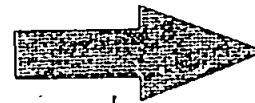
blue lettering



Dive Central

One Eyed Jack's / Ocean Express

next right...



red arrow

blue lettering

grey background

•width 2 feet, length 5 feet

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

MISSION BAY MARINA

and filed in the Office of the City Clerk as Document No. 766042, as amended by First Amendment, filed in the Office of the City Clerk as Document No. RR-265857 and subsequently assigned to

DRISCOLL MISSION BAY LLC

(LESSEE) hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

JAY FERLAND D.B.A "One Eyed Jacks"

(SUBLESSEE) dated May 1, 1998 (Maritime Contract For Private Wharfage, amended by May 7, 1998 letter to allow commercial use). Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions:

1. The term of this Sublease Agreement is approved for a period of one (1) year commencing upon the date this Consent to Sublease Agreement is executed by CITY. LESSEE and SUBLESSEE acknowledge and understand that this leasehold is included in a proposed redevelopment of the Quivira Basin area of Mission Bay Park. The redevelopment may require that facilities and/or uses, including this SUBLESSEE, be terminated with ninety (90) days advance written notice.
2. SUBLESSEE and/or LESSEE shall issue serially numbered tickets for each admission or rental and shall keep an adequate record of such tickets, as well as a record of unissued tickets.
3. City lifeguards reserve the right to inspect vessel at any time, including during operation, and terminate operations at any time that they believe the operations are unsafe.

4. Consistent with the Master Lease, CITY shall receive seven percent (7%) of total gross revenue from all charges for passage on or use of the vessel. If only slip rental is paid in any month, CITY shall receive the same percentage as in Master Lease.
5. Additional conditions attached as ADDENDUM A: "MINIMUM STANDARD SUBLEASE CONDITIONS":

The undersigned hereby agrees to the terms and conditions set forth in this Consent to Sublease Agreement.

CITY OF SAN DIEGO

Dated: July 29, 1998

By: Linda M. Fierro
LINDA M. FIERRO, Supv. Property Agent
Real Estate Assets Department
for the City Manager

SUBLESSOR:

Dated: 8/18/98

By: Thomas A. Driscoll
Thomas A. Driscoll

SUBLESSEE:

Dated: 040898

By: Jay Ferland
Jay Ferland dba
One Eyed Jacks

APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Dated: October 12, 1998

By: Russell David
Deputy City Attorney

MFV:csn
7/28/98
I:\WPO\1998\WIGGINS\SA-1-EYE.MBM

ADDENDUM A

MINIMUM STANDARD SUBLEASE CONDITIONS

ASSIGNMENT AND SUBLEASING: SUBLESSEE shall not assign the sublease or sublet the premises or any part thereof without the prior written consent of LESSEE and The City of San Diego, hereinafter, "CITY". An assignment by operation of law shall automatically terminate this lease.

HOLD HARMLESS: SUBLESSEE shall assume the defense of, indemnify and hold harmless LESSEE and CITY from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the leased premises, the condition of the premises or from any act or omission of SUBLESSEE, his agents and invitees; provided, however, SUBLESSEE's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

INSURANCE: SUBLESSEE shall be insured by an insurance carrier acceptable to the LESSEE and CITY against loss from public liability arising from the use or condition of or operation conducted on the leased premises. Minimum coverage shall be \$2 million COMBINED SINGLE LIMIT LIABILITY in an occurrence form. A copy of the policy of insurance shall be filed with CITY and shall name "The City of San Diego" as an additional insured. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 days prior written notice to CITY by the insurance company.

LEGAL PROCEEDINGS: Should it become necessary for LESSEE or CITY to commence legal proceedings to collect rent, to recover possession or enforce any other provision of this Sublease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorney's fees.

SUBORDINATION: This agreement is in effect a Sublease of a portion of the premises covered by that certain Lease Agreement (Master Lease) dated March 5, 1979, between the SUBLESSOR herein and the City of San Diego. This sublease is subject and subordinate to the covenants and conditions of said Lease Agreement (Master Lease) notwithstanding any provision hereof contrary to or in conflict with said Sublease agreement.



