

CONSENT TO SUB-SUBLEASE AGREEMENT

THIS CONSENT TO SUB-SUBLEASE AGREEMENT ("Consent") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), SEAFORTH SPORTFISHING CORPORATION, a California corporation ("SEAFORTH"), WILLIAM E. POOLE and INGRID N. POOLE, individuals doing business as "SEAFORTH MARINA" ("MARINA"), and ROBERT SANFORD, individually and California Offshore Marine LLC, a California limited liability company whose address is 5555 Santa Fe Street, San Diego, Ca 92109 (collectively "SANFORD") to be effective upon execution by CITY (the "Effective Date") and approval by the San Diego City Attorney, as follows:

RECITALS

- A. SEAFORTH is the "LESSEE," under that certain LEASE AGREEMENT dated November 8, 2007, by and between CITY, as lessor, and SEAFORTH SPORTFISHING CORPORATION, a California corporation, as lessee ("Master Lease"), relating to certain real property ("Master Lease Property") described as: That portion of the tidelands and submerged or filled lands of Mission Bay (formerly False Bay) and a portion of the Pueblo Lands of San Diego according to Map thereof made by James Pascoe in 1870, a copy of which was filed in the office of the County Recorder of San Diego County, November 14, 1921, and is known as Miscellaneous Map No. 36, all being in the City of San Diego, County of San Diego, State of California, and more particularly described in the Master Lease.
- B. The Master Lease requires CITY'S consent to any sublease of the Master Lease Property.
- C. SEAFORTH entered into a Sublease Agreement with MARINA ("Marina Sublease") made effective November 9, 2007, and approved by the CITY Consent dated November 14, 2008. SEAFORTH subleases to MARINA and MARINA subleases from SEAFORTH a portion of the Master Lease Property ("Sublease Premises") located on the Master Lease Property and more fully described in the Marina Sublease.
- D. MARINA and SANFORD have executed that certain sub-sublease ("Sanford Sublease") dated June 1, 2008, whereby, subject to CITY'S consent, MARINA subleases to SANFORD and SANFORD subleases from MARINA, a portion of the Sublease Premises as more fully described in the Sanford Sublease, attached hereto as Exhibit A.
- E. Under the terms of this Consent, CITY consents to the Sanford Sublease.

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Subordination. The Sanford Sublease is and shall be subordinate to the Master Lease. CITY shall not be bound by any term or condition in the Sanford Sublease which in any way conflicts with CITY'S rights or increases CITY'S obligations under the Master Lease. Any conflict between the Master Lease, the Marina Sublease and the Sanford Sublease shall be construed or resolved in favor of the Master Lease. SANFORD acknowledges and agrees that his/its rights and obligations as "Sublessee" under the Offshore Marine Sublease are subject and subordinate to the terms and conditions of this Consent and the Master Lease.
2. Master Lease Provisions. Without releasing SEAFORTH of any obligation, SANFORD additionally assumes and shall perform the obligations of "LESSEE" under the Master Lease as and to the extent such obligations are applicable to the Sublease Premises or SANFORD'S use of any common area within the Master Lease Property.
3. Use. SANFORD'S use shall be for general and executive offices in connection with the sale of new and used boats (catamarans, power boats and sailboats), related accessories and trailers, and for no other purposes, and shall comply at all times with the Master Lease.
4. Rent. SEAFORTH shall pay the following to CITY as Rent, which is defined under the Master Lease:
 - (a) Two percent (2%) of SANFORD'S gross income derived from sale of boats and boat engines (whether new or used), including any accessories involved at the time of sale;
 - (b) Five percent (5%) of all SANFORD'S commissions derived from the sale of used boats, used boat engines, and used boat trailers in which SANFORD has no financial interest;
 - (c) Four percent (4%) of SANFORD'S gross income derived from the service of boats and boat engines, and the sale of boat and engine parts, boat and engine accessories, and marine hardware;
 - (d) Twenty percent (20%) of all of MARINA'S gross income received from SANFORD for the office rental and "Boat Display Rent" as defined in the Sub-Sublease;
 - (e) Twenty percent (20%) of all of SANFORD'S gross income from any other sources permitted by the Master Lease.

5. Indemnification. SEAFORTH, MARINA and SANFORD jointly and severally, shall defend, indemnify, protect, and hold CITY, its elected officials, officers, representatives, agents and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation any injury to SEAFORTH'S, MARINA'S or SANFORD officers, employees, agents, invitees, guests, subtenants or licensees, which arise out of or are in any manner directly or indirectly connected with the Sub-Sublease, SANFORD'S use of or operations on the Master Lease Property, the condition of the Sublease Premises, or from any act or omission of SANFORD or any of his employees, agents, invitees, guests, subtenants or licensees; provided, however, this duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents or employees.
6. Subsequent Sublease. This Consent does not constitute consent to any subsequent subletting of any portion of the Master Lease Property, and does not relieve SEAFORTH, MARINA and SANFORD, or any person claiming under or through any of them, of the obligation to obtain CITY'S consent to any future sublease.
7. Brokerage Commission. CITY shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the Sub-Sublease or this Consent. SEAFORTH, MARINA and SANFORD shall jointly and severally protect, defend, indemnify, and hold CITY harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of the Sanford Sublease or this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by CITY in resisting any claim for any such brokerage commission or finder's fee.
8. San Diego's Strong Mayor Form of Governance. The Master Lease shall be amended by adding the following section:

All references to "City Manager" in this lease and all subsequent amendments to this lease shall be deemed to refer to "Mayor." This section became effective on January 1, 2006, and shall remain in effect for the duration of the time period that the City operates under the mayor-council (commonly referred to as "strong mayor") form of governance pursuant to Article XV of the City of San Diego City Charter.
9. No Further Modification of Master Lease or Sublease. Except as provided herein, this Consent shall not be deemed or construed to modify, waive, impair, or affect any of the terms or conditions of the Master Lease or the Sublease.
10. Controlling Law. The terms and conditions of this Consent shall be construed in accordance with the laws of the State of California.

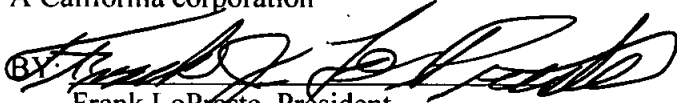
11. Captions. Captions to the sections of this Consent are included for convenience only and do not modify any of the terms of this Consent.
12. Entire Agreement. This Consent constitutes the entire statement of the agreement of the parties pertaining to the amendment of the Master Lease and CITY'S consent to the Sanford Sublease, and is binding on and inures to the benefit of the parties' respective heirs, representatives, successors and assigns. No party has been induced to enter into this Consent by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Consent. No modification of the terms or conditions of this Consent shall be effective unless made in a writing that expressly states that it modifies this Consent, and is signed by the parties hereto.
13. Attorney Fees. If any party commences litigation against any other party for the specific performance of this Consent, for damages for the breach of the terms and conditions of this Consent, or otherwise for any remedy and the enforcement thereof, the prevailing party shall be entitled to recover from the non-prevailing party its costs and reasonable attorney fees incurred.
14. Notice. Any notice required or permitted to be given to any party hereto shall be given in accordance with the provisions of the Master Lease, and if to SANFORD addressed to:

ROBERT SANDFORD
MANAGER
CALIFORNIA OFFSHORE MARINE LLC.
5555 SANTA FE STREET
SAN DIEGO, CA 92109
15. Authority. Each individual executing this Consent on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Consent on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Consent is binding upon such person or entity in accordance with its terms. Each person executing this Consent on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to the City Manager, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.
16. CITY'S Consent. Subject to the terms and conditions of this Consent, CITY hereby consents to the Sanford Sublease.

IN WITNESS WHEREOF, the parties hereto execute this Consent to be effective as of the Effective Date.

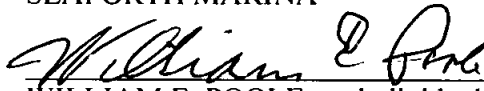
Date: _____

SEAFORTH SPORTFISHING CORPORATION
A California corporation

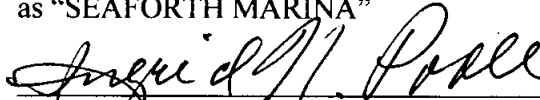
BY: 
Frank LoPreste, President

SEAFORTH MARINA

Date: _____


WILLIAM E. POOLE, an individual doing business
as "SEAFORTH MARINA"

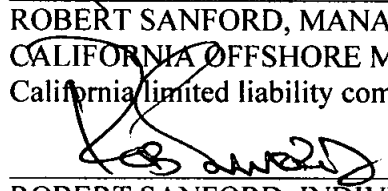
Date: _____


INGRID N. POOLE, an individual doing business
as "SEAFORTH MARINA"

Date: _____

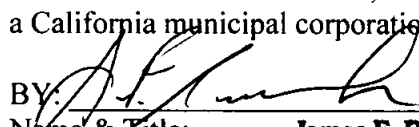

ROBERT SANFORD, MANAGER OF
CALIFORNIA OFFSHORE MARINE, LLC, a
California limited liability company

Date: _____


ROBERT SANFORD, INDIVIDUALLY

Effective Date: 9/14/09

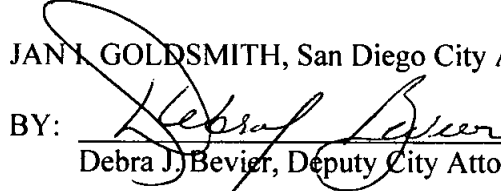
THE CITY OF SAN DIEGO,
a California municipal corporation

BY: 
Name & Title: James F. Barwick, CCIM
Director, Real Estate Assets

APPROVED AS TO FORM AND LEGALITY:

Date: 9/18/09

JANET GOLDSMITH, San Diego City Attorney

BY: 
Debra J. Bevier, Deputy City Attorney

VEB/cb
1-26-09

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EXHIBIT "A"
SUB-SUBLEASE

["Sanford Sublease" dated June 1, 2008, by and between MARINA and
SANFORD]

CALIFORNIA OFFSHORE MARINE SUBLEASE

This Sublease is entered into effective June 1, 2008, by and between William E. Poole and Ingrid N. Poole, dba "Seaforth Marina" whose address is 1677 Quivira Road, San Diego, CA 92109 ("Sublessor"), and Robert Sanford, individually, and California Offshore Marine, LLC, a California limited liability company whose address is 5555 Santa Fe Street, San Diego, CA 92109 (collectively, "Sublessee") for the premises hereinafter described upon the following terms and conditions:

1. Demise, Term and Options to Extend Term. Sublessor hereby leases to Sublessee, and Sublessee hereby hires from Sublessor, those certain premises consisting of approximately 212 square feet of office space situated within the Seaforth Marina building located at 1677 Quivira Road in Mission Bay Park, San Diego, California 92109 together with those yacht display areas more particularly described in the plot plan attached to this Sublease as Exhibit "A" (collectively, the "Subleased Premises"). The term of this Sublease shall be the period commencing on June 1, 2008, or upon commencement of Sublessee's business from the Subleased Premises, whichever last occurs (the "Commencement Date") and ending at midnight on the last day of the twelfth month following the Commencement Date, unless sooner terminated as herein provided (the "Initial Term"). Sublessee shall have three (3) options to extend the term of this sublease each for a period of one (1) year, provided Sublessee is not in default of any of the terms of this Sublease at the time such option is exercised and the option is exercised in writing no earlier than 120 days nor later than 60 days prior to the last day of the then expiring Term.

2. Use. Sublessee shall use and occupy the Subleased Premises for general and executive offices in connection with the sale of new and used boats (catamarans, power boats and sailboats), related accessories and trailers, and for no other purpose. Sublessee shall comply with the certificate of occupancy relating to the Subleased Premises and with all laws, statutes, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate agencies, officers, departments, boards and commissions thereof, and the board of fire underwriters and/or the fire insurance rating organization or similar organization performing the same or similar functions, whether now or hereafter in force, applicable to the Subleased Premises.

3. Subordinate to Master Lease and Master Sublease. This Sublease is and shall be subject and subordinate to that certain Sublease Agreement made effective November 9, 2007, by and between Seaforth Sportfishing Corporation, as Landlord, and Sublessor, as Tenant (the "Master Sublease"), and to the matters to which the Master Sublease is or shall be subject and subordinate, including the terms of the 40-year Master Lease between the City of San Diego ("City"), as Lessor, and Seaforth Sportfishing Corporation, as Lessee, approved by San Diego City Council Resolution dated October 9, 2007 (the "Master Lease"). Copies of the Master Lease and Master Sublease have been delivered to and examined by Sublessee.

4. Incorporation by Reference. The terms, covenants and conditions of the Master Lease and the Master Sublease are incorporated into this Sublease by this reference. Except to the extent the terms of each are inapplicable to this Sublease, each and every term, covenant and condition of the Master Lease and Master Sublease shall be binding upon Sublessee with the same force and effect as if such terms, covenants and conditions were completely set forth in this Sublease. The time limits contained in the Master Lease and Master Sublease for the giving of notices, making of demands or performing of any act, condition or covenant, or for the exercise by the tenant of any right, remedy or option, are changed by shortening each time limit by three days, so Sublessee shall have three days less time to observe or perform such acts or conditions. If any of the express provisions of this Sublease shall conflict with any of the provisions of the Master Lease or Master Sublease, such conflict shall be resolved in favor of the express provisions set forth in the Master Lease or Master Sublease. If Sublessor receives any notice or demand from the landlord under the Master Sublease, Sublessor shall promptly provide a copy to Sublessee.

5. Rent. Sublessee shall pay to Sublessor as rent for the use of the Subleased Premises during the Initial Term of this Sublease ("Fixed Rent") the sum of SEVEN THOUSAND TWO HUNDRED Dollars (\$7200.00), payable in equal monthly installments of SIX HUNDRED Dollars (\$600.00) in advance on the first day of each month during the initial term of this Sublease except that the first full monthly installment shall be paid on the signing of this Sublease (if not previously paid). If the Commencement Date is not the first day of a month, Fixed Rent for the period commencing on the Commencement Date and ending on the last day of the month in which the Commencement Date occurs shall be apportioned on the basis of the number of days in said month and shall be paid on the Commencement Date. In the event Sublessee exercises any option to extend the term of this Sublease, rent shall be fixed by mutual agreement of the parties. If the parties are unable to agree on the level of Fixed Rent within 15 after the exercise of any option to extend the term, the Sublease shall terminate on the last day of the then expiring term.

Sublessee shall also pay to Sublessor the percentage rent payable to City under the Master Lease as the result of activities conducted and gross income generated by Sublessee as set forth in paragraph 3.2 of the Master Sublease ("Percentage Rent"), including but not limited to the following:

Five Percent (5%)	Of all commissions derived from the sale of used boats, used boat engines, and used boat trailers in which Sublessee has no financial interest
Four Percent (4%)	Of the Gross Income derived from the service of boats and boat engines, the sale of boat and engine parts, boat and engine accessories and marine hardware.
Two Percent (2%)	Of the Gross Income derived from the sale of boats and boat engines (whether new or used) including any accessories involved at the time of sale.

In addition to Fixed Rent and Percentage Rent, Sublessee shall pay SEVENTY-FIVE Dollars (\$75.00) per month during the Initial Term for each of FOUR (4) boat display spaces set aside for Sublessee's exclusive use (as shown on Exhibit "A" to this Sublease) for the display of boats for sale, whether or not such display space is actually utilized by Sublessee ("Boat Display Rent"). Boat Display Rent after the Initial Term shall be fixed by mutual agreement of the parties at the same time Fixed Rent is established for any extended term.

Fixed Rent, Percentage Rent and Boat Display Rent shall be paid promptly when due, without notice or demand, and without deduction, abatement, counterclaim or setoff of any amount or for any reason whatsoever. All Rent shall be paid to Sublessor in lawful money of the United States at Sublessor's offices at 1677 Quivira Road, San Diego, California 92109 or at such other address as Sublessor may from time to time designate by notice to Sublessee.

6. Performance by Sublessor. Sublessor shall not be responsible for any failure or interruption, for any reason whatsoever, of the services or facilities that may be appurtenant to or supplied at the building of which the Subleased Premises are a part by the landlord under the Master Sublease or otherwise, including, without limitation, heat, air conditioning, water and cleaning service, if any. No such failure to furnish, or interruption of, any such services or facilities shall give rise to any (a) abatement, diminution or reduction of Sublessee's obligations under this Sublease, (b) constructive eviction, whether in whole or in part, or (c) liability on the part of Sublessor.

7. No Breach of Master Sublease. Sublessee shall not do or permit to be done any act or thing which may constitute a breach or violation of any term, covenant or condition of the Master Lease or the Master Sublease by the tenant, whether or not such act or thing is permitted under the provisions of this Sublease.

8. No Privity of Estate. Nothing contained in this Sublease shall be construed to create privity of estate or of contract between Sublessee and the landlord under the Master Sublease.

