

Attachment B

Agreement for Lease

AGREEMENT FOR LEASE OF SUBMERGED PUBLIC TRUST LANDS

This Agreement for Lease of Submerged Public Trust Lands ("Agreement") is entered into this 1st day of January 2016, by and between the City of Newport Beach, a California municipal corporation and charter city ("Lessor" or "City"), and San Pedro Bait Co., a California corporation, whose address is 1231 West 26th Place, San Pedro, California 90731 ("Lessee"). Lessor and Lessee are at times referred to individually as "Party" and collectively as "Parties" herein.

RECITALS

- A. Lessor is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the City's Charter.
- B. The State of California became the owner of tidelands on admission to the union in 1850. Lessor manages those tidelands pursuant to various legislative grants from the State.
- C. Newport Bait Company has been operating the bait barge, as more particularly described and depicted in attached Exhibit "A" and Exhibit "B," in the City's harbor since 1986 by permit ("Bait Barge"). Lessee purchased Newport Bait Company and its assets, including the Bait Barge.
- D. Newport Beach Municipal Code ("Code") Section 17.60.060(A) states that if public trust lands are used for commercial purposes by an entity other than the City, then that entity shall enter into a lease with the City. The Bait Barge is located upon public trust lands and therefore requires a lease.
- E. Lessor and Lessee entered into an Agreement for Lease of Submerged Public Trust Lands ("Agreement") on April 13, 2010, and recorded on May 27, 2011 by the County Recorder of Orange County, California as Instrument No. 2011000265158. Lessor and Lessee then entered into a First Amendment to Lease of Public Trust Lands ("First Amendment") on April 2, 2015, and recorded on April 9, 2015 by the County Recorder of Orange County, California as Instrument No. 2015000181213.
- F. On November 13, 2012 the City Council adopted Resolution No. 2012-98 ("Resolution"), that determined the rent for commercial Tidelands uses located upon City managed Tidelands shall be set in accordance with the Commercial Tidelands Rent Calculations as outlined in the Resolution.
- G. Pursuant to City Council Policy F-7, the City conducted an open bid process and published a Request for Proposals (No. 16-02) for Bait Barge Operation Services

for a new five-year term on July 2, 2015. After a careful evaluation process, the City selected Lessee as the bait barge operator for the new term.

- H. The parties desire to enter this Agreement for a term described herein and to grant Lessee an option to extend the term of the Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, benefits, obligations and agreements set forth herein, the Parties agree as follows:

1. Premises

1.1 Leased Premises

Lessor hereby leases to Lessee, for the term specified in Section 2, those submerged tidelands located at the channel entrance in Newport Harbor, closest to the eastern jetty, approximately 33° 35' 36.67"N and 117° 52' 42.18"W ("Premises"). The location of the Premises is generally depicted in the attached Exhibit "C" which is hereby incorporated by reference.

1.2 Tidelands Grant

Lessor, by virtue of a 1978 legislative grant found in Chapter 74 of the Statutes of 1978, as amended ("Beacon Bay Bill"), holds the right, title, and interest in trust to certain tidelands and uplands commonly known as Beacon Bay. The Premises are located in an area that is subject to the Beacon Bay Bill, which the City holds as trustee for the State of California. Lessee shall not take any action that would cause the City to be in violation of any provisions of the Beacon Bay Bill. If the State of California terminates, or modifies the Beacon Bay Bill to prohibit the uses contemplated under this Agreement, this Agreement shall terminate as a result and the parties shall be released from all liabilities and obligations under this Agreement and City shall owe no compensation to Lessee.

1.3 Relocation

During the term of this Agreement, Lessor, in its sole discretion, may direct Lessee to relocate the Bait Barge, temporarily or permanently, to a location of Lessor's designation, at Lessee's sole cost and expense. The area upon which the Bait Barge is relocated shall be designated the new Premises.

Any such relocation shall not entitle Lessee to any compensation or reimbursement from Lessor. In no instance will the Bait Barge be permitted in a location which is in conflict with the main navigational channels.

1.4 Terms, Covenants and Conditions

The rights granted herein are subject to the terms, covenants and conditions hereinafter set forth, and Lessee covenants, as a material part of the consideration for this Agreement, to keep and perform each and every term, covenant and condition of this Agreement.