7 May 1998

One-Eyed Jacks
c/o Jay Ferland
2642 Cazadero Drive
Carlsbad, CA 92009

Dear Mr. Ferland,

The purpose of this letter is to amend the wharfage agreement between Mission Bay Marina and One-Eyed Jacks. Specifically, paragraph 14 is amended in that One-Eyed Jacks has permission to conduct commercial dive boat operations from Mission Bay Marina for the duration of the wharfage agreement.

This letter is part of the wharfage agreement and as such should be attached to it.

Sincerely,

A handwritten signature in dark ink, appearing to read "R.S. Evasick". The signature is fluid and cursive, with a long horizontal stroke at the end.

R.S. Evasick
Marina Manager

MISSION BAY MARINA

MARITIME CONTRACT FOR PRIVATE WHARFAGE

SLIP FRNDD01

THIS AGREEMENT dated 5-1-98, by and between Jay Furland, owner of the following described vessel or his duly authorized agent, ("Owner"), and MISSION BAY MARINA, ("Marina").

A. Registered/Documented Owner: Jay Furland Lien Holder: D/A
 B. Address (Other than P.O. Box): 2242 Cazadero Dr, Carlsbad, CA 92009
 C. Billing Address: - same -
 D. Home Phone: 760-929-0985 Bus. Phone: 619-523-9382 Emergency: _____
 E. Vessel Name: DN'DIE CF (Doc) #: 545112 Year: 1973
 F. Power: X Sail: _____ Builder/Model: Modutech Marine Length Overall: 32' Beam: 12 1/2"
 G. Insurance Co.: Am. Co. of North America Agent: Bonney Bruner (Laker)
 H. Policy No.: SPC 579779 Phone #: 800-877-2348
 I. No. 1 Car Make: _____ No. 2 Car Make: _____
 Color/Type: _____ Color/Type: _____
 License No: _____ License No: _____
 Sticker No: _____ Sticker No: _____
 J. Driver's License State & No.: AB 618428 Social Security No.: 541-11-6502
 K. Employer: self (One-Eyed Jacks) Address: _____

IT IS AGREED AS FOLLOWS:

1. Owner, who warrants that he is the owner or co-owner of above described vessel, understands and agrees that this agreement memorializes a month to month contract to provide mooring, berthage, dockage, wharfage and anchorage in slip number FRNDD01 for said vessel only. Further, Owner understands and agrees that the berthing space specified in this agreement or amendment thereto shall not be subleased and Owner will not allow another vessel other than the vessel specified in this agreement to occupy said berthing space without prior written permission of Marina. Further, Owner understands and agrees that no rights of Owner created in this agreement may be transferred or assigned without prior written approval of Marina. Further, Owner agrees that any such attempted transfer shall give Marina the right to terminate this agreement forthwith and that the sale, chartering, rental or other transfer of use of Owner's aforesaid vessel shall automatically terminate this agreement. Further, that if the vessel berthed under this agreement is co-owned, the Owner executing this agreement hereby represents and warrants that he is authorized to bind all co-owners of the vessel in accordance with the terms of this agreement, and he will produce evidence of said authorization or secure co-owner's signature hereon within seven (7) days of the date hereof. Further, Owner agrees that during this agreement that Owner shall provide proof to Marina's satisfaction of ownership of said vessel upon demand of Marina.

2. Owner agrees and covenants that in consideration of the berthing provided in Paragraph 1 above he will pay to Marina the sum of \$ 350.00 per month, or \$ 11.67 per day for any fractional portion of a month, payable in advance on the first of each month. Owner further agrees that this berthing fee is subject to increase at Marina's discretion upon thirty (30) days written notice. Further, Owner agrees that said rental is based on the slip length or total length of vessel, including bowsprit, bowplank, swimstep, vane and/or any other protrusion, whichever is longest. Further, Owner agrees to allow no part of Owner's vessel to extend over a main walkway or beyond the end of the berth without the prior written permission of Marina.

3. Owner understands and agrees to deposit with Marina a sum in the amount of \$ 250.00 as and for a deposit toward any damages done to berth or slip by or on account of Owner that are unsatisfied upon termination of this agreement. Owner further agrees that said sum shall be added to by an amount equal to any increases in berthing fee at the time of such increase. With Marina's approval any unused portion of said deposit may be applied toward any unpaid berthing upon termination.