9. Indemnity. Sublessee shall indemnify, defend and hold harmless Sublessor from and against all losses, costs, damages, expenses and liabilities, including, without limitation, reasonable attorney's fees, which Sublessor may incur or pay out by reason of (a) any accidents, damages or injuries to persons or property occurring in, on or about the Subleased Premises (unless the same shall have been caused by Sublessor's negligence), (b) any breach or default hereunder on Sublessee's part, (c) any work done in or to the Subleased Premises, or (d) any act, omission or negligence on the part of Sublessee and/or its officers, employees, agents, customers and/or invitees, or any person claiming through or under Sublessee.

10. Releases. Sublessee hereby releases the landlord under the Master Lease and the Master Sublease, or anyone claiming through or under such landlords by way of subrogation or otherwise, to the extent Sublessor released such landlords and/or such landlords were relieved of liability or responsibility pursuant to the provisions of the Master Lease or Master Sublease, and Sublessee will cause its insurance carriers to include any clauses or endorsements in favor of such landlords which Sublessor is required to provide pursuant to the provisions of the Master Lease and Master Sublease.

11. Late Payments. If payment of any Fixed Rent, Percentage Rent or Boat Display Rent shall not have been paid by the day after its due date, a late charge of TEN PERCENT (10%) of the unpaid amount, but not less than \$25.00, shall be added to the sum due and shall be deemed additional rent payable under this Sublease. Should Sublessee tender a check to Sublessor which is returned unpaid for any reason, Sublessee shall pay to Sublessor an additional charge of \$25.00 to defer Sublessor's expenses in processing such dishonored check. If Sublessee is late in making any payment due under this sublease more than 3 times in any 12-month period, Sublessor shall be entitled to demand from Sublessee, and Sublessee agrees to tender to Sublessor, additional security in the amount of three month's then current Fixed Rent to be held in accordance with the terms of paragraph 21 below. Nothing contained in this paragraph, and no acceptance of late payments by Sublessor, shall be deemed to extend or change the time for payment of Fixed Rent, Percentage Rent or Boat Display Rent.

12. Utilities. Sublessee shall pay to Sublessor on demand all sub-metered charges for electric utilities serving the Subleased Premises, and if such utilities are not sub-metered, then Sublessee's prorated share thereof, as Sublessor shall determine.

13. Condition of Subleased Premises. Sublessee is leasing the Subleased Premises "as is" and Sublessor is not required to perform any work or expend any monies in connection with this Sublease. In making and executing this Sublease, Sublessee has relied solely on such investigations, examinations and inspections as Sublessee has chosen to make or has made. Sublessee acknowledges that Sublessor has afforded Sublessee the opportunity for full and complete investigations, examinations, and inspections.

14. Consents and Approvals. In any instance when Sublessor's consent or approval is required under this Sublease, Sublessor's refusal to consent to or approve any matter or thing shall be deemed reasonable if, *inter alia*, such consent or approval has not been obtained from the landlord under the Master Lease or the Master Sublease. Sublessor shall have no obligation to take any action to compel landlord's consent to any matter or thing under the Master Lease, the Master Sublease or as to this Sublease.

15. Notices. All notices, consents, approvals, demands and requests which are required or desired to be given by either party to the other under the terms of this Sublease shall be in writing and shall be sent by United States registered or certified mail and deposited in a United States post office, return receipt requested and postage prepaid, to the addresses set forth at the beginning of this Sublease, or at such other place as the parties may from time to time designate in a notice given in accordance with the provisions of this Section. Such notices, consents, approvals, demands and requests shall be deemed to have been given or served for all purposes on the second business day next following the date mailed.

16. Termination of Master Sublease. If for any reason the term of the Master Sublease shall terminate prior to the expiration date of this Sublease, this Sublease shall terminate at the same time, and Sublessor shall not be liable to Sublessee by reason thereof unless both (a) Sublessee shall not then be in default hereunder and (b) said termination shall have been the direct result of a breach or default of Sublessor under the Master Sublease.

17. Assignment and Subletting. Sublessee shall not, by operation of law or otherwise, assign, sell, mortgage, pledge or in any manner transfer this Sublease or any interest therein, or sublet the Subleased Premises or any part or parts thereof, or grant any concession or license or otherwise permit occupancy of all or any part of the Subleased Premises by any person, without the consent of Sublessor which consent may be given or withheld in Sublessee's absolute discretion. For purposes of this provision, the sale or transfer of 50% or more of the beneficial interest in Sublessee or in Sublessee's business, whether in a single transfer or in transfers of lesser amounts which, when aggregated together, equal 50%, shall be deemed an assignment of Sublessee's interest under this Sublease. Sublessor's consent to an assignment, subletting, concession, or license shall not in any way be construed to relieve Sublessee of the requirement of obtaining the consent of Sublessor to any further assignment or subletting or to the making of any assignment, subletting, concession or license for all or any part of the Subleased Premises. In the event Sublessor consents to any assignment of this Sublease, the assignee shall execute and deliver to Sublessor an agreement in form and substance satisfactory to Sublessor whereby the assignee assumes all of Sublessee's obligations under this Sublease. Notwithstanding any consented to assignment or subletting, the original Sublessee named herein and any other person(s) who at any time was or were Sublessees shall remain fully liable on this Sublease.

18. Insurance. Sublessee shall maintain throughout the term of this Sublease comprehensive general public liability insurance for the Subleased Premises and the conduct and operation of Sublessee's business, with Sublessor and the landlords under the Master Lease and Master Sublease as additional insureds, with minimum limits and issued by companies as set forth in the Master Sublease, or as otherwise agreed between Sublessor and Sublessee. Sublessee shall deliver to Sublessor and the landlord under the Master Sublease a fully paid for policy or certificate of insurance prior to the Commencement Date. Sublessee shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and Sublessee shall deliver to Sublessor and the landlord under the Master Sublease such renewal policy or certificate at least fourteen (14) days before the expiration of any existing policy. All such policies shall contain a provision whereby the policy cannot be cancelled or modified unless Sublessor and the landlord under the Master Sublease are given at least 10 days' prior written notice of such cancellation or modification.

19. Alterations. Sublessee shall not make or cause, suffer or permit the making of any alteration, addition, change, replacement, installation or addition in or to the Subleased Premises without obtaining the prior written consent of Sublessor in each instance. Any and all permitted alterations shall be made strictly in accordance with the terms and provisions of the Master Sublease, and if required by either landlord pursuant to the terms of the Master Lease or the Master Sublease, Sublessee shall, prior to the expiration or sooner termination of this Sublease, repair and restore the Subleased Premises to the condition existing prior to the alterations and repair any damage to the Subleased Premises due to such removal.

20. Right to Cure Sublessee's Defaults. If Sublessee shall at any time fail to make any payment or perform any other obligation of Sublessee under this Sublease, then Sublessor shall have the right, but not the obligation, after the lesser of 5 days' notice to Sublessee or the time within which landlord may act on Sublessor's behalf under the Master Sublease, or without notice to Sublessee in the case of any emergency, and without waiving or releasing Sublessee from any obligations, to make such payment or perform such obligation of Sublessee in such manner and to such extent as Sublessor shall deem necessary, and in exercising such right, to pay any incidental costs and expenses, employ attorneys, and incur and pay reasonable attorney's fees. Sublessee shall pay to Sublessor upon demand all sums so paid by Sublessor and all incidental costs and expenses of Sublessor in connection with such payment or performance, together with interest thereon at ten percent (10%) per annum, or the then maximum lawful interest rate, whichever shall be less, from the date of the making of such expenditures.

21. Security. Sublessee has deposited with Sublessor the sum of \$900.00 as security for the performance by Sublessee of all of the terms, covenants and conditions of this Sublease on Sublessee's part to be performed. Sublessor shall have the right, without notice to Sublessee, and regardless of the exercise of any other remedy Sublessor may have by reason of a default, to apply any part of said deposit to cure any default of Sublessee, and, if Sublessor does so, Sublessee shall upon demand deposit with Sublessor the amount so applied so that Sublessor shall have the full amount of the security at all times during the term of this Sublease. In the event of an assignment or transfer of the leasehold estate under the Master Sublease, (a) Sublessor shall have the right to transfer the security to the assignee, (b) Sublessor shall thereupon be automatically released by Sublessee from all liability for the return of such security, and (c) Sublessee shall look solely to the assignee for the return of said security.

22. No Waiver. The failure of Sublessor to insist in any one or more cases upon the strict performance or observance of any obligation of Sublessee hereunder or to exercise any right or option contained herein shall not be construed as a waiver or relinquishment for the future of any such obligation of Sublessee or any right or option of Sublessor. Sublessor's receipt and acceptance of Fixed Rent, Percentage Rent or Boat Display Rent, or Sublessor's acceptance of performance of any other obligation by Sublessee, with knowledge of Sublessee's breach of any provision of this Sublease, shall not be deemed a waiver of such breach. No waiver by Sublessor of any term, covenant or condition of this Sublease shall be deemed to have been made unless expressed in writing and signed by Sublessor.

23. Complete Agreement. There are no representations, agreements, arrangements or understandings, oral or written; between the parties relating to the subject matter of this Sublease which are not fully expressed in this Sublease. This Sublease cannot be changed or terminated orally or in any manner other than by a written agreement executed by both parties.

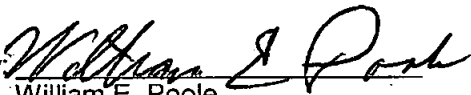
24. Successors and Assigns. The provisions of this Sublease, except as otherwise specifically provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and permitted assigns. In the event of any assignment or transfer of the leasehold estate under the Master Sublease, the transferor or assignor, as the case may be, shall be and hereby is entirely relieved and freed of all obligations under this Sublease.

25. Interpretation. This Sublease shall be governed by and construed in accordance with the laws of the State of California. If any provision of this Sublease or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Sublease and the application of that provision to other persons or circumstances shall not be affected but rather shall be enforced to the extent permitted by law. This Sublease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Sublease to be drafted.

26. Consent of Landlord Under Master Sublease. This Sublease shall have no effect until the landlords under the Master Lease and the Master Sublease shall have given their written consent in accordance with the terms of the Master Lease and Master Sublease.

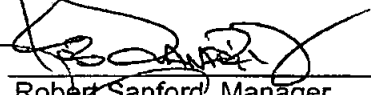
IN WITNESS WHEREOF, Sublessor and Sublessee have executed this Sublease as of the day and year first above written.

SUBLESSOR

By: 
William E. Poole

SUBLESSEE

California Offshore Marine, LLC, a
California limited liability company

By: 
Robert Sanford, Manager


Robert Sanford, Individually

CONSENT

The foregoing Sublease and the uses permitted thereunder are hereby consented to by the below-named landlords under the Master Lease and Master Sublease above-described:

CITY of SAN DIEGO

SEAFORTH SPORTFISHING CORPORATION

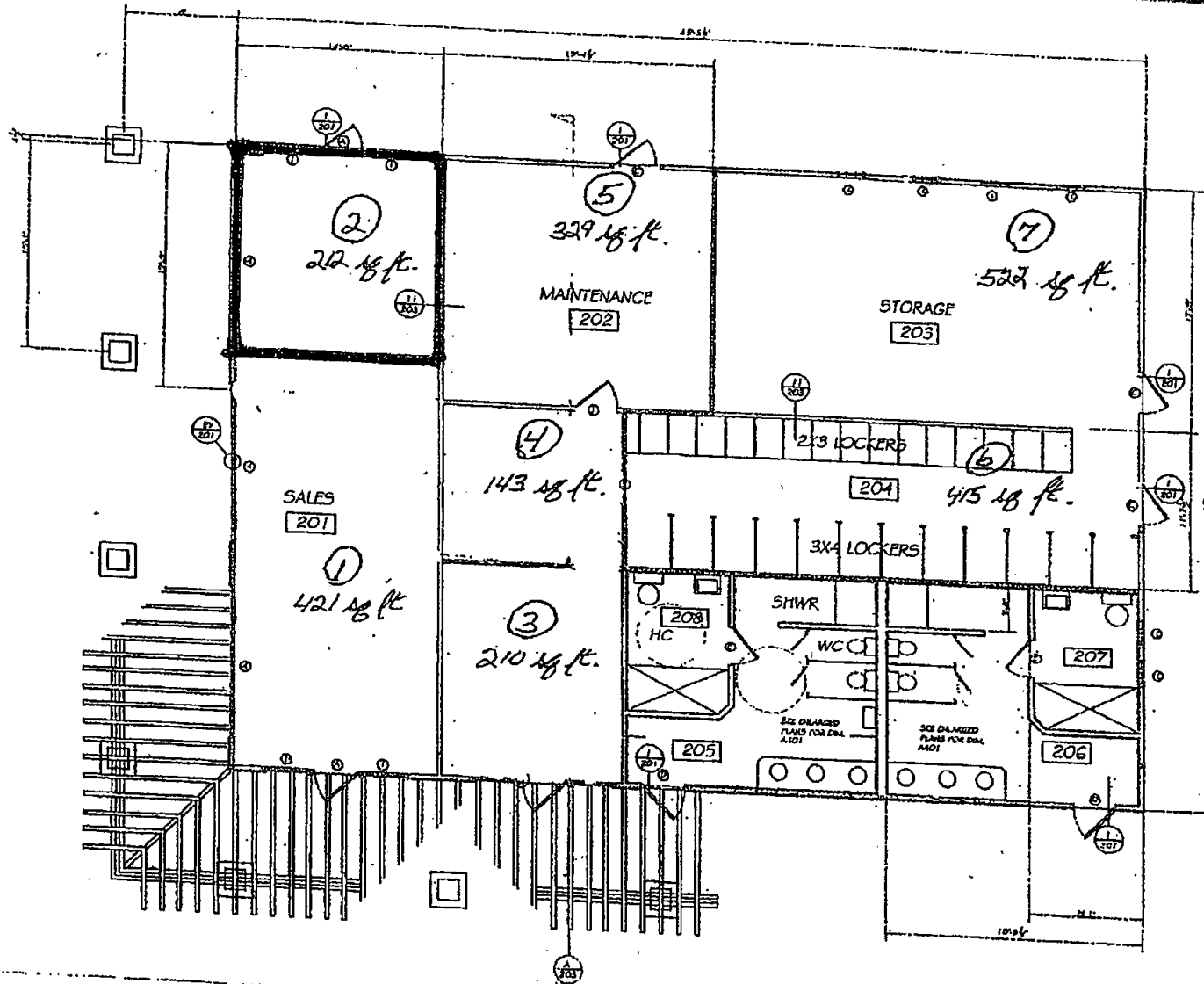
By: _____
Name:
Title:

By: 
Frank LoPreste, President

SEAFORTH MARINA

1677 Quivira Rd.

San Diego, CA 92109



MARINA PLAN

- ① YACHT SALES I 14'2" x 29'9" 421 sq. ft.
- ② YACHT SALES II 14'2" x 15' 212 sq. ft.
- ③ MARINA OFFICE FR 12'9" x 16'6" 210 sq. ft.
- ④ MARINA OFFICE BK 12'9" x 11'3" 143 sq. ft.
- ⑤ MAINTENANCE 19'2" x 17'2" 329 sq. ft.
- ⑥ STORAGE A 11'4" x 36'8" 415 sq. ft.
- ⑦ STORAGE B 17'2" x 30'5" 522 sq. ft.

2/11/08

EXHIBIT A
CALIFORNIA OFFSHORE MARINE

SEAFORTH YACHT SALES SUBLEASE

This Sublease is entered into effective June 1, 2008, by and between William E. Poole and Ingrid N. Poole, dba "Seaforth Marina" whose address is 1677 Quivira Road, San Diego, CA 92109 ("Sublessor"), and Steve Joyner, dba "Seaforth Yacht Sales," whose address is 1677 Quivira Road, San Diego, CA 92109 ("Sublessee") for the premises hereinafter described upon the following terms and conditions:

1. Demise and Term. Sublessor hereby leases to Sublessee, and Sublessee hereby hires from Sublessor, those certain premises consisting of approximately 421 square feet of office space situated within the Seaforth Marina building located at 1677 Quivira Road in Mission Bay Park, San Diego, California 92109 together with those yacht display areas more particularly described in the plot plan attached to this Sublease as Exhibit "A" (collectively, the "Subleased Premises"). The term of this Sublease shall be the period commencing on June 1, 2008, or upon commencement of Sublessee's business from the Subleased Premises, whichever last occurs (the "Commencement Date") and ending at midnight on the last day of the twelfth month following the Commencement Date, unless sooner terminated as herein provided (the "Initial Term"). Sublessee shall have three (3) options to extend the term of this sublease each for a period of one (1) year, provided Sublessee is not in default of any of the terms of this Sublease at the time such option is exercised and the option is exercised in writing no earlier than 120 days nor later than 60 days prior to the last day of the then expiring Term.

2. Use. Sublessee shall use and occupy the Subleased Premises for general and executive offices in connection with the sale of used boats (catamarans, power boats and sailboats), related accessories and trailers, and for no other purpose. Sublessee shall comply with the certificate of occupancy relating to the Subleased Premises and with all laws, statutes, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate agencies, officers, departments, boards and commissions thereof, and the board of fire underwriters and/or the fire insurance rating organization or similar organization performing the same or similar functions, whether now or hereafter in force, applicable to the Subleased Premises.