2. Term

2.1 Initial Term

The Term of this Agreement shall be five (5) years commencing on the 1st day of January, 2016 and terminating on the 31st day of December, 2020 ("Term"), unless terminated earlier as provided in this Agreement.

2.2 Option for Renewal Term

If Lessee is not then in default of its obligations under this Agreement, and upon approval of Lessor, Lessee shall have the option to extend the Term of this Agreement for one (1) additional successive "Renewal Term" of five (5) years, on the same terms and conditions contained in this Agreement.

- (a) The Renewal Term for which an option is exercised shall commence at the expiration of the immediately preceding Term. Lessee must exercise its option to a Renewal Term by giving a written "Option Notice" of its election to Lessor no less than two hundred and seventy (270) calendar days prior to the expiration of the immediately preceding Term.
- (b) Should Lessee fail to timely give an Option Notice, then the option for the Renewal Term and all subsequent Renewal Terms shall be null and void and of no further force and effect. Rent for the Renewal Term shall be determined and adjusted as described in Section 3 below.

2.3 Hold Over

If Lessee holds over after expiration of the Term, without the express written consent of Lessor, Lessee shall become a tenant at sufferance, or in the sole and absolute discretion of Lessor, a month-to-month tenant, subject to each and all of the terms of this Agreement as may reasonably and logically be construed as applicable to a tenancy at sufferance or a month-to-month tenancy, and any holding over shall not constitute a renewal hereof or an extension for any further term. During such holding over, Base Rent (as defined in Section 3.1) shall be payable at a monthly rate equal to one hundred and fifty percent (150%) of the Base Rent applicable during the last monthly rental period of the Term. Nothing

contained in this Section 2.3 shall be construed as consent by Lessor to any holding over by Lessee, and Lessor expressly reserves the right to require Lessee to surrender possession of the Premises to Lessor as provided in this Agreement upon the expiration or other termination of this Agreement.

3. Rent

3.1 Base Rent. Lessee shall pay to Lessor Seven Hundred Fifty-Six Dollars and 59/100 (\$756.59) per month ("Base Rent"), during the Operating Period (as defined in Section 5.4), due and payable in advance on the first (1st) day of each month upon the execution of this Agreement. Base Rent for any partial calendar month during which the Operating Period commences or terminates shall be prorated based on the actual number of days in such month.

3.2 Rent Adjustment.

The Base Rent shall increase annually on January 1st of each year of the Term according to the change in the Consumer Price Index, as more fully described below, but in no event shall the Base Rent decrease. The Base Rent may be adjusted if the Consumer Price Index for the Los Angeles – Orange County - Riverside Area, All Urban Consumers, All Items ("Index"), as published by the United States Department of Labor, Bureau of Labor Statistics ("Bureau"), increases over the Base Period Index. The initial "Base Period Index" shall be the Index for September. The initial Base Period Index shall be compared with the Index for the same calendar month for each subsequent Lease Year ("Comparison Index"). The Comparison Index used for a given year's adjustment calculation will become the Base Period Index for purposes of the next annual Base Rent adjustment calculation. If the Comparison Index is higher than the Base Period Index, then Base Rent for the next Lease Year shall be increased by the amount of such percentage change. Should the Bureau discontinue the publication of the above Index, or publish same less frequently, or alter same in some other manner, then the Parties shall adopt a substitute Index or substitute procedure which reasonably reflects and monitors consumer prices.

3.3 Acceptance. Lessor's acceptance of any money paid by Lessee as rent payment for the Premises shall not be construed as an admission of the sufficiency of the amount owed to Lessor. Acceptance of such rent by Lessor shall in no event constitute a waiver of any default by Lessee with respect to any overdue amount, nor prevent Lessor from exercising any of the other rights and remedies granted hereunder.