4. Owner understands and agrees that this agreement may be terminated by either party upon at least thirty (30) days written notice to the other. Upon such termination by either party, Owner agrees to remove the vessel within the noticed period and Owner understands and agrees that should he terminate and fail to give the aforesaid written notice he will pay to Marina a month's berthing fee beyond the end of any month that the vessel shall be removed.

5. Owner understands and agrees that when Owner's boat enters the Marina it immediately comes under the jurisdiction of the Marina and shall be berthed only where ordered, maneuvered as directed, and moored in a safe manner. All connections to Marina's electrical receptacles shall be grounded and all wiring leading from receptacles to vessel shall be in accordance with the posted rules and regulations of Marina. Owner expressly gives to Marina the right to move, relocate or change the position of his vessel when it is deemed necessary for the safety, convenience, and efficient utilization of the berthing of the Marina.

6. Owner understands, and agrees to abide by the requirement of Marina that all vessels while berthed at Marina are to be in a seaworthy and fully operable condition, well painted, clean, sanitary, and in yacht condition. Further, Owner understands that upon arrival of the vessel, same shall be inspected and approved if meeting the aforesaid criteria. Should the vessel not meet the aforesaid criteria, this contract shall be deemed terminated.

7. Owner agrees that he shall maintain and keep the area in and about the slip assigned him in as clean and sanitary condition as it was when leased. Owner agrees that he shall not store or permit to be stored any materials, equipment or other property on the floats, docks or premises other than within the confines of Marina furnished dock boxes. Owner further agrees that if he should fail to keep said area in a clean and sanitary condition that the Marina may, at its sole discretion, make said area clean and sanitary and Owner agrees to pay Marina for any and all costs of such labors. Owners further agrees to not store any flammables or dangerous materials in dock boxes.

8. Owner agrees to abide by posted rules and regulations of Marina while operating the vessel. Owner further agrees to abide by posted rules and regulations of the Marina while operating any power driven or noise making equipment, including, but not limited to, television, radios, and stereo systems, on or about said vessel.

9. Owner agrees that he shall not allow any paint remover, burning of paint or spraying of paint on the topside of the decks or to paint topside while in the berthed space, except with Marina's express permission. Owner further agrees that he will not perform any major construction or repairs on vessel while at Marina docks and further, that Marina shall be the sole judge as to what constitutes "major construction or repairs."

10. Owner agrees that he shall not, nor shall he allow his family or guests to, commit any acts of pollution or nuisance, including but not limited to, the throwing, discharging or depositing from any vessel or float any refuse matter, oil, spirits, flammable liquid, or oily bilge into the water or upon the premises of the Marina or loud noise or music, etc. Owner further understands and agrees that he is allowed only two parking spaces for Owner's personal vehicles and that no motorhomes, trailers, or other oversize vehicles (over 19 ft.) are to be parked in the parking spaces nor shall any vehicle be left more than seven (7) days without specific prior written consent of Marina. All guest vehicles must have a guest permit. Marina reserves the right to issue parking stickers.

11. Owner understands and agrees not to bring or permit any cats on the vessel, premises or dock area. Owner further agrees to keep under control any dogs that he brings or permits on the vessel, premises or dock area, and shall be responsible for any clean up.

12. Owner understands and agrees that Owner shall not live aboard his vessel nor shall he allow his family, guests, workers, or agents to live aboard his vessel except as provided for under San Diego Municipal Code Section 63.25.71 (Ordinance No. 10107, August 1969).

13. Owner agrees that without prior specific written permission of Marina he shall not display for sale or lease signs nor shall he allow any solicitors, brokers, salesmen, or workmen, other than regular employees of Marina and full time paid hands regularly employed on said vessel, into Marina area to show or work on vessel without prior coordination with Marina's office. Owner understands that this limitation is for the protection of Owner's vessel and other vessels in the Marina.

14. Owner agrees that any vessel berthed at Marina is to be solely for pleasure and shall not be used for any commercial undertaking without Marina's specific permission in writing.