3. Subordinate to Master Lease and Master Sublease. This Sublease is and shall be subject and subordinate to that certain Sublease Agreement made effective November 9, 2007, by and between Seaforth Sportfishing Corporation, as Landlord, and Sublessor, as Tenant (the "Master Sublease"), and to the matters to which the Master Sublease is or shall be subject and subordinate, including the terms of the 40-year Master Lease between the City of San Diego ("City"), as Lessor, and Seaforth Sportfishing Corporation, as Lessee, approved by San Diego City Council Resolution dated October 9, 2007 (the "Master Lease"). Copies of the Master Lease and Master Sublease have been delivered to and examined by Sublessee.

4. Incorporation by Reference. The terms, covenants and conditions of the Master Lease and the Master Sublease are incorporated into this Sublease by this reference. Except to the extent the terms of each are inapplicable to this Sublease, each and every term, covenant and condition of the Master Lease and Master Sublease shall be binding upon Sublessee with the same force and effect as if such terms, covenants and conditions were completely set forth in this Sublease. The time limits contained in the Master Lease and Master Sublease for the giving of notices, making of demands or performing of any act, condition or covenant, or for the exercise by the tenant of any right, remedy or option, are changed by shortening each time limit by three days, so Sublessee shall have three days less time to observe or perform such acts or conditions. If any of the express provisions of this Sublease shall conflict with any of the provisions of the Master Lease or Master Sublease, such conflict shall be resolved in favor of the express provisions set forth in the Master Lease or Master Sublease. If Sublessor receives any notice or demand from the landlord under the Master Sublease, Sublessor shall promptly provide a copy to Sublessee.

5. Rent. Sublessee shall pay to Sublessor as rent for the use of the Subleased Premises ("Fixed Rent") the sum of NINE THOUSAND SIX HUNDRED Dollars (\$9600.00) per annum, payable in equal monthly installments of EIGHT HUNDRED Dollars (\$800.00) in advance on the first day of each month during the term of this Sublease except that the first full monthly installment shall be paid on the signing of this Sublease (if not previously paid). If the Commencement Date is not the first day of a month, Fixed Rent for the period commencing on the Commencement Date and ending on the last day of the month in which the Commencement Date occurs shall be apportioned on the basis of the number of days in said month and shall be paid on the Commencement Date.

Sublessee shall also pay to Sublessor the percentage rent payable to City under the Master Lease as the result of activities conducted and gross income generated by Sublessee as set forth in paragraph 3.2 of the Master Sublease ("Percentage Rent"), including but not limited to the following:

Five Percent (5%)	Of all commissions derived from the sale of used boats, used boat engines, and used boat trailers in which Sublessee has no financial interest
-------------------	--

In addition to Fixed Rent and Percentage Rent, Sublessee shall pay SEVENTY-FIVE Dollars (\$75.00) per month for each of SIX (6) boat display spaces set aside for Sublessee's exclusive use (as shown on Exhibit "A" to this Sublease) for the display of boats for sale, whether or not such display space is actually utilized by Sublessee ("Boat Display Rent").

Fixed Rent, Percentage Rent and Boat Display Rent shall be paid promptly when due, without notice or demand, and without deduction, abatement, counterclaim or setoff of any amount or for any reason whatsoever. All Rent shall be paid to Sublessor in lawful money of the United States at Sublessor's offices at 1677 Quivira Road, San Diego, California 92109 or at such other address as Sublessor may from time to time designate by notice to Sublessee.

6. Performance by Sublessor. Sublessor shall not be responsible for any failure or interruption, for any reason whatsoever, of the services or facilities that may be appurtenant to or supplied at the building of which the Subleased Premises are a part by the landlord under the Master Sublease or otherwise, including, without limitation, heat, air conditioning, water and cleaning service, if any. No such failure to furnish, or interruption of, any such services or facilities shall give rise to any (a) abatement, diminution or reduction of Sublessee's obligations under this Sublease, (b) constructive eviction, whether in whole or in part, or (c) liability on the part of Sublessor.

7. No Breach of Master Sublease. Sublessee shall not do or permit to be done any act or thing which may constitute a breach or violation of any term, covenant or condition of the Master Lease or the Master Sublease by the tenant, whether or not such act or thing is permitted under the provisions of this Sublease.

8. No Privity of Estate. Nothing contained in this Sublease shall be construed to create privity of estate or of contract between Sublessee and the landlord under the Master Sublease.

9. Indemnity. Sublessee shall indemnify, defend and hold harmless Sublessor from and against all losses, costs, damages, expenses and liabilities, including, without limitation, reasonable attorney's fees, which Sublessor may incur or pay out by reason of (a) any accidents, damages or injuries to persons or property occurring in, on or about the Subleased Premises (unless the same shall have been caused by Sublessor's negligence), (b) any breach

or default hereunder on Sublessee's part, (c) any work done in or to the Subleased Premises, or (d) any act, omission or negligence on the part of Sublessee and/or its officers, employees, agents, customers and/or invitees, or any person claiming through or under Sublessee.

10. Releases. Sublessee hereby releases the landlord under the Master Lease and the Master Sublease, or anyone claiming through or under such landlords by way of subrogation or otherwise, to the extent Sublessor released such landlords and/or such landlords were relieved of liability or responsibility pursuant to the provisions of the Master Lease or Master Sublease, and Sublessee will cause its insurance carriers to include any clauses or endorsements in favor of such landlords which Sublessor is required to provide pursuant to the provisions of the Master Lease and Master Sublease.

11. Late Payments. If payment of any Fixed Rent, Percentage Rent or Boat Display Rent shall not have been paid by the day after its due date, a late charge of TEN PERCENT (10%) of the unpaid amount, but not less than \$25.00, shall be added to the sum due and shall be deemed additional rent payable under this Sublease. Should Sublessee tender a check to Sublessor which is returned unpaid for any reason, Sublessee shall pay to Sublessor an additional charge of \$25.00 to defer Sublessor's expenses in processing such dishonored check. If Sublessee is late in making any payment due under this sublease more than 3 times in any 12-month period, Sublessor shall be entitled to demand from Sublessee, and Sublessee agrees to tender to Sublessor, additional security in the amount of three month's then current Fixed Rent to be held in accordance with the terms of paragraph 21 below. Nothing contained in this paragraph, and no acceptance of late payments by Sublessor, shall be deemed to extend or change the time for payment of Fixed Rent, Percentage Rent or Boat Display Rent.

12. Utilities. Sublessee shall pay to Sublessor on demand all sub-metered charges for electric utilities serving the Subleased Premises, and if such utilities are not sub-metered, then Sublessee's prorated share thereof, as Sublessor shall determine.

13. Condition of Subleased Premises. Sublessee is leasing the Subleased Premises "as is" and Sublessor is not required to perform any work or expend any monies in connection with this Sublease. In making and executing this Sublease, Sublessee has relied solely on such investigations, examinations and inspections as Sublessee has chosen to make or has made. Sublessee acknowledges that Sublessor has afforded Sublessee the opportunity for full and complete investigations, examinations, and inspections.

14. Consents and Approvals. In any instance when Sublessor's consent or approval is required under this Sublease, Sublessor's refusal to consent to or approve any matter or thing shall be deemed reasonable if, *inter alia*, such consent or approval has not been obtained from the landlord under the Master Lease or the Master Sublease. Sublessor shall have no obligation to take any action to compel landlord's consent to any matter or thing under the Master Lease, the Master Sublease or as to this Sublease.

15. Notices. All notices, consents, approvals, demands and requests which are required or desired to be given by either party to the other under the terms of this Sublease shall be in writing and shall be sent by United States registered or certified mail and deposited in a United States post office, return receipt requested and postage prepaid, to the addresses set forth at the beginning of this Sublease, or at such other place as the parties may from time to time designate in a notice given in accordance with the provisions of this Section. Such notices, consents, approvals, demands and requests shall be deemed to have been given or served for all purposes on the second business day next following the date mailed.

16. Termination of Master Sublease. If for any reason the term of the Master Sublease shall terminate prior to the expiration date of this Sublease, this Sublease shall terminate at the same time, and Sublessor shall not be liable to Sublessee by reason thereof unless both (a) Sublessee shall not then be in default hereunder and (b) said termination shall have been the direct result of a breach or default of Sublessor under the Master Sublease.

17. Assignment and Subletting. Sublessee shall not, by operation of law or otherwise, assign, sell, mortgage, pledge or in any manner transfer this Sublease or any interest therein, or sublet the Subleased Premises or any part or parts thereof, or grant any concession or license or otherwise permit occupancy of all or any part of the Subleased Premises by any person, without the consent of Sublessor which consent may be given or withheld in Sublessee's absolute discretion. For purposes of this provision, the sale or transfer of 50% or more of the beneficial interest in Sublessee or in Sublessee's business, whether in a single transfer or in transfers of lesser amounts which, when aggregated together, equal 50%, shall be deemed an assignment of Sublessee's interest under this Sublease. Sublessor's consent to an assignment, subletting, concession, or license shall not in any way be construed to relieve Sublessee of the requirement of obtaining the consent of Sublessor to any further assignment or subletting or to the making of any assignment, subletting, concession or license for all or any part of the Subleased Premises. In the event Sublessor consents to any assignment of this Sublease, the assignee shall execute and deliver to Sublessor an agreement in form and substance satisfactory to Sublessor whereby the assignee assumes all of Sublessee's obligations under this Sublease. Notwithstanding any consented to assignment or subletting, the original Sublessee named herein and any other person(s) who at any time was or were Sublessees shall remain fully liable on this Sublease.

18. Insurance. Sublessee shall maintain throughout the term of this Sublease comprehensive general public liability insurance for the Subleased Premises and the conduct and operation of Sublessee's business, with Sublessor and the landlords under the Master Lease and Master Sublease as additional insureds, with minimum limits and issued by companies as set forth in the Master Sublease, or as otherwise agreed between Sublessor and Sublessee. Sublessee shall deliver to Sublessor and the landlord under the Master Sublease a fully paid for policy or certificate of insurance prior to the Commencement Date. Sublessee shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and Sublessee shall deliver to Sublessor and the landlord under the Master Sublease such renewal policy or certificate at least fourteen (14) days before the expiration of any existing policy. All such policies shall contain a provision whereby the policy cannot be cancelled or modified unless Sublessor and the landlord under the Master Sublease are given at least 10 days' prior written notice of such cancellation or modification.

19. Alterations. Sublessee shall not make or cause, suffer or permit the making of any alteration, addition, change, replacement, installation or addition in or to the Subleased Premises without obtaining the prior written consent of Sublessor in each instance. Any and all permitted alterations shall be made strictly in accordance with the terms and provisions of the Master Sublease, and if required by either landlord pursuant to the terms of the Master Lease or the Master Sublease, Sublessee shall, prior to the expiration or sooner termination of this Sublease, repair and restore the Subleased Premises to the condition existing prior to the alterations and repair any damage to the Subleased Premises due to such removal.

20. Right to Cure Sublessee's Defaults. If Sublessee shall at any time fail to make any payment or perform any other obligation of Sublessee under this Sublease, then Sublessor shall have the right, but not the obligation, after the lesser of 5 days' notice to Sublessee or the time within which landlord may act on Sublessor's behalf under the Master Sublease, or without notice to Sublessee in the case of any emergency, and without waiving or releasing Sublessee

from any obligations, to make such payment or perform such obligation of Sublessee in such manner and to such extent as Sublessor shall deem necessary, and in exercising such right, to pay any incidental costs and expenses, employ attorneys, and incur and pay reasonable attorney's fees. Sublessee shall pay to Sublessor upon demand all sums so paid by Sublessor and all incidental costs and expenses of Sublessor in connection with such payment or performance, together with interest thereon at ten percent (10%) per annum, or the then maximum lawful interest rate, whichever shall be less, from the date of the making of such expenditures.

21. No Waiver. The failure of Sublessor to insist in any one or more cases upon the strict performance or observance of any obligation of Sublessee hereunder or to exercise any right or option contained herein shall not be construed as a waiver or relinquishment for the future of any such obligation of Sublessee or any right or option of Sublessor. Sublessor's receipt and acceptance of Fixed Rent, Percentage Rent or Boat Display Rent, or Sublessor's acceptance of performance of any other obligation by Sublessee, with knowledge of Sublessee's breach of any provision of this Sublease, shall not be deemed a waiver of such breach. No waiver by Sublessor of any term, covenant or condition of this Sublease shall be deemed to have been made unless expressed in writing and signed by Sublessor.

22. Complete Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Sublease which are not fully expressed in this Sublease. This Sublease cannot be changed or terminated orally or in any manner other than by a written agreement executed by both parties.

23. Successors and Assigns. The provisions of this Sublease, except as otherwise specifically provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and permitted assigns. In the event of any assignment or transfer of the leasehold estate under the Master Sublease, the transferor or assignor, as the case may be, shall be and hereby is entirely relieved and freed of all obligations under this Sublease.

24. Interpretation. This Sublease shall be governed by and construed in accordance with the laws of the State of California. If any provision of this Sublease or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Sublease and the application of that provision to other persons or circumstances shall not be affected but rather shall be enforced to the extent permitted by law. This Sublease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Sublease to be drafted.

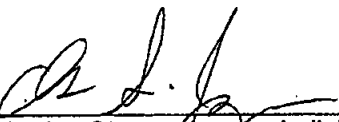
25. Consent of Landlord Under Master Sublease. This Sublease shall have no effect until the landlords under the Master Lease and the Master Sublease shall have given their written consent in accordance with the terms of the Master Lease and Master Sublease.

IN WITNESS WHEREOF, Sublessor and Sublessee have executed this Sublease as of the day and year first above written.

SUBLESSOR

By: 
William E. Poole

SUBLESSEE

By: 
Charles Steven Joyner, individually and
dba "Seaforth Yacht Sales"

CONSENT

The foregoing Sublease and the uses permitted thereunder are hereby consented to by the below-named landlords under the Master Lease and Master Sublease above-described:

CITY of SAN DIEGO

SEAFORTH SPORTFISHING CORPORATION

By: _____
Name:
Title:

By: 
Frank LoPreste, President

SEAFORTH MARINA

1677 Quivira Rd.
San Diego, CA 92109

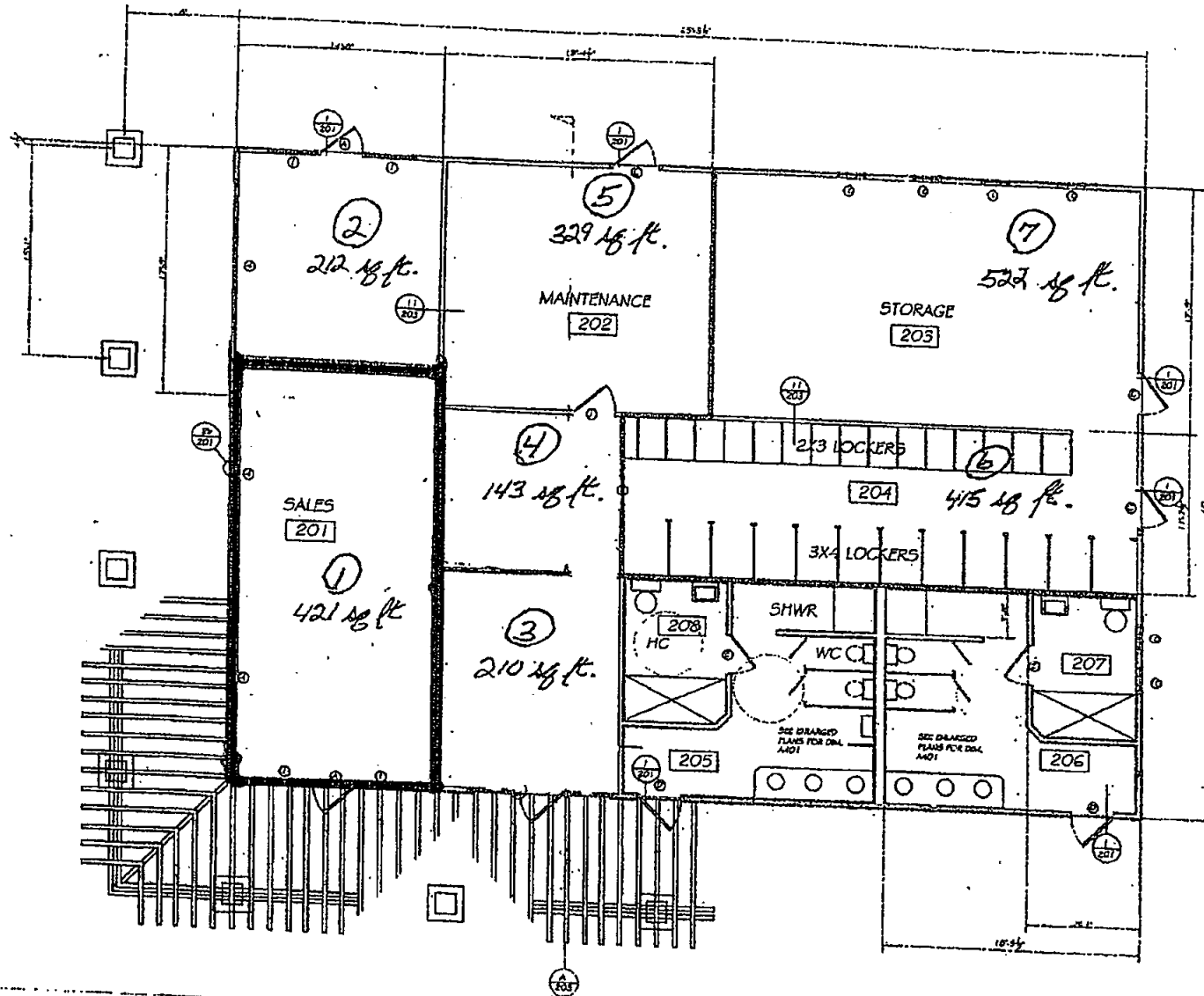


EXHIBIT A
SEAFORTH YACHT SALES

MARINA PLAN

YACHT SALES I	14'2" x 29'9"	421 sq ft.
YACHT SALES II	14'2" x 15'	212 sq ft.
MARINA OFFICE FR	12'9" x 16'6"	210 sq ft.
MARINA OFFICE BK	12'9" x 11'3"	143 sq ft.
5. MAINTENANCE	19'2" x 17'2"	329 sq ft.
6. STORAGE A	11'4" x 36'8"	415 sq ft.
7. STORAGE B	17'2" x 30'5"	522 sq ft.