- 3.4 Late Charge. Lessee hereby acknowledges that the late payment of Base Rent or other sums due hereunder will cause Lessor to incur costs not contemplated by this Agreement, the exact amount of which is extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, any payment of any sum to be paid by Lessee not paid within five (5) calendar days of its due date shall be subject to a ten percent (10%) per month late charge. Lessor and Lessee agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Lessor for its loss suffered by such late payment by Lessee. Late charges shall constitute additional rent.
- 3.5 In Addition to Other Fees. Rental payments required to be paid pursuant to this Agreement shall be in addition to any other fee or fees required to be paid by Lessee, including, but not limited to, business license fees and permit fees.
- 3.6 Payment Location. All payments and other sums payable pursuant to this Agreement shall be directed to:

City of Newport Beach
Attn: Revenue Division
PO Box 1768
100 Civic Center Drive
Newport Beach, CA 92658

or at such other place as Lessor may hereafter designate in writing. If requested by Lessor, Lessee shall make payments electronically (at www.newportbeachca.gov) or by wire transfer (at Lessee's cost). Lessee assumes all risk of loss and responsibility for late charges and delinquency rates if payments are not timely received by Lessor regardless of the method of transmittal.

4. Utilities, Taxes, and Assessments

Lessee shall be solely responsible for obtaining all utilities for the Bait Barge and Premises, and shall promptly pay, and discharge prior to delinquency, any and all charges for water, gas, heat, electricity, telephone, rubbish, telephone, janitorial, garbage disposal, sewer and other services furnished to the Bait Barge and Premises.

Lessee shall pay, prior to delinquency, any and all possessory interest taxes, property taxes, all taxes assessed against and levied upon fixtures, furnishings, equipment, or improvements, and all other personal property of Lessee located on the Bait Barge and Premises, real property taxes, and fees, service charges and assessments which may at any time be imposed or levied by any public

entity and attributable to Lessee's use of the Bait Barge and Premises. Lessor hereby gives notice to Lessee, pursuant to Revenue and Tax Code Section 107.6, that this Agreement may create a possessory interest which is the subject of property taxes levied on such interest, the payment of which taxes shall be the sole obligation of Lessee.

Any payments under this Section shall not reduce the rental payments due Lessor under this Agreement, and Lessor shall have no liability for such payments.

Lessee shall hold Lessor harmless from any and all loss, damage, or liability that may result from the failure of Lessee to comply with the provisions of this Section.

5. Use of the Premises

5.1 Business Purposes

The Bait Barge and Premises shall be used by Lessee solely for receiving, maintaining and/or curing of live bait and approved concessions for sale to commercial, charter and private boats. Lessee shall ensure that it will maintain sufficient live bait to adequately supply the needs of sport fishermen, commercial, and recreational fishermen at Newport Harbor.

Lessee expressly agrees not to use the Bait Barge and Premises for any other purpose or engage in or permit any other business activity within or from the Bait Barge and Premises including but not limited to, the sale or rental of any goods, the sale of any food, beverages, or other concessions not approved for sale by City, nor the provision of any services.

Concessions approved for sale include and are limited to long sleeve and short sleeve t-shirts, sweatshirts, and sun-visors. The list of approved concessions may be expanded pursuant to the Harbor Resource Manager's written approval. Lessee shall pay California State sales tax on all concession items.

5.2 Standard of Operations

Lessee shall operate and manage the Bait Barge in a manner comparable to other high quality businesses providing similar services. Prices for all sales shall be prominently displayed on the Bait Barge during all hours of operation.

5.3 Signage/Advertising Display

Lessee may, at its own expense, place unlit signs upon the Bait Barge. The size, type, number, and design of the signs shall conform with Code Section 17.35.090 and shall be subject to the prior written approval of the Harbor Resources Manager. Other than the aforementioned approved signage, Lessee shall not paint, install decorations, or install any signs, lettering or advertising of any type, or any other type of visual displays, on or about the Bait Barge and Premises without the prior written consent of Lessor.

5.4 Period and Hours of Operation

The Bait Barge shall operate from April 1 through November 30 (the "Operating Period"), twenty four (24) hours per day per calendar year. Changes to the Operating Period or hours of operation shall be subject to Harbor Resources Manager's written approval.

5.5 Lighting

The Bait Barge and Premises' exterior lighting shall comply with the U.S. Coast Guard's lighting regulations for navigation and safety purposes. All interior lighting shall be approved in writing by the Harbor Resources Manager.