15. Owner agrees that a payment of any mooring, berthage, dockage, wharfage or anchorage charges, and related charges, received by Marina after the fifth (5th) of the month, shall be considered a late payment. Further, Owner agrees that all late payments shall have added thereto a late charge as added rent an amount equal to ten percent (10%) of the payment and shall be paid along with said late payment. Owner agrees that said late payment charge is to compensate Marina for the additional cost involved because of a late payment. Further, Owner agrees that should Owner become thirty (30) days delinquent, that this lease shall be terminated on the thirty-first (31st) day and that thereafter Owner shall be charged a daily berthing rate then prevailing for a visiting vessel of Owner's vessel's size. Owner understands that a ten Dollar (\$10.00) fee will be charged for any bad check and hereby agrees to pay any such fee. Further, Owner hereby pledges the aforescribed vessel with Marina to secure payment of all accounts, debts, bills, and sums of money becoming due hereunder, and agrees that Marina shall have a specific lien on said vessel as security for any said amounts. Further, Owner agrees and acknowledges that Marina may, at its discretion, satisfy the aforesaid lien by sale as provided for in Section 500 et seq., and related sections, of the State of California Harbors and Navigation Code, or arrest and sale under any similar United States Code or any successor Laws or Codes of the State of California or the United States of America. Owner agrees that pending the satisfaction of any such lien, Marina may at its discretion chain or otherwise affix the vessel to the slip assigned or move the vessel to a secure area. Owner verifies and attests that there is no existing sales agreement or other agreement, such as a finance agreement of any Ship's Mortgage, which limits Owner's authority to contract for the services being offered herein by Marina which may create a lien against the Vessel, except as follows: (set forth any relevant information regarding agreements restricting Owner's authority to create a lien on the Vessel, including nature of agreement, party in whose favor agreement is made, that party's address, etc.)

16. Owner agrees that should Marina find it necessary to retain the services of a Lawyer to institute legal action to enforce or recover payment of any sums due under this agreement, Owner shall pay all Lawyer's fees and costs incurred by Marina.

17. Owner agrees that should he, his family or any agent, guest, or business visitor of Owner's cause any damage or loss to the Marina's buildings, yards, docks, or equipment, or that belonging to any customer of the Marina or guest thereof, or damage or loss to the person of any employee of Marina or customer of Marina or guest thereof, Owner shall be responsible for said damage or loss and to that end Owner agrees to carry Protection and Indemnity insurance in an amount of at least \$300,000.00, with Marina as additional insured. and shall provide and maintain proof of same to Marina. That should said insurance not cover the cost of such repair or loss, then same shall become part of Owner's bill due Marina and be treated the same as any other sum or sums due under the terms of this agreement, and Owner agrees to hold Marina harmless for any of the aforesaid damages to other Owners' vessels and/or associated equipment.

18. Owner further agrees to hold Marina free from any and all liability for any property damages, theft, loss, or personal injuries suffered by owner, his family or guests, from any cause resulting from the negligence of the Marina, its employees or agents.

19. Owner understands and acknowledges that Marina makes no warranties, express or implied, as to the suitability or condition of slips, floats, walks, gangways, ramps, buildings or any appurtenances thereto for Owner's specific vessel or needs, and that Owner enters into this agreement accepting the foregoing.

20. Owner shall notify the Marina when he expects his vessel to be away from its slip for any period in excess of one week. Owner understands and agrees that at any time Owner's vessel is absent for more than a one week period, Marina has the right to temporarily let Owner's assigned slip with no credit applied to Owner's monthly rental during the vessel's absence. Should Owner return early, he agrees to give Marina at least twenty-four (24) hours notice of return to the slip.

21. Owner understands and agrees to, and to cause his agents, employees, children and guests to, comply with and faithfully observe all Rules and Regulations of Marina and all applicable rules, regulations and instructions of the United States Coast Guard and the local Mission Bay authorities. Owner further understands and agrees that should any such person breach any provision of this agreement or violate any rule or regulation, Marina may, at its election, terminate this agreement immediately, remove the vessel from her mooring space and store vessel either within or outside of Marina at Owner's risk and expense, and retake possession of the mooring space. Owner hereby acknowledges receipt of a copy of the "Marina Rules and Regulations".

22. Owner and Marina agree that waiver of any condition herein is not be considered a waiver of any other condition, nor a continuing waiver of the condition waived.

23. OWNER AGREES THAT HE HAS READ AND APPROVED THIS AGREEMENT AND ACKNOWLEDGES RECEIPT OF A TRUE AND CORRECT COPY HEREOF.

Dated: 5 2 98

Owner:

Owner:

Marina:

[Signature]
[Signature]