2/11/08

CONSENT TO SUB-SUBLEASE AGREEMENT

THIS CONSENT TO SUB-SUBLEASE AGREEMENT ("Consent") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), SEAFORTH SPORTFISHING CORPORATION, a California corporation ("SEAFORTH"), WILLIAM E. POOLE and INGRID N. POOLE, individuals doing business as "SEAFORTH MARINA" ("MARINA"), and STEVE JOYNER, d.b.a. SEAFORTH YACHT SALES ("YACHT SALES") to be effective upon execution by CITY (the "Effective Date") and approval by the San Diego City Attorney, as follows:

RECITALS

- A. SEAFORTH is the "LESSEE," under that certain LEASE AGREEMENT dated November 8, 2007, by and between CITY, as lessor, and SEAFORTH SPORTFISHING CORPORATION, a California corporation, as lessee ("Master Lease"), relating to certain real property ("Master Lease Property") described as: That portion of the tidelands and submerged or filled lands of Mission Bay (formerly False Bay) and a portion of the Pueblo Lands of San Diego according to Map thereof made by James Pascoe in 1870, a copy of which was filed in the office of the County Recorder of San Diego County, November 14, 1921, and is known as Miscellaneous Map No. 36, all being in the City of San Diego, County of San Diego, State of California, and more particularly described in the Master Lease.
- B. The Master Lease requires CITY'S consent to any sublease of the Master Lease Property.
- C. SEAFORTH entered into a Sublease Agreement with MARINA ("Marina Sublease") made effective November 9, 2007, and approved by the CITY Consent dated November 14, 2008. SEAFORTH subleases to MARINA and MARINA subleases from SEAFORTH a portion of the Master Lease Property ("Sublease Premises") located on the Master Lease Property and more fully described in the Marina Sublease.
- D. MARINA and YACHT SALES have executed that certain sub-sublease ("Yacht Sales Sublease") dated June 1, 2008, whereby, subject to CITY'S consent, MARINA subleases to YACHT SALES and YACHT SALES subleases from MARINA a portion of the Sublease Premises, as more fully described in the Yacht Sales Sublease, attached hereto as Exhibit A.
- E. Under the terms of this Consent, CITY consents to the Yacht Sales Sublease.

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Subordination. The Yacht Sales Sublease is and shall be subordinate to the Master Lease. CITY shall not be bound by any term or condition in the Sub-Sublease which in any way conflicts with CITY'S rights or increases CITY'S obligations under the Master Lease. Any conflict between the Master Lease, the Marina Sublease and Yacht Sales Sublease shall be construed or resolved in favor of the Master Lease. YACHT SALES acknowledges and agrees that his rights and obligations as "Sublessee" under the Yacht Sales Sublease are subject and subordinate to the terms and conditions of this Consent and the Master Lease.
2. Master Lease Provisions. Without releasing SEAFORTH of any obligation, YACHT SALES additionally assumes and shall perform the obligations of "LESSEE" under the Master Lease as and to the extent such obligations are applicable to the Sublease Premises or YACHT SALES' use of any common area within the Master Lease Property.
3. Use. YACHT SALES' use shall be for general and executive offices in connection with the sale of used boats (catamarans, power boats and sailboats), related accessories and trailers, and for no other purposes, and shall comply at all times with the Master Lease.
4. Rent. SEAFORTH shall pay the following to CITY as Rent, which is defined under the Master Lease:
 - (a) Five percent (5%) of all YACHT SALES' commissions derived from the sale of used boats, used boat engines, and used boat trailers in which YACHT SALES has no financial interest;
 - (b) Twenty percent (20%) of all of MARINA'S gross income received from YACHT SALES for the office rental and "Boat Display Rent" as defined in the Sub-Sublease;
 - (c) Twenty percent (20%) of all YACHT SALES' gross income from any other sources permitted by the Master Lease;
5. Indemnification. SEAFORTH, MARINA and YACHT SALES jointly and severally, shall defend, indemnify, protect, and hold CITY, its elected officials, officers, representatives, agents and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation any injury to SEAFORTH'S, MARINA'S or YACHT SALES' officers, employees, agents, invitees, guests, subtenants or licensees, which arise out of or are in any manner directly or indirectly connected with the Yacht Sales Sublease, YACHT SALES' use of or operations on the Master Lease Property, the condition of the Sublease Premises, or from any act or omission of YACHT SALES or any of his employees, agents, invitees, guests, subtenants or licensees; provided, however, this duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole

negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents or employees.

6. Subsequent Sublease. This Consent does not constitute consent to any subsequent subletting of any portion of the Master Lease Property, and does not relieve SEAFORTH, MARINA and YACHT SALES, or any person claiming under or through any of them, of the obligation to obtain CITY'S consent to any future sublease.
7. Brokerage Commission. CITY shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the Sub-Sublease or this Consent. SEAFORTH, MARINA and YACHT SALES shall jointly and severally protect, defend, indemnify, and hold CITY harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of the Yacht Sales Sublease or this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by CITY in resisting any claim for any such brokerage commission or finder's fee.
8. San Diego's Strong Mayor Form of Governance. The Master Lease shall be amended by adding the following section:

All references to "City Manager" in this lease and all subsequent amendments to this lease shall be deemed to refer to "Mayor." This section became effective on January 1, 2006, and shall remain in effect for the duration of the period that the City operates under the mayor-council (commonly referred to as "strong mayor") form of governance pursuant to Article XV of the City of San Diego City Charter.
9. No Further Modification of Master Lease or Sublease. Except as provided herein, this Consent shall not be deemed or construed to modify, waive, impair, or affect any of the terms or conditions of the Master Lease or the Sublease.
10. Controlling Law. The terms and conditions of this Consent shall be construed in accordance with the laws of the State of California.
11. Captions. Captions to the sections of this Consent are included for convenience only and do not modify any of the terms of this Consent.
12. Entire Agreement. This Consent constitutes the entire statement of the agreement of the parties pertaining to the amendment of the Master Lease and CITY'S consent to the Sub-Sublease, and is binding on and inures to the benefit of the parties' respective heirs, representatives, successors and assigns. No party has been induced to enter into this Consent by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Consent. No modification of the terms or conditions of this Consent shall be effective unless

made in a writing that expressly states that it modifies this Consent, and is signed by the parties hereto.

13. Attorney Fees. If any party commences litigation against any other party for the specific performance of this Consent, for damages for the breach of the terms and conditions of this Consent, or otherwise for any remedy and the enforcement thereof, the prevailing party shall be entitled to recover from the non-prevailing party its costs and reasonable attorney fees incurred.

14. Notice. Any notice required or permitted to be given to any party hereto shall be given in accordance with the provisions of the Master Lease, and if to YACHT SALES, addressed to:

CHARLES STEVEN JOYNER
SEAFORTH YACHT SALES
1677 Quivira Road
SAN DIEGO, CA 92109

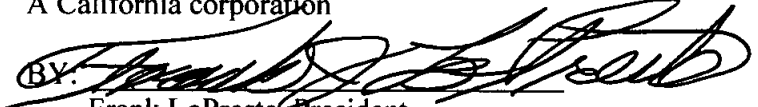
15. Authority. Each individual executing this Consent on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Consent on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Consent is binding upon such person or entity in accordance with its terms. Each person executing this Consent on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to the City Manager, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

16. CITY'S Consent. Subject to the terms and conditions of this Consent, CITY hereby consents to the Yacht Sales Sublease.

IN WITNESS WHEREOF, the parties hereto execute this Consent to be effective as of the Effective Date.

Date: _____

SEAFORTH SPORTFISHING CORPORATION
A California corporation

BY: 
Frank LoPreste, President

SEAFORTH MARINA

Date: _____

William E. Poole
WILLIAM E. POOLE, an individual doing business
as "SEAFORTH MARINA"

Date: _____

Ingrid M. Poole
INGRID M. POOLE, an individual doing business
as "SEAFORTH MARINA"

Date: _____

Charles S. Joyner
CHARLES STEVEN JOYNER, individually and
d.b.a. "SEAFORTH YACHT SALES"

Effective Date: 9/14/09

THE CITY OF SAN DIEGO,
a California municipal corporation

BY: James F. Barwick
Name & Title: **James F. Barwick, CCIM**
Director, Real Estate Assets

APPROVED AS TO FORM AND LEGALITY:

Date: 9/18/09

JAN I. GOLDSMITH, San Diego City Attorney

BY: Debra J. Bevier
Debra J. Bevier, Deputy City Attorney

VEB/cb
1-26-09

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Exhibit "A"
SUB-SUBLEASE

["Yacht Sales Sublease" dated June 1, 2008, by and between MARINA
and YACHT SALES]

CONSENT TO SUBLEASE AGREEMENT

THIS CONSENT TO SUBLEASE AGREEMENT ("Consent") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), SEAFORTH SPORTFISHING CORPORATION, a California corporation ("SEAFORTH"), and WILLIAM E. POOLE and INGRID N. POOLE, individuals doing business as "SEAFORTH MARINA" ("MARINA"), to be effective upon execution by CITY (the "Effective Date") and approval by the San Diego City Attorney, as follows:

RECITALS

- A. SEAFORTH is the "LESSEE," under that certain LEASE AGREEMENT dated November 8, 2007, by and between CITY, as lessor, and SEAFORTH SPORTFISHING CORPORATION, a California corporation, as lessee ("Master Lease"), relating to certain real property ("Master Lease Property") described as that portion of the tidelands and submerged or filled lands of Mission Bay (formerly False Bay) and a portion of the Pueblo Lands of San Diego according to Map thereof made by James Pascoe in 1870, a copy of which was filed in the office of the County Recorder of San Diego County, November 14, 1921, and is known as Miscellaneous Map No. 36, all being in the City of San Diego, County of San Diego, State of California, and described as a whole as follows, and more particularly described in the Master Lease, attached hereto as Exhibit A.
- B. The Master Lease requires CITY'S consent to any sublease of the Master Lease Property.
- C. WILLIAM E. POOLE and INGRID N. POOLE have executed that certain SUBLEASE ("Marina Sublease") dated November 9, 2007, whereby, subject to CITY'S consent, SEAFORTH subleases to MARINA and MARINA subleases from SEAFORTH a portion of the Master Lease Property ("Sublease Premises") located on the Master Lease Property and more fully described in the Marina Sublease, attached hereto as Exhibit B.
- D. Under the terms of this Consent, CITY will consent to the Marina Sublease.

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Subordination. The Marina Sublease ("Sublease") is and shall be subordinate to the Master Lease. CITY shall not be bound by any term or condition in the Sublease which in any way conflicts with CITY'S rights or increases CITY'S obligations under the Master Lease. Any conflict between the Master Lease and the Sublease shall be construed or resolved in favor of the Master Lease. MARINA acknowledges and agrees that his rights and obligations as "LESSEE"

under the Sublease are subject and subordinate to the terms and conditions of this Consent and the Master Lease.

2. Master Lease Provisions. Without releasing SEAFORTH of any obligation, MARINA additionally assumes and shall perform the obligations of "LESSEE" under the Master Lease as and to the extent such obligations are applicable to the Sublease Premises or MARINA'S use of any common area within the Master Lease Property.
3. Use. MARINA'S use shall be for rental of boat slips; vessel rentals; sale and service boats, boat engines and parts, boat trailers and accessories; maintenance of non-owned, coin-operated vending machines; sale of incidentals; dry storage locker rentals; and no other purposes and shall comply at all times to the Master Lease.
4. Rent. SEAFORTH shall pay the following to CITY as rent defined under the Master Lease:
 - (a) Twenty-two and one-half percent (22.5%) of the MARINA'S gross income ("gross income" as that term defined in the Master Lease) derived from the rental of boat slips. The percentage rate from this activity shall increase to twenty-five percent (25%) at the beginning of the sixth Lease Year;
 - (b) Two percent (2%) of MARINA'S gross income of the gross income from sale of boats and boat engines (whether new or used) including any accessories involved at the time of sale;
 - (c) Five percent (5%) of all of all MARINA'S commission from the sale of used boats, used boat engines, and used boat trailers in which MARINA has no financial interest;
 - (d) Seven percent (7%) of MARINA'S gross income from sale of gifts, novelties, souvenirs, clothing, luggage, jewelry, cigars, cigarettes, candy, sundries, and incidentals;
 - (e) Four percent (4%) of MARINA'S gross income from the service of boats and boat engines, the sale of boat and engine parts, boat and engine accessories and marine hardware;
 - (f) Ten percent (10%) of MARINA'S gross income from all other vessel rentals;
 - (g) Ten percent (10%) of MARINA'S gross income from the rental of dry storage lockers. Ten percent rate from this activity shall be increased to twenty percent (20%) at the beginning of the sixth lease year of the Master

Lease;

- (h) Ten percent (10%) of MARINA'S commissions received from coin-operated machines, other than food and beverage dispensing machines, in which MARINA has no ownership equity, and of the Gross Income from said machines in which MARINA does have ownership equity;
 - (i) Three percent (3%) of MARINA'S gross income from commissions received from food and beverage (non-alcoholic) dispensing coin-operating machines in which MARINA has no ownership equity, and of the gross income from said machines in which MARINA has an ownership equity;
 - (j) Twenty percent (20%) of all MARINA'S gross income from any other source permitted under the purpose of the Master Lease, subject to prior written approval of the CITY;
 - (k) Fifty percent (50%) of all MARINA'S gross income from any sources not permitted by Master Lease;
5. Indemnification. SEAFORTH and MARINA, jointly and severally, shall defend, indemnify, protect, and hold CITY, its elected officials, officers, representatives, agents and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including without limitation any injury to SEAFORTH'S or MARINA'S officers, employees, agents, invitees, guests, subtenants or licensees, which arise out of or are in any manner directly or indirectly connected with the Sublease, MARINA'S use of or operations on the Master Lease Property, the condition of the Sublease Premises, or from any act or omission of MARINA or any of his employees, agents, invitees, guests, subtenants or licensees; provided, however, this duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents or employees.
6. Subsequent Sublease. This Consent does not constitute consent to any subsequent subletting of any portion of the Master Lease Property, and does not relieve MARINA, or any person claiming under or through either of them of the obligation to obtain CITY'S consent to any future sublease.
7. Brokerage Commission. CITY shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the Sublease or this Consent. SEAFORTH and MARINA shall jointly and severally protect, defend, indemnify, and hold CITY harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of the Sublease or this Consent, and from and against any cost or expense (including without limitation

attorney fees) incurred by CITY in resisting any claim for any such brokerage commission or finder's fee.

8. San Diego's Strong Mayor Form of Governance. The Master Lease shall be amended by adding the following section:

All references to "City Manager" in this lease and all subsequent amendments to this lease shall be deemed to refer to "Mayor." This section became effective on January 1, 2006, and shall remain in effect for the duration the City operates under the mayor-council (commonly referred to as "strong mayor") form of governance pursuant to Article XV of the City of San Diego City Charter.