5.6 Generator

If a generator or compressor is operated aboard the Bait Barge, it shall be subject to the approval of the Harbor Resources Manager. The Harbor Resources Manager may also limit the hours that the generator or compressor may be used in order to reduce impacts to surrounding residences.

5.7 Space on Bait Barge

Enclosed spaces on the Bait Barge shall be used only by employees of the Bait Barge and only as a pilot house, office, storage room and/or restroom. All structures and supplies aboard the Bait Barge shall be properly secured.

5.8 Covers

Bait wells and covers shall comply with Code Title 17 and are subject to the written approval of the Harbor Resources Manager.

5.9 Anchorage

The method of anchoring the Bait Barge shall be subject to the written approval of the Harbor Resources Manager. The Bait Barge shall be moved to a safe location as directed by the Harbor Resources Manager in the event the Harbor Resources Manager determines, in his sole discretion, that the Bait Barge is likely to sustain damage caused by storm conditions.

5.10 Short-term Berthing

Short-term berthing shall be defined as the minimum amount of time to perform the following functions:

- a) Bait boats - for the purpose of unloading live bait onto the bait barge;
- b) Sport fishing, commercial or recreational vessels - for the purpose of buying bait; and
- c) Service vessels - for the purpose of maintaining the sewage holding tank(s) and to perform any other maintenance activities on the bait barge.

No long-term berthing is permitted except for a tender or dinghy for the sole purpose of transporting Bait Barge employees.

5.11 Bait Boat

This Agreement is not applicable to any bait boat that may be owned by Lessee. All bait boats operating in the City must apply for and obtain a Marine Activities Permit pursuant to the terms of Code Title 17.

5.12 Bait Barge Vessel

Only the Bait Barge described on Exhibit "A" and depicted on Exhibit "B" may be used at the Premises. Lessee may not substitute or use another bait barge at the Premises without Harbor Resource Manager's express written approval. Lessee may not increase the dimensions of the Bait Barge described and depicted on Exhibit "A" without written authorization of the Harbor Resources Manager.

5.13 Birds and Sea Lions

Bait receivers (holding tanks for bait) must be equipped with hard covers to deter birds and sea lions. Netting may not be used.

Lessee shall establish a maintenance program for the purpose of controlling the congregation of birds on the Bait Barge and the Premises. This program shall include, but not be limited to, the installation of owl statues, horizontal rotating whip antennae as appropriate, and other measures reasonably employed in discouraging congregating bird activity.

Lessee shall establish a maintenance program for the purpose of controlling the congregation of sea lions on the Bait Barge and Premises. This program shall be demonstrably effective in discouraging the congregation of sea lions on deck, but does not in any way violate any law or regulation or injure the sea lions.

Lessee shall not be required to undertake any activity which will place it in violation of any Federal, State, or local regulations, and will not be required to undertake any action or otherwise act so as to inhibit, harm, or in any way injure or obstruct endangered species or otherwise protected wildlife.

6. Environmental Requirements

Lessee shall properly, and in compliance with all applicable laws, dispose of refuse matter, matter that constitutes an unlawful fire hazard, and any and all material detrimental to the public health. Lessee shall provide regular custodial services to ensure that no trash and/or debris accumulate on the Bait Barge and/or at the Premises or in surrounding waters.

The Bait Barge shall have holding tanks with pump-out connections for sewage, waste water and grey water, and any other necessary equipment to prevent the discharge of such waters into the ocean and/or surrounding waters. Lessee shall also provide regular and documented pump-out services for the routine pump-outs and disposal. Lessee shall provide such documentation immediately upon Lessor's request.

Lessee shall regularly clean receivers to ensure that dead fish do not accumulate inside the receivers. Floating dead fish or other animal carcasses must be promptly removed from the water so as to minimize bacteria loading of harbor waters.

Holding tanks for sewage and trash, litter receptacles and their removal from the Bait Barge, shall be subject to the Harbor Resources Manager's approval.

Lessee shall practice conservation of water, energy, and other natural resources and shall prevent pollution and harm to the environment. Lessee shall prevent harm or injury to animals, birds, and other sea life. Lessee shall not violate any law or regulation whose purpose is to conserve resources, protect the

environment and animals, birds, and other sea life.