9. No Further Modification of Master Lease or Sublease. Except as provided herein, this Consent shall not be deemed or construed to modify, waive, impair, or affect any of the terms or conditions of the Master Lease or the Sublease.
10. Controlling Law. The terms and conditions of this Consent shall be construed in accordance with the laws of the State of California.
11. Captions. Captions to the sections of this Consent are included for convenience only and do not modify any of the terms of this Consent.
12. Entire Agreement. This Consent constitutes the entire statement of the agreement of the parties pertaining to the amendment of the Master Lease and CITY'S consent to the Sublease, and is binding on and inures to the benefit of the parties' respective heirs, representatives, successors and assigns. No party has been induced to enter into this Consent by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Consent. No modification of the terms or conditions of this Consent shall be effective unless made in a writing that expressly states that it modifies this Consent, and signed by the parties hereto.
13. Attorney Fees. If any party commences litigation against any other party for the specific performance of this Consent, for damages for the breach of the terms and conditions of this Consent, or otherwise for any remedy and the enforcement thereof, the prevailing party shall be entitled to recover from the non-prevailing party its costs and reasonable attorney fees incurred.
14. Notice. Any notice required or permitted to be given to any party hereto shall be given in accordance with the provisions of the Master Lease, and if to MARINA, addressed to:

WILLIAM E. POOLE and INGRID N. POOLE
SEAFORTH MARINA
1677 Quivira Road

SAN DIEGO, CA 92109

15. Authority. Each individual executing this Consent on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Consent on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Consent is binding upon such person or entity in accordance with its terms. Each person executing this Consent on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to the City Manager, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.
16. CITY'S Consent. Subject to the terms and conditions of this Consent, CITY hereby consents to the Sublease.

IN WITNESS WHEREOF, the parties hereto execute this Consent to be effective as of the Effective Date.

Date: OCT 29 2008

SEAFORTH SPORTFISHING CORPORATION
A California corporation

BY: [Signature]
Name & Title: Frank Lopez, Pres.

SEAFORTH MARINA

Date: OCT 29 2008

[Signature]
WILLIAM E. POOLE, an individual doing business
as "SEAFORTH MARINA"

Date: OCT 29 2008

[Signature]
INGRID N. POOLE, an individual doing business
as "SEAFORTH MARINA"

Effective Date: NOV 14, 2008

THE CITY OF SAN DIEGO,
a California municipal corporation

BY: [Signature]
Name & Title: James F. Barwick, CCIM
Director, Real Estate Assets

APPROVED AS TO FORM AND LEGALITY:

Date: 11-19-08

MICHAEL J. AGUIRRE, San Diego City Attorney

BY: [Signature]
Todd Bradley, Deputy City Attorney

EXHIBIT A

LEASE AGREEMENT

["Master Lease" dated November 8, 2007, by and between CITY, as lessor, and SEAFORTH SPORTFISHING CORPORATION, a California corporation, as lessee, relating to certain real property described as Lots 25, 26, 27, and 28 of Quivira Basin, Mission Bay Park, together with the water areas adjacent thereto, located in San Diego, California].

EXHIBIT B

SUBLEASE

["Marina Sublease" dated November 9, 2007, by and between
SEAFORTH and MARINA]

SUBLEASE AGREEMENT

SEAFORTH MARINA

San Diego, California

by and between

**SEAFORTH SPORTFISHING CORPORATION,
a California corporation,**

"Landlord"

and

**WILLIAM E. POOLE and INGRID N. POOLE,
Individually and DBA**

"SEAFORTH MARINA,"

"Tenant"

Made Effective

November 9, 2007

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ARTICLE I - DEFINITIONS AND FUNDAMENTAL PROVISIONS

1.1 Basic Sublease Provisions:

- 1.1.1 **EFFECTIVE DATE:** November 9, 2007
- 1.1.2 **LANDLORD:** SEAFORTH SPORTFISHING CORPORATION, a California corporation
- 1.1.3 **ADDRESS OF LANDLORD:** 1717 Quivira Road
San Diego, CA 92109
- 1.1.4 **TENANT:** WILLIAM E. POOLE and INGRID N. POOLE,
Individually and DBA "SEAFORTH MARINA"
- 1.1.5 **ADDRESS OF TENANT:** 1677 Quivira Road,
San Diego, CA 92109
- 1.1.6 **PREMISES:** A portion of Lot 4 and Lots 4 through 10 of
Quivira Basin, Mission Bay Park, San Diego,
California as more particularly described in
Exhibit A & commonly known as "Seaforth
Marina"
- 1.1.7 **ANTICIPATED DELIVERY DATE:** November 9, 2007
- 1.1.8 **RENT COMMENCEMENT DATE:** November 9, 2007 (but as limited by Section 2.5)
- 1.1.9 **EXPIRATION DATE:** November 8, 2047
- 1.1.10 **PERMITTED USES:** Rental of boat slips; vessel rentals; sale and service of boats, boat engines, engine parts, boat trailers & accessories; maintenance of non-owned, coin-operated vending machines; sale of incidentals; dry storage locker rentals; and no other purpose or use except as expressly permitted in Section 3.2.

1.1.11 PERCENTAGE RENT: 5% of Tenant's Gross Income from slip rental operations (excluding storage, utility and late fees) PLUS all percentage rent payable to the City of San Diego from operations conducted by Tenant as required under Landlord's master lease from the City of San Diego per Section 3.2 (the latter payable by Tenant as a "pass through" obligation from Landlord)

1.1.12 MINIMUM RENT: 80% of three-year historical average of actual rent paid, adjusted on each 5-year anniversary of this sublease per Sections 3.2(a) and 3.2(b) of the Master Lease. [Minimum rent applies only to percentage rent payable to the City of San Diego per Section 3.2 of this sublease and not to percentage rent payable to Landlord per Section 3.3 of this sublease.]

1.1.13 SECURITY DEPOSIT: None

1.1.14 TENANT'S GLA % _____ % (____ sf divided by _____ sf of Total Gross Leasable Area)

1.2 Definitions:

1.2.1 Additional Rent: The charges specifically set forth in Article III, and all other amounts and charges payable by Tenant under any provisions of this Sublease.

1.2.2 Common Area Retail Facilities: All areas and facilities within the Project that are outside the exterior boundaries of the buildings situated on the Premises subject to this Sublease.

1.2.3 GLA: The Premises' GLA is the gross leasable area of the Premises as measured from the outside of exterior walls or the center of any common walls, as the case may be, without deduction for columns or other structural elements within the Premises. The Project's GLA is equal to the aggregate amount of the GLA of all premises within the Project as the same may be modified, altered, expanded or reduced from time to time. Both the Premises GLA and the Project GLA shall be determined by the Project architect.

1.2.4 Hazardous Materials: Any: (a) oil, petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which: (i) pose a hazard to the Premises or to persons on or about the Premises, or (ii) cause the Premises to be in violation of any Hazardous Materials Laws; (b) asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of

polychlorinated biphenyls, or radon gas; (c) chemical, material or substance defined as or included in the definition of "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC § 9601, et seq.; the Federal Water Pollution Control Act, as amended, 33 USC § 1251, et seq.; (d) other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety of the occupants of the Premises or the owners and/or occupants of property adjacent to or surrounding the Premises, or any other person coming upon the Premises or adjacent property; and (e) other chemical, materials or substance which may or could pose a hazard to the environment.

1.2.5 Hazardous Materials Claims: Any and all enforcement, cleanup, removal, remedial or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Hazardous Materials Laws, together with any and all claims made or threatened by any third party against Landlord, Tenant or the Premises relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials.

1.2.6 Hazardous Materials Laws: Any federal, state or local laws, ordinances, regulations or policies relating to the environment, health and safety, and Hazardous Materials (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof) or to industrial hygiene or the environmental conditions on, under or about the Premises, including, without limitation, soil, groundwater and indoor and ambient air conditions.

1.2.7 Interest Rate: The lesser of (i) the maximum lawful rate permitted by law in the State in which the Project is located to be charged by Landlord to Tenant, or (ii) four percent (4%) above the prime rate then published in the *Wall Street Journal*, and such interest shall be computed on the basis of monthly compounding with actual days elapsed compared to a 360-day year.

1.2.8 Master Lease: That certain 40-year lease for the Project between the City of San Diego ("City"), as Lessor, and Seaforth Sportfishing Corporation, as Lessee, approved by San Diego City Council Resolution Dated October 9, 2007, and assigned Document Number 303068. Tenant acknowledges receipt of a copy of the Master Lease to which the terms of this Sublease are subject and subordinate.

1.2.9 Project: The land and the buildings commonly known as "Seaforth Sportfishing and Marina" situated on approximately 8.995 acres of water and 6.317 acres of land located south-west of the Hyatt Islandia Hotel and Marina in Quivira Basin, Mission Bay Park, San Diego, California, as the same may be expanded, altered, modified or rearranged by Landlord from time to time. The description of the Project as currently comprised is shown on the Site Plan attached to this Sublease as Exhibit "A." The portion of the Project comprising the Premises subject to this Sublease is highlighted in Exhibit "A."

1.2.10 Rent: Monthly Minimum Rent, Percentage Rent, Additional Rent, and all other amounts and charges payable by Tenant under any provision of this Sublease, and any rent or

sales tax hereinafter levied by a governmental authority on any Rent, whether payable by Landlord or Tenant or collectible by Landlord from Tenant.

1.2.11 Sublease Year: The first Sublease Year of the Term shall commence upon the Effective Date. Each Sublease Year thereafter shall be a successive period of twelve (12) calendar months.

1.2.12 Tenant's Pro Rata Share: The total of any cost to which Tenant is obligated to contribute under this Sublease multiplied by a fraction, the numerator of which shall equal the GLA of the Premises, and the denominator of which shall equal the occupiable GLA of the Project. The "occupiable GLA of the Project" shall include or exclude the Project's land and/or water GLA as the circumstances require or the parties agree.

1.2.13 Vessels: Ships of all kinds, motorboats, sailboats, personal watercraft, and every structure adapted to be navigated from place to place upon the water for recreation or for the transportation of merchandise or persons. Tenant shall be permitted to rent vessels to the general public subject to prior written approval from the City Manager as to the number and type of vessels available for rent. The City Manager may, upon written notice to Landlord and Tenant, and with reasonable cause, modify any approval previously given. All vessels for rent which are required by law to be registered with the California Department of Motor Vehicles shall be currently registered as rental vessels and carry proper registration numbers and stickers. All vessels for rent shall be identified by Tenant through the use of distinctive markings or logos. Each rental vessel shall be equipped with a waterproof map detailing all current regulations and activity zones for Mission Bay, along with all safety equipment required by law. At any time Tenant is renting a vessel or vessels, Tenant shall have at least one operational chase boat and staff to operate it available on the waters of Mission Bay. No rental vessel may be stored on public property outside the Premises. Tenant agrees Landlord and/or the City Manager or his designees shall have the authority to immediately terminate any rental activities which are not in conformance with the stipulations of this Sublease or current boating regulations.

1.3 Significance of Basic Sublease Provisions and Definitions: Each reference in this Sublease to any of the Basic Sublease Provisions or Definitions contained in Sections 1.1 and 1.2 of this Article shall be deemed and construed to incorporate the definitions of such terms as described therein.

ARTICLE II - DEMISED PREMISES AND TERM

2.1 Demise of Premises: Landlord hereby leases and demises to Tenant and Tenant rents from Landlord the Premises (as more particularly described in the Basic Sublease Provisions and Exhibit A to this Sublease), subject to the terms and conditions herein contained, and all encumbrances, easements, restrictions, zoning laws, and governmental or other regulations affecting the Project, together with the non-exclusive right to use, in common with Landlord and others, the Common Area Retail Facilities.

2.2 Quiet Enjoyment: Tenant, upon paying the Rent herein reserved and performing and observing all of the other terms, covenants and conditions of this Sublease (subject to applicable notice and cure periods), shall peaceably and quietly have, hold and enjoy the Premises during the Term, subject only to the terms of this Sublease.

2.3 Term: This Sublease shall be effective as of the Effective Date set forth in Section 1.1.1, and shall continue for a period of 40 years, or upon the expiration or other termination of the Master Lease, whichever event shall first occur.

ARTICLE III - RENT AND OTHER CHARGES

3.1 Place of Payment: During the Term, Tenant covenants and agrees to pay to Landlord at the place designated in Section 1.1.3 hereof, without demand, deduction or setoff, all Rent as defined in Section 1.2.12 and in this Article III.

3.2 Percentage Rent To City:

3.2.1. Categories. Subject to Section 3.2(d) of the Master Lease regarding the review and modification of percentage rents payable to City, Tenant shall pay to Landlord, commencing on the Rent Commencement Date, an amount equal to the then applicable percentage rent payable to City under the terms of the Master Lease for operations conducted by Tenant on the Premises, calculated on Gross Income on a monthly basis. As of the Effective Date of this Sublease, such uses and related percentages applicable to Tenant are as follows:

<u>Percentages</u>	<u>Business Activities</u>
Twenty-Two and One-half Percent (22.5%)	Of the Gross Income derived from the rental of boat slips. The percentage rate from this activity shall increase to twenty-five percent (25%) at the beginning of the sixth Sublease Year.
Five Percent (5%)	Of all commissions derived from the sale of used boats, used boat engines, and used boat trailers in which Tenant has no financial interest.
Seven Percent (7%)	Of the Gross Income from sale of gifts, novelties, souvenirs, clothing, luggage, jewelry, cigars, cigarettes, candy, sundries, and incidentals.
Four Percent (4%)	Of the Gross Income derived from the service of boats and boat engines, the sale of boat and engine parts, boat and engine accessories and marine hardware.
Two Percent (2%)	Of the Gross Income derived from the sale of boats and boat engines (whether new or used) including any accessories involved at the time of sale.
Ten Percent (10%)	Of the Gross Income from all other vessel rentals.
Ten Percent (10%)	Of the Gross Income derived from the rental of dry storage lockers. The percentage rate from this

activity shall increase to twenty percent (20%) at the beginning of the sixth Sublease Year.

Ten Percent (10%)

Of the commissions received from coin-operated machines, other than food and beverage dispensing machines, in which Tenant has no ownership equity, and of the Gross Income from said machines in which Tenant has ownership equity.

Three Percent (3%)

Of the commissions received from food and beverage (non-alcoholic) dispensing coin-operated machines in which Tenant has no ownership equity, and of the Gross Income from said machines in which Tenant has ownership equity.

Twenty Percent (20%)

Of the Gross Income derived by Tenant from any other source permitted under this Sublease.

Fifty Percent (50%)

Of the Gross Income derived by Tenant from any source not permitted under this Sublease.

3.2.2 "Gross Income" Defined. "Gross Income," for purposes of calculating percentage rent payable to the City, shall include all income resulting from occupancy of the Premises from whatever source derived, whether received or to become due. Gross Income includes income received by Tenant or by any sublessee, permittee, licensee, or other party as a result of occupancy or operation of the Premises, except as may be otherwise specified in this Sublease (including the exceptions set forth in the next paragraph). Gross Income does not include federal, state, or municipal taxes collected from the consumer (regardless of whether the amount is stated to the consumer as a separate charge) and paid over periodically by Tenant to a governmental agency accompanied by a tax return or statement as required by law. Possessory interest taxes or other property taxes shall not be deducted in computing Gross Income. Gross Income shall not include refunds for goods returned for resale on the Premises or refunds of deposits. The amount of the taxes and refunds shall be clearly shown on the books and records of Tenant.

All income to Tenant from the sale of merchandise to other dealers, at actual cost with no mark up, as a method of changing inventory and resulting in no profit for Tenant, shall be excluded from computation of Gross Income. Galley sales of food and beverages, and sales of Mexican fishing licenses and bunk fees made from boats operating from the Premises shall be excluded from the computation of Gross Income. Allowances made by Tenant for "traded-in" merchandise shall be excluded from computation of Gross Income, provided Tenant keeps adequate records, in the opinion of Landlord and/or City, from which City can determine what allowances will be made.

3.2.3 Minimum Rent. Under no circumstances shall the monthly percentage rent payable to City be less than the Minimum Annual Rent payable as set forth in Sections 3.2(a) and 3.2(b) of the Master Lease, prorated for that portion of the Minimum Annual Rent attributable to operations under this Sublease. That is, the minimum annual rent payable by Tenant to City shall

equal 80% of the average actual rent paid by Tenant for the preceding three years, adjusted as of the first day of the sixth Sublease year and at the beginning of each five-year period thereafter during the Term.

3.3 Percentage Rent to Landlord: As a further inducement for Landlord's entering into this Sublease with Tenant, Tenant agrees, in addition to its covenant to pay Percentage Rent to City, to pay to Landlord, as Percentage Rent for each Sublease Year, Five Percent (5%) of Tenant's Gross Income from slip rental activities. "Gross Income," for purposes of calculating the percentage rent payable to Landlord, shall exclude storage, utility and late fees charged by Tenant.

3.4 Rent Payments/Record Keeping:

3.4.1 Payments of all Percentage Rent (to both City and Landlord) shall be due and payable monthly within fifteen (15) days after the last day of each month. The last payment of Percentage Rent shall be made on or before the fifteenth (15th) day after the expiration or termination of the Term and shall be for the Percentage Rent payable for the month ending on the last day of the Term.

3.4.2 Tenant shall submit to Landlord on or before the fifteenth (15th) day of each calendar month during the Term (including the fifteenth (15th) day of the month following the end of the Term), together with the remittance of Percentage Rent then owing, a written statement, signed by Tenant and certified by it to be true and correct, showing in accurate detail the amount of applicable Gross Income for the preceding calendar month used to calculate Percentage Rent. Each such report shall be certified as accurate by the chief financial officer of Tenant and shall be prepared in accordance with generally accepted accounting principles consistently applied. All reports of Gross Income shall set forth the amount of Rent paid, Percentage Rent due and paid, shall contain such other details as Landlord shall reasonably require, and shall be in a form reasonably acceptable to Landlord.

3.4.3 Tenant shall, at all times during the Term, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities conducted upon and financial transactions resulting from the use of the Premises pursuant the procedures and methodology set forth in paragraph 3.5 of the Master Lease. Such books and records shall be subject to audit as provided in paragraph 3.5(d) of the Master Lease, and the costs of such audit shall be recoverable by Landlord and/or Tenant as provided therein.

3.5 Operating Charges: "Operating Charges" means Landlord's total reasonable costs for insuring, operating, managing, administering, maintaining, repairing, replacing, or improving the Common Area Retail Facilities. Tenant shall pay Tenant's Proportionate Share of only that portion of Landlord's Operating Charges related to water utilities, electricity for the Project parking lot lighting, and landscape maintenance. Tenant shall otherwise not be responsible to contribute to Landlord's Operating Charges. Tenant shall, however, be responsible for, and shall hold Landlord harmless of, all costs associated with insuring, operating, managing, administering, maintaining, repairing, replacing, or improving the buildings, appurtenances and other improvements installed or operated by Tenant and/or which comprise the Premises, including but not limited to separately metered electricity, trash collection and marina designated parking area maintenance, repair and replacement.

3.6 Real Estate Taxes: As used in this Sublease, the term "Real Estate Taxes" shall mean any form of tax, assessment, license fee, license tax, tax or excise on rent, or any other levy, charge or expense, imposed by any federal, state, county or city authority, or any school, agricultural, lighting, drainage or other improvement or special assessment district. Tenant shall pay Tenant's Proportionate Share of all Real Estate Taxes for both the land and water portions of the Premises.

3.7 Failure to Pay Rent When Due: Tenant acknowledges the late payment by Tenant of any installment of Rent when due will cause Landlord to incur certain costs and expenses not contemplated under the Sublease, the exact amount of which costs are extremely difficult or impracticable to determine. Therefore, if any installment is not received by Landlord from Tenant within ten (10) days after the date when due, Tenant shall pay to Landlord a late charge of five percent (5%) of the amount due, but not less than \$25. Landlord and Tenant agree this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for its loss caused by Tenant's late payment. Should Tenant pay said late charge but fail to pay contemporaneously therewith all unpaid amounts of Rent and Additional Rent, Landlord's acceptance of this late charge shall not constitute a waiver of Tenant's default with respect to Tenant's nonpayment nor prevent Landlord from exercising all other rights and remedies available to Landlord under this Sublease or under law. Tenant shall pay the late charge as Additional Rent with the next installment of Rent when due.

ARTICLE IV - USE OF PREMISES

4.1 Use: Tenant shall use the Premises solely for the Permitted Uses specified in Section 1.1.10 and Section 3.2, and for no other purpose whatsoever, without the prior written consent of both Landlord and City.

4.2 Legal Operation of Premises: Tenant shall promptly comply with all laws, ordinances, zoning restrictions, rules, regulations, orders and any requirements of any duly constituted public authorities now or hereafter pertaining to (a) the physical condition of any improvements constructed by Tenant in the Premises; and (b) Tenant's business operations in the Premises, including, without limitation, all ADA and other accessibility requirements unique to Tenant's use. Tenant shall not be required to make any seismic or structural upgrades, repairs, improvements or alterations to the Premises or the Building in order to comply with the requirements of this Section. Landlord, at its sole cost and expense, shall comply with all other applicable laws, rules, regulations, and ordinances made by any governmental authority affecting the Premises, Building and/or the Project including, without limitation, all handicapped accessibility requirements.

4.3 Pump Out Stations: At the time Tenant performs any major marina improvements (other than those improvements contemplated in Section 6.12, Development Plan, of the Master Lease, or as may be earlier required by the San Diego Lifeguard or future Mission Bay Park Master Plan), prior to and as a condition of approval of the installation of such improvements, Tenant shall provide one or more holding tank pump out stations for use by the general boating public. These pump out stations shall be maintained by Tenant in good working condition and shall be specially marked for use by the general boating public. Pump out stations shall be located so as to be conveniently used by occupants of vessels using Tenant's marina facilities and the general boating public and shall be of sufficient size to at least contain the waste material generated aboard all vessels using Tenant's facilities. Pump out stations shall be enclosed, emptied, and serviced

regularly enough to prevent them from overflowing or creating unhealthy, unsightly, or unsanitary conditions. The contents of the pump out stations shall be disposed of into the City sewer system by Tenant or others acting pursuant to Tenant's direction, in a manner as provided under applicable law at the time of disposal. It is the intent of this provision to provide sufficient opportunity for the general boating public to properly dispose of the waste material generated aboard their vessels.

4.4 Signs and Displays: Tenant shall not place, cause or permit to be placed and maintained on the exterior or the roof of the Premises any sign, awning or other advertising matter unless in compliance with all applicable laws, ordinances, rules, or regulations. Tenant shall obtain any approval required by such laws, ordinances, rules, and regulations.

ARTICLE V - ALTERATIONS TO PREMISES

5.1 Alterations to Premises: Tenant shall not alter the exterior of the Premises including the storefront and/or signs, and shall not make any structural alterations to the Premises or any part thereof without, in each instance, obtaining Landlord's prior written consent, which consent shall be given or withheld in Landlord's sole discretion.

5.2 Compliance with Laws: All alterations shall be completed in a good, workmanlike and prompt manner and in compliance with all applicable laws. If any alterations which Tenant causes result in Landlord being required to make any alterations to any portion of the Project to comply with applicable laws, Tenant shall reimburse Landlord upon demand for all costs and expenses incurred by Landlord in making such alterations.

5.3 Plans: When applying for Landlord's consent, Tenant shall furnish complete plans and specifications for the desired alterations. Prior to commencement of any alterations, Tenant shall deliver to Landlord a copy of any required building permit and other governmental authorization pertaining to the alterations. All work shall be performed by licensed contractors acceptable to Landlord.

5.4 Construction Liens: Following the completion of any alterations to the Premises, Tenant shall furnish Landlord with waivers and affidavits confirming that all contractors, subcontractors, laborers and materialmen who have performed work on the Premises or supplied materials have been paid in full. Such waivers and affidavits shall be in accordance with applicable California statutes.

ARTICLE VI - INSURANCE

6.1 Tenant Insurance: Tenant shall keep in force at Tenant's expense during the Term hereof and during such other time as Tenant occupies the Premises or any part thereof, the following types of insurance, in the amounts specified and in the form hereinafter required:

6.1.1 Commercial general liability/marine liability insurance providing coverage for personal injury and property damage (which policy shall likewise include insurance against all assumed or contractual liability of Tenant under this Sublease), with coverage limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence. Such insurance shall cover the Premises and Tenant's use thereof against claims for "personal injury" liability, including but not limited to, bodily injury, death or property damage, and including liquor liability insurance in the event that at any time during the Term beer, wine, or other alcoholic liquors or beverages are sold or given away upon or from the Premises.

6.1.2 All-risk property and casualty insurance (special form) covering all leasehold improvements in the Premises installed by Tenant and all of Tenant's property, including, but not limited to, Tenant's betterments and improvements, inventory, fixtures, furnishings, floor coverings, equipment and other property of Tenant, which insurance shall be in an amount sufficient to cover the full replacement cost thereof (without deduction for depreciation) and of any repair or reconstruction from any hazard covered under an all-risk policy, including, without limitation, against damages to all such property caused by or attributable to water damage, including, but not limited to, sprinkler leakage or sprinkler flow. The proceeds of such casualty policy shall be used for the repair or replacement of the property damaged or destroyed.

6.1.3 Business interruption insurance in amounts sufficient to reimburse Tenant for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent tenants or attributable to prevention of access to the Premises or to the Project as a result of such perils.

6.1.4 Commercial automobile liability insurance for all automobiles used in connection with operations at the Premises, including owned, hired and non-owned automobiles, Tenant shall keep in full force and effect automobile insurance written on an "ISO form CA 00 01 12 90" or a later version of this form or an equivalent form, providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence and \$2 million aggregate. Insurance certificate shall reflect coverage for any automobile.

6.1.5 Workers' compensation insurance for all of Tenant's employees who are subject to this Sublease to the extent required by applicable state or federal law. Such policy shall provide a minimum of \$1 million employers' liability coverage, and Tenant shall provide an endorsement that the insurer waives the right of subrogation against Landlord and Landlord's agents, as well as City and City's elected officials, officers, employees, agents and representatives. This policy shall also include coverage for claims made under the Long Shoreman Harbor Workers Compensation Act and the Jones Act.

6.1.6 Insurance covering the full replacement cost of all plate glass on the Premises, except to the extent Tenant determines to self-insure such risk with Landlord's prior written approval.

6.1.7 All policies required to be obtained by Tenant pursuant to this Section shall be issued by insurance companies with a general policyholder's rating of not less than A- and a financial rating of not less than Class VII as rated in the most current available "Best's Insurance Guide," qualified to do business in the State of California and acceptable to Landlord and City, and shall name Landlord, Landlord's agents, Landlord's mortgagees or beneficiaries, City and its elected officials, officers, representatives and agents, and such other persons or firms as shall be specified by Landlord from time to time as additional insureds. Such policies shall be primary and non-contributory and shall have deductibles of not more than Ten Thousand and No/100 Dollars (\$10,000.00). Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet Landlord's and City's requirements. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of Tenant and must be disclosed and acceptable to Landlord and to City at the time evidence of insurance is provided. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials,

officers, employees, representatives, and agents" shall be named as additional insureds in all policies.

6.1.8 All policies shall be in effect throughout the Term and any extended use, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement.

6.1.9 All proceeds from any loss shall be payable jointly to Landlord and Tenant. The proceeds when received shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed encumbering the Premises, the proceeds may be paid to the approved mortgagee or beneficiary, provided adequate provision reasonably satisfactory to Landlord and City has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the leased premises.

6.1.10 Tenant shall deliver copies of certificates of such insurance to Landlord upon execution of this Sublease and provide evidence of all renewals not less than thirty (30) days prior to the expiration date of each policy.

6.1.11 To assure protection from and against the kind and extent of risk existing on the Premises, Landlord and/or City, in their discretion (exercised reasonably and in good faith), may require/allow the revision of amounts and coverage at any time during the Term by giving Tenant thirty (30) days prior written notice. Tenant shall also obtain any additional insurance required by Landlord or City for new improvements to meet the requirements of this Sublease. Tenant's sublessees may also be required to maintain commercial general liability insurance coverage in amounts and for risks reasonably required to insure such sublessees' probable exposure to risks associated with its operations.

6.1.12 Tenant shall report to Landlord any accident causing any personal injury, or causing property damage in excess of \$5,000, suffered by persons occupying the Premises within 5 calendar days of such accident. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

6.2 Increase in Insurance Premiums: Tenant shall not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will contravene Landlord's insurance policies or which will prevent Landlord from securing such policies in companies acceptable to Landlord. Subject to the foregoing, if anything done, permitted to be done or suffered to be done by Tenant, or kept or suffered by Tenant to be kept in, upon and about the Premises shall cause the rate of all-risk insurance on the Premises or the Project in companies acceptable to Landlord to be increased beyond the minimum rate from time to time applicable to the Premises or the Project for the Permitted Uses, Tenant shall pay as Additional Rent the amount of any such increase promptly upon demand by Landlord and shall cease such action until such payment is made.

6.3 Waiver of Subrogation: Landlord and Tenant (for themselves and for their insurers) each hereby waive any and all rights to recover against the other, for any loss or damage to such waiving party arising from any cause covered by all-risk property and casualty

insurance (special coverage) policies in the State of California. In furtherance of the foregoing, Landlord and Tenant will each cause their respective insurers to issue appropriate waiver of subrogation rights endorsements (to the extent that such rights are not waived in the policies themselves) to such all-risk property and casualty insurance (special coverage) policies of insurance. By this Section, Landlord and Tenant intend that the risk of loss described above shall be borne by responsible insurance carriers to the extent above provided, and Landlord and Tenant hereby agree that, notwithstanding anything contained to the contrary in this Sublease, they shall look solely to, and seek recovery only from, their respective insurance carriers in the event of a loss, damage, or injury to the extent that such coverage is provided or, if greater, agreed to be provided hereunder. For this purpose, any applicable deductible amount shall be treated as though it were recoverable under such policies.

6.4 Mutual Releases: Landlord hereby releases Tenant from any liability from any and all claims or damages arising out of Tenant's uses of the Common Area Retail Facilities, regardless of responsibility, to the extent such claims or damages are covered by insurance proceeds received by Landlord and Tenant hereby releases Landlord from any and all liability from any claims or damages arising out of Landlord's use of the Premises, regardless of responsibility, to the extent such claims or damages are covered by insurance proceeds received by Tenant.

ARTICLE VII - HAZARDOUS MATERIALS

Tenant neither has nor will it allow any person to: (1) install on the Premises or the Project any friable asbestos or any substance containing asbestos (which is included in the definition of Hazardous Materials) or (2) use, store, release or dispose of any Hazardous Materials in, on, or under the Premises or the Project, except in accordance with applicable law and normal business practices for similar projects similar in use to the Premises. In the event of a Hazardous Materials Claim or if Hazardous Materials are discovered in, on or under the Premises, due to Tenant's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials in, on or under the Premises, Tenant, at its sole cost and expense, shall comply with all Hazardous Materials Laws relative to such Hazardous Materials, pay immediately when due the cost of removal of any such Hazardous Materials and keep the Premises free of any lien imposed pursuant to such Hazardous Materials Laws.

ARTICLE VIII - SUBORDINATION AND ATTORNMENT

8.1 Subordination to Mortgage: Landlord and Tenant agree that this Sublease be and hereby is made subject and subordinate at all times to all ground and underlying leases and to all mortgages in any amounts, and all advances thereon which may now or hereafter affect such leases or the Project and to all renewals, modifications, consolidations, participation, replacements, and extensions thereof; provided, however, as a condition to this subordination provision, Landlord shall obtain from any then current holder of such lease or mortgage a commercially reasonable Subordination, Non-Disturbance and Attornment Agreement. The term "mortgage" as used herein shall be deemed to include a bond, trust indenture, and deed of trust. If Landlord or such lessor or mortgagee desires confirmation of such subordination, Tenant shall, within twenty (20) days thereafter, execute, acknowledge and deliver any reasonable instruments requested to evidence such subordination.

8.2 Succession to Landlord's Interest; Attornment: Nothing contained in this Sublease shall in any manner restrict Landlord's right to assign or encumber this Sublease or to sell, convey or transfer its interest in the Project. Should Landlord sell, convey or transfer its interest in the Project, or should Landlord enter into a mortgage affecting Landlord's fee interest or leasehold interest, as the case may be, in the Project or a sale/leaseback transaction, Tenant shall be bound to any successor to Landlord in title or interest under all the terms, covenants and conditions of this Sublease for the balance of the term hereof remaining after such succession, and Tenant shall without further documentation be conclusively deemed to have attorned to such succeeding party as its landlord under this Sublease promptly upon any such succession. Tenant's agreement to attorn to such purchaser or assignee shall be expressly conditioned upon such purchaser or assignee assuming this Sublease and agreeing to recognize Tenant's leasehold interest under this Sublease and Tenant's right to possession of the Premises and further agreeing that such right of possession shall not be terminated or disturbed except in accordance with the provisions of this Sublease. Landlord shall be relieved of any and all obligations to Tenant hereunder arising subsequent to the transfer by Landlord of its title or interest in the Project promptly upon the assumption of said obligation by Landlord's successor. Tenant agrees that should any party so succeeding to the interest of Landlord require a separate agreement of attornment regarding the matters covered by this Sublease, then Tenant shall enter into any such commercially reasonable "attornment agreement".

8.3 Estoppel Certificate: Within twenty (20) days after request therefor by Landlord, Tenant shall deliver without charge a certificate to Landlord or any person, firm or corporation specified by Landlord, certifying that this Sublease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), that there are no defenses or offsets thereto (or stating those claimed by Tenant), the dates to which Rent has been paid, and the Term.

8.4 Landlord's Estoppel Certificate: Within thirty (30) days after request therefor by Tenant (which request may not be made more than twice during any twelve (12) month period), Landlord agrees to deliver, without charge, to Tenant or any person, firm or corporation specified by Tenant, certifying that this Sublease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), that there are no defenses or offsets thereto (or stating those claimed by Landlord), the dates to which Rent has been paid, and the Term.