7. Permits and Licenses

Lessee, at its sole expense, shall obtain and maintain during the Term of this Agreement, all appropriate permits, licenses and certificates that may be required by any governmental agency in connection with the occupancy and use of the Premises and the operation of the Bait Barge. Any approvals required by State and Federal agencies shall be secured prior to the execution of this Agreement.

8. Acceptance of Condition of Premises

Lessee acknowledges that the Premises are suitable for Lessee's intended uses and accepts the Premises in "as is" condition, with no warranty, express or implied from the Lessor as to any latent, patent, foreseeable, and unforeseeable condition of the Premises.

9. Maintenance and Repair

Lessee shall be responsible for maintenance and repair of the Bait Barge. Lessee shall conduct regular inspections to ensure that the Bait Barge is in a safe and sanitary condition and in compliance with all applicable Federal, State, and local laws and regulations. Lessee shall perform all necessary modifications and repair work at Lessee's sole cost and expense as the need arises.

Lessee shall designate in writing to the Harbor Resources Manager an on-site representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness, and general order.

If Lessee fails to maintain or make repairs or replacements as required herein, Harbor Resources Manager shall notify Lessee in writing of said failure. Should Lessee fail to correct the situation within three (3) calendar days after date of written notice, Harbor Resources Manager may choose the remedies available herein, or by law.

10. Lessor Paying Claim

Should Lessee fail to pay and discharge, when due and payable, any tax or assessment, or any premium or other charge in connection with any insurance policy which Lessee is obligated to provide, or any lien or claim for labor or material employed or used in the repair, alteration, construction, or maintenance of improvements on the Bait Barge or Premises, then Lessor may, after ten (10) calendar days' written notice to Lessee and at its option, pay any such tax, assessment, lien, claim, premium or charge, or settle or discharge any action, or satisfy and judgment thereon. All costs and expenses incurred or paid by Lessor pursuant to this Section, together with interest at the rate of ten percent (10%)

per annum from the date of payment, shall be deemed to be considered as additional rent and shall be paid by Lessee within ten (10) calendar days after written notice that such payments are due.

11. Standard of Care

Lessee agrees to perform all services required hereunder in a manner commensurate with community professional standards.

12. Right to Enter the Premises

Lessor expressly reserves the right and shall be entitled to enter the Bait Barge, to inspect the Premises at any time without prior notice for compliance with the terms of this Agreement, and for compliance with all applicable Federal, State, and local (including those of the Lessor) government laws, statutes, ordinances, rules and regulations.

13. Assignment/Subletting/Hypothecation

13.1 Except as expressly provided herein, Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Agreement and shall not sublet the Premises or Bait Barge, in whole or in part, or allow any person other than Lessee's employees, members, agents, servants and invitees to occupy or use all or any portion of the Premises without the prior written consent of Lessor which consent shall not be unreasonably withheld.

13.2 The following shall be deemed to be an assignment or transfer within the meaning of this Agreement:

- (a) If Lessee is a corporation, any dissolution, merger, consolidation or other reorganization of Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons, or the sale or other transfer of substantially all the assets of Lessee; or
- (b) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

14. Bankruptcy

Lessee agrees that in the event all, or substantially all, of Lessee's assets are placed in the hands of a receiver or trustee and remain so for a period of thirty (30) calendar days, or should Lessee make an assignment for the benefit of creditors or be adjudicated bankrupt, or should Lessee institute any proceedings

under the Bankruptcy Act or similar law wherein Lessee seeks to be adjudicated bankrupt or to be discharged of its debts, or seeks to effect a plan of liquidation or reorganization, or should any involuntary proceedings be filed against Lessee and not dismissed or stayed within sixty (60) calendar days, then this Agreement or any interest in and to the Premises shall not become an asset in any such proceeding and, to the extent permitted by law and subject to the provisions of Section 16, Lessor may declare this Agreement terminated and take possession of the Premises.