ARTICLE IX - TRANSFERS, ASSIGNMENT AND SUBLETTING

9.1 Covenant Not to Assign or Sublet Without Consent: Tenant covenants that it will not assign, mortgage, or encumber this Sublease, nor sublease the Premises, or permit the Premises or any part of the Premises to be used or occupied by others, without the prior written consent of Landlord and City in each instance, compliance with the restrictions imposed in Sections 4.2 and 4.3 of the Master Lease, if applicable, and payment of the "Additional Consideration" provided for in Section 4.7 of the Master Lease, if required.

9.2 Assignment in Violation of Article: Any assignment or sublease in violation of this Article shall be deemed *void ab initio*. No consent to any assignment or subletting by Tenant shall release Tenant from the further performance by Tenant of covenants on the part of Tenant contained in this Sublease. The consent by Landlord and/or City to an assignment or sublease will not be construed to relieve Tenant from obtaining Landlord's and City's prior

written consent in writing to any further assignment or sublease. No permitted subtenant shall have the right to assign or encumber its sublease or further sublease all or any portion of its subleased space or otherwise permit the subleased space or any part of its subleased space to be used or occupied by others. The acceptance of Rent from any other person shall not be deemed a waiver of any of the provisions of this Sublease nor consent to an assignment or sublease.

ARTICLE X - INDEMNITY

10.1 Tenant Indemnity: Tenant hereby agrees to indemnify, defend, protect, and hold harmless Landlord and City, and the elected officials, officers, representative, employees and agents of each, from and against all Claims (as defined below) and all costs, expenses, and attorneys' fees reasonably incurred in the defense or handling of any such Claims or any action or proceeding brought on any of such Claims. For purposes of this Sublease, the term "Claims" shall mean all third party liabilities, damages, losses, costs, expenses, attorneys' fees, and claims (except to the extent they result from Landlord's negligent acts or willful misconduct) in connection with injury or loss of life to person or damage to property arising from or which seek to impose liability under or because of (i) Tenant's or Tenant's contractors or licensees (collectively, "Tenant Parties") use of the Premises or the Project, (ii) the conduct of Tenant's business, (iii) any activity, work or things done, permitted, or suffered by Tenant or any of Tenant Parties in or about the Premises or elsewhere in the Project, (iv) any breach or default in the performance of any obligation to be performed by Tenant under this Sublease, (v) Tenant's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials to, in, on, under, about or from the Premises or the Project, and/or (vi) any negligence of Tenant or any of Tenant Parties. If any action or proceeding is brought against Landlord by reason of any such Claims, Tenant upon notice from Landlord shall defend such action or proceeding at Tenant's sole cost by competent legal counsel. Except to the extent caused by Landlord's negligent acts or willful misconduct, Tenant assumes all risk of, Tenant waives all claims against Landlord in respect of, and Landlord shall not be liable for, any of the matters set forth above in this Section or any of the following: injury to Tenant's business, loss of income from such business, or damage or injury to the goods, wares, merchandise, or other property or the person of Tenant, Tenant Parties, or any other persons in, upon, or about the Premises, whether such damage, loss, or injury is caused by or results from criminal acts, fire, steam, electricity, gas, water, rain, the breakage, leakage, obstruction or other defects of pipes, sewer lines, sprinklers, wires, appliances, plumbing, air-conditioning or lighting fixtures, or any other cause, conditions, arising upon the Premises, or other sources or places, and regardless of whether the cause of such damage, loss, or injury or the means of repairing such damage, loss, or injury is inaccessible to Tenant.

10.2 Landlord Indemnity: Notwithstanding anything contained herein to the contrary, Landlord agrees to indemnify and hold Tenant harmless from and against: (i) any and all third party claims, actions, damages, liability and expenses in connection with injury or loss of life to person or damage to property arising out of any breach or default by Landlord in the performance of any term of this Sublease on Landlord's part to be performed, (ii) any negligence, willful wrong doing, inaction or action of Landlord, its agents, or employees in or about the Common Area Retail Facilities or the Project, or (iii) the existence of Hazardous Substances within the Project or the Premises which are were not introduced by Tenant. In case Tenant shall, without fault on its part, be made a party to any litigation or proceeding commenced by or against Landlord, then Landlord shall protect and hold Tenant harmless and

shall pay all reasonable costs, expenses, and attorneys' fees incurred or paid by Tenant in connection with such litigation or proceeding and shall satisfy any judgment or fines that may be entered against Tenant in such litigation or proceeding. The foregoing indemnification shall survive the expiration or termination of this Sublease due to the lapse of time or otherwise.

10.3 Insured Losses Excluded: "Claims," as defined in connection with Tenant's and Landlord's obligations under the preceding sections to indemnify to other from loss, shall exclude insured claims to which Sections 6.3 (Waiver of Subrogation) and 6.4 (Mutual Releases) apply, but only to the extent such claims are in fact reimbursed with insurance proceeds.

ARTICLE XI - DEFAULT AND REMEDIES

11.1 Default of Tenant: In addition to any other provisions of this Sublease defining a default hereunder, and in addition to the events described in Section 4.4 of the Master Lease (as applied to Tenant's conduct), the occurrence of any of the following shall constitute a default by Tenant and a breach of this Sublease:

11.1.1 Failing or refusing to pay when due any amount of Rent required to be paid under this Sublease. No grace period prior to the imposition of a late charge pursuant to Section 3.7 above shall extend the date when Rent is due and payable. Notwithstanding the foregoing, Landlord agrees not to institute proceedings to terminate Tenant's rights under this Sublease without providing Tenant written notice of such default and ten (10) day's opportunity to cure. Such notice shall be in lieu of, and not additional to, any statutorily required notice of a period less than or equal to ten (10) days.

11.1.2 Failing or refusing to perform fully and promptly any covenant or condition of this Sublease other than those specified in Section 11.1.1 above if the failure continues for thirty (30) days (or such shorter time period as may be specified in the specific provision of this Sublease creating such covenant or condition) after written notice of the failure from Landlord to Tenant; provided, however, if such default cannot be cured within said time period, Tenant shall be deemed to have cured such default if Tenant so notifies Landlord in writing, commences cure of the default within said time period, and thereafter diligently and in good faith continues with and actually completes the cure within a reasonable period thereafter.

11.2 Landlord's Remedies: Landlord shall have the following remedies upon the occurrence of any default by Tenant. These remedies are not exclusive; they are cumulative and in addition to any remedies now or later allowed by law. Upon the occurrence of a default by Tenant under this Sublease, Landlord may at any time thereafter, without further notice or demand of any kind to Tenant or any other person except as required by applicable state law and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such default, do any of the following:

11.2.1 Upon the occurrence of any default by Tenant and lapse of any applicable cure period, Landlord may at its election terminate this Sublease or terminate Tenant's right to possession only, without terminating this Sublease. Upon termination of this Sublease or of Tenant's right to possession, Tenant shall immediately surrender possession and vacate the Premises, and deliver possession thereof to Landlord, and Landlord or Landlord's agents may immediately or any time thereafter without notice, re-enter the Premises and remove all persons

and all or any property therefrom by any suitable action or proceeding at law or equity and repossess the Premises, together with the right to receive all income of, and from, the Premises.

11.2.2 If Landlord elects to terminate Tenant's right to possession only, without terminating this Sublease, Landlord may, at Landlord's option, enter into the Premises, remove Tenant's signs and other evidences of tenancy, and take and hold possession thereof as hereinabove provided, without such entry and possession terminating this Sublease or releasing Tenant, in whole or in part, from Tenant's obligations to pay the Rent hereunder for the full Term or from any other obligations of Tenant under this Sublease. Landlord shall use commercially reasonable efforts to relet all or any part of the Premises for such rent and upon such terms as are commercially reasonable (including the right to relet the Premises for a term greater or lesser than the remainder of the Term and the right to relet the Premises as a part of a larger area, the right to change the character or use made of the Premises and the right to grant concessions of free rent). For the purpose of such reletting, Landlord may decorate or make any repairs, changes, alterations, or additions in or to the Premises that may be necessary or desirable. If Landlord is unable to relet the Premises after using such commercially reasonable efforts to do so, Landlord shall have the right to terminate this Sublease, in which event Landlord shall have the right to recover the sums provided in Section 11.2.3 below. If the Premises are relet and sufficient sums shall not be realized from such reletting after payment of all expenses of such decorations, repairs, changes, alterations, additions and the expenses of repossession and such reletting, and the collection of the Rent herein provided and other payments required to be made by Tenant under the provisions of this Sublease for the remainder of the Term then, in such event, Tenant shall pay to Landlord on demand any such deficiency and Tenant agrees that Landlord may file suit to recover any sums falling due under the terms of this Section from time to time, and all costs and expenses of Landlord, including attorneys' fees, incurred in connection with any such suit shall be paid by Tenant.

11.2.3 If Landlord elects to terminate this Sublease, Landlord has the right to recover from Tenant and Tenant shall immediately pay to Landlord all of the following:

- (i) the worth at the time of the award of the unpaid Rent which had been earned at the time of such termination,
- (ii) the worth at the time of the award of the amount by which the unpaid Rent which would have been earned after such termination until the time of award exceeds the amount of such loss of Rent that Tenant proves could have been reasonably avoided,
- (iii) the worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award (had there been no such termination) exceeds the amount of such loss of Rent that Tenant proves could be reasonably avoided, and
- (iv) any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Sublease or which in the ordinary course of things would be likely to result therefrom, including, without limitation, any costs or expense incurred by Landlord in (a) retaking possession of the Premises, including reasonable attorney fees therefor, (b) maintaining or preserving the Premises after such default, (c) preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting, (d) leasing commissions, and (e) any other costs necessary or appropriate to relet the Premises.

The "worth at the time of the award" of the amounts referred to in subparagraphs (i) and (ii) above is to be computed by allowing interest at the Default Rate. The "worth at the time of the award" of the amount referred to in subparagraph (iii) above is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent.

11.3 Landlord's Right to Cure Default: Landlord, at any time after Tenant fails to perform any obligation or duty of Tenant under this Sublease, may cure such failure at Tenant's sole cost. If Landlord at any time, by reason of Tenant's failure to perform, pays any sum or does any act that requires the payment of any sum, such sum shall be due immediately from Tenant to Landlord at the time such sum is paid, and shall be deemed Additional Rent under this Sublease.

11.4 Remedies Cumulative: Except as otherwise provided in this Sublease, all rights and remedies of Landlord or Tenant herein created or remedies otherwise available (at law or in equity) to Landlord or Tenant under the laws of the United States or California, which Landlord or Tenant may, at its option, invoke, are cumulative and the exercise of one or more rights or remedies shall not exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as Landlord or Tenant, as applicable, shall deem desirable.

ARTICLE XII - SURRENDER OF PREMISES

Tenant, upon expiration or termination of this Sublease, either by lapse of time or otherwise, agrees peaceably to surrender to Landlord the Premises, including the alterations, additions, improvements, changes, and fixtures other than Tenant's movable trade fixtures, in broom-clean condition and in good repair, ordinary use and wear, loss by fire or other casualty excepted. All personal property, furnishings, machinery and trade fixtures, equipment and improvements (trade or otherwise) that Tenant installs in the Premises ("Tenant's Property") shall remain the property of Tenant. Upon the termination or expiration of the Term, Tenant may remove Tenant's Property from the Premises; such removal shall be completed within thirty (30) business days after the termination or expiration date. Tenant shall repair any damage to the Premises caused by such removal, including patching and filling holes. In no event shall Tenant remove or be required to remove any restrooms, flooring, ceilings, utility or electrical components located inside the walls or HVAC systems. All other utility systems will be capped and returned to a condition compatible with code requirements. Tenant's failure to so remove its property as described above shall be deemed an abandonment to Landlord of such property and, if Landlord elects to remove all or any part of said property, such removal, including the cost of repairing any damage to the Premises caused by or resulting from such removal, shall be paid by Tenant.

ARTICLE XIII - COMPLIANCE WITH CITY PROGRAMS/POLICIES

To the extent applicable to Tenant's operations at the Premises, Tenant shall comply with the following City Programs and Policies made binding upon Landlord and Landlord's subtenants per the terms of the Master Lease:

13.1 Nondiscrimination: Tenant shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status,

national origin, age, marital status, or physical disability in Tenant's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

13.2 Equal Opportunity Contracting: Tenant acknowledges and agrees it is aware of, and will comply with, City of San Diego Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. Tenant and all of its subcontractors are individually responsible to abide by its contents.

Tenant shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. Tenant will not discriminate against any employee or applicant for employment on any basis prohibited by law.

Tenant shall submit to City a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that Tenant will take to achieve the City's commitment to equal employment opportunities.

Tenant shall insert the foregoing provisions in all subcontracts for any work covered by this Sublease so that such provisions will be binding upon each subcontractor. Tenant agrees compliance with EEO provisions flowing from the authority of Landlord, Tenant and City will be implemented, monitored, and reviewed by the City's Equal Opportunity Contracting Program staff.

13.3 Local Business and Employment. Tenant acknowledges City seeks to promote employment and business opportunities for local residents and firms in all City of San Diego contracts. Tenant shall, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this Sublease from local residents and firms as opportunities occur. Tenant shall hire qualified local residents and firms whenever feasible.

Tenant understands failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this Sublease and debarment from participating in City of San Diego contracts for a period of not less than one (1) year.

13.4 City Employee Participation Policy: Tenant acknowledges it is the policy of City that all City contracts, agreements, or leases with consultants, vendors, or City's lessees shall include a condition that the contract, agreement, or lease may, at the sole option of City, be unilaterally and immediately terminated by City if the contractor or lessee employs an individual who, within the twelve months immediately preceding the employment, did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the contractor or lessee. It is not the intent of this policy that these provisions apply to members of the City Council.

13.5 Drug-free Workplace: Tenant shall abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- b. Establishing a drug-free awareness program to inform employees about all of the following:
 1. The dangers of drug abuse in the workplace.
 2. Tenant's policy of maintaining a drug-free workplace.
 3. Any available drug counseling, rehabilitation, and employee assistance programs.
 4. The penalties that may be imposed upon employees for drug abuse violations.
- c. Tenant shall include language in each sublease agreement which indicates Tenant's agreement to abide by the provisions of a drug-free workplace. Tenant and its sublessees shall be individually responsible for their own drug-free workplace programs.

13.6 Disabled Access Compliance: LESSEE shall comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE'S compliance shall include, but not necessarily be limited to, the following:

- a. Tenant shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of Tenant.
- c. Tenant shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- d. Where required by law, Tenant shall comply with City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of Tenant.

- e. Tenant shall include language in each sublease agreement which indicates Tenant's sublessee's agreement to abide by the foregoing provisions. Tenant and Tenant's sublessees shall be individually responsible for their own ADA employment programs.

Tenant understands failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Sublease.

13.7 Transient Slip (or Mooring) Facilities: Tenant shall provide, in compliance with City's Transient Slip Facilities requirements, five (5) slips (or moorings, depending on the type of facilities offered), or two percent (2%) of the total number of slips (or moorings) maintained by Tenant, whichever number is larger, specially marked for use by transient boats. In no event shall these slips (or moorings) designated for transients be rented or occupied by the same person or boat for longer than seventy-two (72) consecutive hours. It is the intent of this condition to provide overnight slip (or mooring) space for boats normally berthing outside the Mission Bay area. Any method of circumventing this provision in violation of the intent herein expressed shall be construed as a breach of this condition and may result in termination of the Sublease.

13.8 Damaged Equipment: LESSEE shall salvage within twenty-four (24) hours any property, real or personal, of Tenant's declared by Landlord or City to be a menace to navigation or a nuisance within Mission Bay, and to salvage or cause to be salvaged any sunken vessel or property upon the Premises, irrespective of ownership. Landlord and/or City may require any boats not kept in a clean and operable condition be removed from the Premises.

13.9 Living on Board Vessels: Tenant shall be responsible for the enforcement, both within and in connection with the Premises, of the following "living on board vessels" regulation:

"It is unlawful for any person to remain overnight on board any vessel in Mission Bay Park unless the vessel has a functional, self-contained toilet on board that does not discharge into the waters of the Bay. It is unlawful for any owner of any vessel to occupy it or allow it to be occupied overnight in Mission Bay Park for a period of more than ninety (90) days, whether successive or cumulative, during any one calendar year. A vessel is presumed to be occupied overnight when there are one or more persons on board after midnight. The lessees of land in Mission Bay Park are primarily responsible for the enforcement of this subsection, 63.25.71(a), on the water abutting their leased lands."

The above living on board vessels regulation is presently set forth in San Diego Municipal Code Section 63.25.71, "Living on Board Vessels, Overnight Anchorage Regulated," and is subject to amendment or modification by the City Council. Tenant shall comply or secure compliance with any amendment or modification to this Municipal Code provision.

13.10 Trash and Refuse: Tenant shall provide containers on or immediately adjacent to the Premises to receive trash and refuse generated aboard vessels using Tenant's docking or launching facilities. Refuse containers shall be located so as to be conveniently used by occupants of vessels using Tenant's facilities and shall be of sufficient size and number to contain the refuse generated aboard all vessels using Tenant's facilities. The containers shall be covered and emptied regularly enough to prevent them from overflowing or creating unhealthful, unsightly, or unsanitary conditions. The contents of the containers shall be disposed of by Tenant or others acting pursuant to Tenant's direction at authorized landfills or other garbage reception areas as provided under law applicable at the time of collection.

13.11 Food Packaging: Tenant shall not, after the effective date of this Sublease, provide to its customers any prepared food in polystyrene foam food packaging, nor shall Tenant obtain or keep any polystyrene foam food packaging of a type, design, and condition suited for providing prepared food to its customers for consumption off the Premises.

Tenant's food packaging for prepared food to be consumed on the Premises or for takeout food shall be biodegradable, and Tenant shall provide upon demand evidence in the form of paid invoices to indicate the purchase of biodegradable containers in amounts sufficient to indicate compliance with this section. Tenant's food packaging for prepared food to be consumed off the Premises shall be biodegradable unless Tenant demonstrates to the satisfaction of Landlord and City that biodegradable food packaging materials are not available for purchase in the quantities required by Tenant. In the event biodegradable food packaging materials are not available for purchase in the quantities required by Tenant, Tenant may limit its use of the packaging to the amount actually available.

For purposes of this Sublease, the following definitions are applicable:

- a. "Prepared food" means foods or beverages which are prepared on the Premises by cooking, chopping, slicing, mixing, freezing or squeezing, and which require no further preparation to be consumed.
- b. "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are not intended for reuse, on or in which any foods or beverages are placed or packaged on the Premises.
- c. "Takeout food" means prepared foods or beverages requiring no further preparation to be consumed and which are purchased in order to be consumed off the Premises.

13.12 Local Coastal Program: Should a local coastal program (hereinafter the "Local Coastal Program") ever be adopted for the Mission Bay Park segment of City's Local Coastal Program, and should the Local Coastal Program provide for the collection of a traffic impact mitigation fee from commercial lessees in Mission Bay Park to fund all or a portion of the cost of a beach shuttle or other substantially similar public access improvements, Tenant agrees to contribute its fair and equitable share, as calculated pursuant to the Local Coastal Program, to such a traffic impact mitigation program; provided that the amount payable by Tenant shall be reasonable and shall not exceed the amount Tenant would have paid had the entire amount to be funded by traffic impact mitigation fees been reasonably, equitably, and fairly apportioned among all of the commercial lessees in Mission Bay Park. This section shall not be altered or amended without the prior written approval of the California Coastal Commission or an amendment to California Coastal Permit No. 6-93-75/EL.

13.13 Public Access/Parking: Tenant shall allow at all times general public access throughout the Premises including the parking and the perimeter walkways unless closure is allowed with the City Manager's prior consent based upon evidence from Tenant reasonable safety precautions require limited closure, or to the extent required to provide adequate parking for Tenant's tenants and customers during periods of high seasonal demand. Throughout the term of the Sublease, Landlord shall have the exclusive right to regulate parking at the Premises, including

the right to provide free parking to Landlord's tenants and customers and to limit or otherwise restrict use of the parking lot(s).

13.14 Operation of Facilities: Tenant shall operate the Premises and associated facilities continuously and without interruption after the Premises are opened for operation during the Term of this Sublease. A regular schedule of days and hours of operation shall be established by Tenant to best serve the public. The schedule shall be subject to the approval of Landlord and the City Manager. Tenant shall diligently and in a creditable manner furnish services to the public in conformity with the general rules and regulations of City. The type and quality of service furnished by Tenant shall qualify for the conditions and requirements of the "A" Card issued by the Department of Health to operators of fast food handling establishments.

ARTICLE XIV - MISCELLANEOUS

14.1 Notices: Notices and demands required or permitted to be given hereunder may be given by personal delivery to either party or any officer or other representative of the party to be notified, or may be sent by recognized overnight courier or certified mail, return receipt requested, addressed, postage prepaid, to the address set forth in Sections 1.1.3 and 1.1.5 hereof. Notices and demands shall be deemed to have been given upon the date of delivery.

14.2 Successors and Assigns: Subject to Article IX, all covenants, promises, conditions, representations, and agreements herein contained shall be binding upon, apply, and inure to the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns.

14.3 Time is of the Essence: The time of the performance of all of the covenants, conditions, and agreements of this Sublease is of the essence.

14.4 Relationship of Parties: Nothing herein shall be construed so as to constitute a joint venture or partnership between Landlord and Tenant.

14.5 Waiver: One or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same or any other covenant or condition, and the consent or approval by either party to or of any act by the other party requiring the approving or consenting party's consent or approval shall not be construed to waive or render unnecessary any further consent or approval to or of any subsequent similar act by the other party.

14.6 Force Majeure: In the event either party shall be delayed or hindered in, or prevented from, the performance of any work, service, or other act required under this Sublease to be performed by the party and such delay or hindrance is due to strikes, lockouts, acts of God, governmental restrictions, enemy act, civil commotion, unavoidable fire or other casualty, or other causes of a like nature beyond the control of the party so delayed or hindered, then performance of such work, service, or other act shall be excused for the period of such delay and the period for the performance of such work, service, or other act shall be extended for a period equivalent to the period of such delay. In no event shall such delay constitute a termination or extension of this Sublease. The provisions of this Paragraph shall not operate to excuse Tenant from the prompt payment of Rent as due under any provision hereof.

14.7 Governing Law: This Sublease shall be construed under the laws of the State of California. Venue of any action to enforce or interpret this Agreement shall be in the San Diego County Superior Court or in the United States District Court for the Southern District of California.

14.8 Attorney Fees: In the event the parties hereto become involved in any action or proceeding arising out of or in connection with this Sublease, the Premises or the Project (including, without limitation, the enforcement or interpretation of this Sublease or either party's rights, duties or obligations hereunder), the prevailing party shall, subject to the provisions of local law, be entitled to recover from the non-prevailing party all reasonable expenses of attorney's fees and costs, expenses and disbursements reasonably incurred by the prevailing party in such action or proceeding, without the necessity for a cross-action by the prevailing party. Such reimbursement shall include all such expenses reasonably incurred prior to and at any such trial or proceeding and at all levels of appeal and post judgment proceedings.

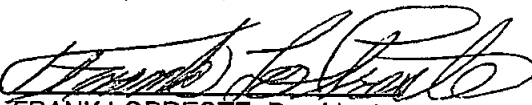
14.9 Partial Invalidity: If any provision of this Sublease or the application thereof to any person or circumstance shall to any extent be held invalid, then the remainder of this Sublease, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected, and each provision of this Sublease shall be valid and enforced to the fullest extent permitted by law.

14.10 Entire Agreement: This Sublease and the Exhibits attached to it constitute the sole and exclusive agreement between the parties with respect to the Premises; provided, however, this Sublease shall be subordinate to the Master Lease and the terms of the Master Lease shall bind Tenant. To the extent this Sublease is inconsistent with the Master Lease or any future modification(s) of the Master Lease, the provisions of the Master Lease shall control. No amendments, modifications of or supplements of this Sublease shall be effective unless in writing and signed by Landlord and Tenant.

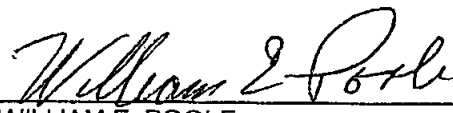
IN WITNESS WHEREOF this Sublease has been executed and made effective as of the day and year first above written.

LANDLORD:

SEAFORTH SPORTFISHING CORPORATION, a
California corporation,

By 
FRANK LOPRESTE, President

TENANT:


WILLIAM E. POOLE

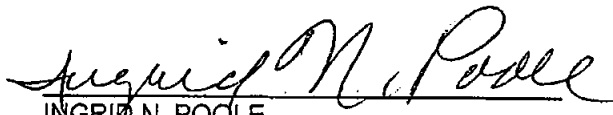
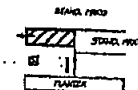
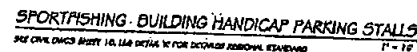

INGRID N. POOLE

EXHIBIT "A"

PROJECT AND PREMISES DESCRIPTION

EXHIBIT A

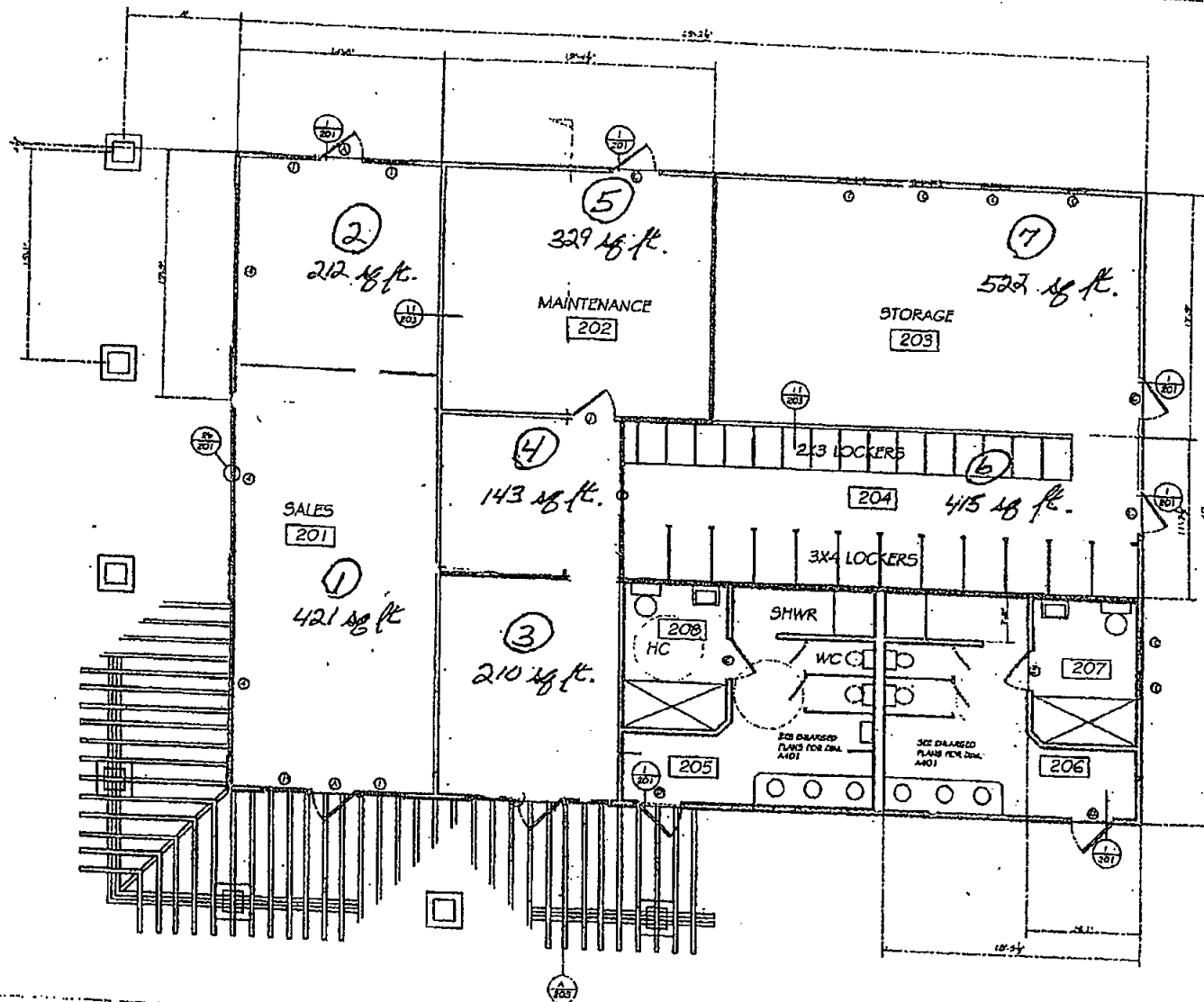


04 #141111 DDP 2004 3002 MT. BURHAM DR. SAN DIEGO, CA 92111 TEL/FAX 858-571-7769 E-MAIL HANSHARDDESIGNSPRODUCTIONS.NET

SP40237-P

SEAFORTH MARINA

1677 Quivira Rd.
San Diego, CA 92109



MARINA PLAN

- | | | | | | |
|------------------|---------------|-------------|----------------|---------------|-------------|
| YACHT SALES I | 14'2" x 29'9" | 421 sq. ft. | 5. MAINTENANCE | 19'2" x 17'2" | 329 sq. ft. |
| YACHT SALES II | 14'2" x 15' | 212 sq. ft. | 6. STORAGE A | 11'4" x 36'8" | 415 sq. ft. |
| MARINA OFFICE FR | 12'7" x 16'6" | 210 sq. ft. | 7. STORAGE B | 17'2" x 30'5" | 522 sq. ft. |
| MARINA OFFICE BK | 12'9" x 11'3" | 143 sq. ft. | | | |

2/11/08

ELEVATIONS



REPLYING OFFICER,

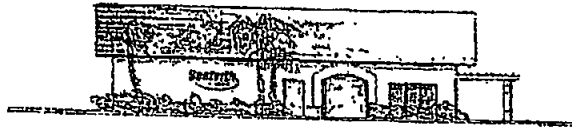


EAST ELGV.

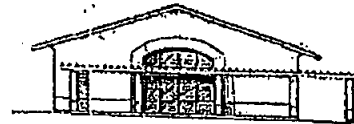


WEST KLEV.

BOAT RENTAL BUILDING



REMARKS: ELEV.

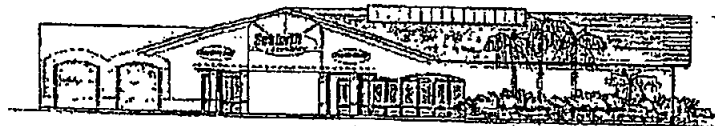


WEST' ELEV.



EAST ELEV.

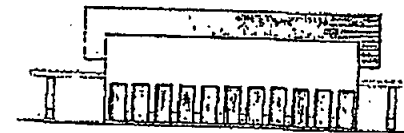
MARINA BUILDING



REFUGEE CLERK.



张作霖 田中



EAST ELEV.

SPORTFISHING BUILDING

Windward Design Inc.
William Watts, Architect

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RECEIVED 10 APR 1964

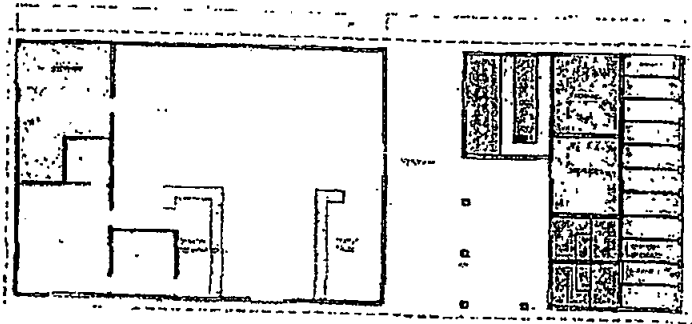
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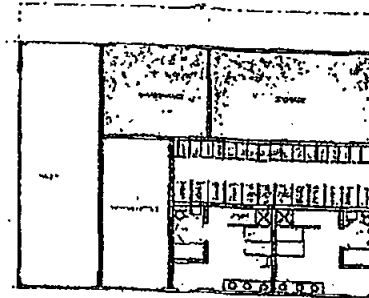
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ATTACHMENT 6

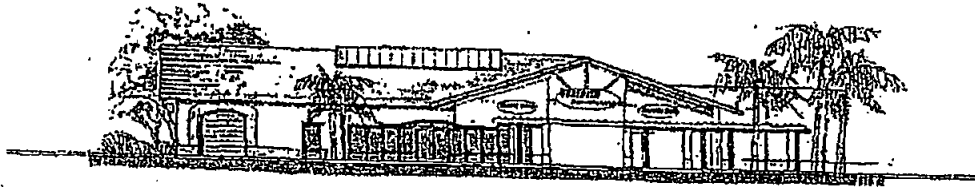
FLOOR PLANS



SPORT FISHING BLDG PLAN



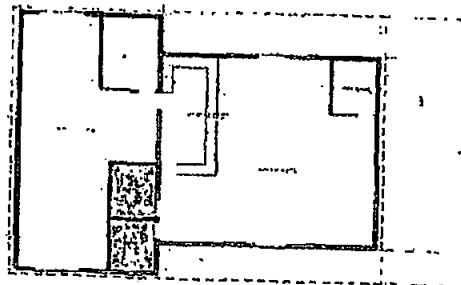
MARINA BLDG PLAN



SPORT FISHING BLDG ELEV.



MARINA BLDG ELEV.



BOAT RENTAL PLAN



BOAT RENTAL ELEV.

Windward Design Inc.
William Watts, Architect

CA # 14,117 E-4 2004 3352 W. JOURNAL DR. SAN DIEGO, CA 92111 TEL: 619-594-5717 FAX: 619-594-5718

REARFORD LEASE
REARFORD IN - LEASEHOLD
SPR. DRIVE, SPR. DRIVE

CONCEPT PLANS
REARFORD LEASE & SPRINGFIELD BLDGS

A100

SCALE 1/4"=1'

000701

ATTACHMENT 7