15. Defaults

The occurrence of any one or more of the following events shall constitute a material breach and default of this Agreement by Lessee:

- 15.1 Continued vacation or abandonment of the Bait Barge or Premises by Lessee for thirty (30) consecutive days after Lessor's written notice to Lessee;
- 15.2 Failure of Lessee to make any payment required by this Agreement when such failure continues for a period of ten (10) calendar days after written notice that payment is due;
- 15.3 Use of the Bait Barge or Premises by Lessee for any purpose other than that authorized by Section 5;
- 15.4 Inability of Lessee to maintain sufficient amounts of live bait pursuant to Section 5.1;
- 15.5 Use of the Bait Barge or Premises by Lessee which results in the cancellation of any insurance covering the Bait Barge or Premises;
- 15.6 If Lessee is unable or does not renew or obtain any required permits, licenses and/or certificates;
- 15.7 Lessee's assignment, transfer, mortgage, pledge, hypothecation, encumbrance of the Agreement or sublease of the Premises without Lessor's consent pursuant to Section 13.

16. Remedies

- 16.1 Cumulative Nature of Remedies. If any default by Lessee shall continue without cure, Lessor shall have the remedies described in this Section in addition to all other rights and remedies provided by law or equity, to which Lessor may resort cumulatively or in the alternative.

- (a) Reentry without Termination. Lessor may reenter the Premises, and, without terminating this Agreement, re-let all or a portion of the Premises. Lessor may execute any agreement made under this provision in Lessor's name and shall be entitled to all rents from the use, operation, or occupancy of the Premises. Lessee shall nevertheless pay to Lessor on the dates specified in this Agreement the equivalent of all sums required of Lessee under this Agreement, plus Lessor's expenses in conjunction with re-letting, less the proceeds of any re-letting or atonement. No act by or on behalf of Lessor under this provision shall constitute a termination of this Agreement unless Lessor gives Lessee specific written notice of termination.
- (b) Maintain Agreement. Lessor may maintain this Agreement in full force and effect and recover any rental, royalty, or other consideration as it becomes due, without terminating Lessee's right of possession, regardless of whether Lessee shall have abandoned the Bait Barge or Premises.
- (c) Termination. Lessor may terminate this Agreement with or without cause by providing Lessee with three (3) calendar days' written notice and specifying a termination date. In the event Lessor terminates this Agreement, Lessor may recover possession of the Premises (which Lessee shall surrender and vacate upon demand) and remove all persons and property. Lessor shall be entitled to recover the following as damages:
 - (i) The value of any unpaid rent or other charges unpaid at the time of termination;
 - (ii) The value of rent and other charges that would have accrued after termination less the amount of rent and charges Lessor received or could have received through the exercise of reasonable diligence as of the date of the award;
 - (iii) Any other amount necessary to reasonably compensate Lessor for the detriment proximately caused by Lessee's failure to perform its obligations under this Agreement; and
 - (iv) At Lessor's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time-to-time by applicable California law. Lessor shall be entitled to interest at the rate of ten percent (10%) per annum on all rent and other charges from the date due or the date they would have accrued. Lessor shall also be entitled to an award of the costs and expenses incurred by Lessor in

maintaining or preserving the Premises after default, preparing the Premises for re-letting, or repairing any damage caused by the act or omission of Lessee.

- (d) Use of Lessee's Personal Property. Lessor may use Lessee's personal property and trade fixtures located on the Premises or any of such property and fixtures without compensation or liability to Lessee for use or damage. In the alternative Lessor may store the property and fixtures at the cost of Lessee.

16.2 Waiver of Rights. Lessee waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 or 1179, or under any other present or future law, in the event Lessee is evicted or Lessor takes possession of the Premises by reason of any default by Lessee.

17. Surrender of Premises

On or within ten (10) calendar days after the expiration or earlier termination of this Agreement, Lessee shall remove the Bait Barge from the Premises and restore the Premises as nearly as possible to the conditions existing prior to the anchorage of the Bait Barge. Such removal shall be to the satisfaction of the Lessor. If Lessee abandons the Bait Barge, the Lessor shall have the right to treat the Bait Barge as an abandoned vessel under the law and take all action in conformance with the law.

18. Condemnation

18.1 As used in this Agreement, the term "Condemnation" means a permanent taking of the Premises through (i) the exercise of any government power, by any public or quasi-public authority or by any other party having the right of eminent domain ("Condemnor") or (ii) a voluntary sale or transfer by Lessor to any Condemnor, either under threat of exercise of eminent domain by a Condemnor or while legal proceedings for condemnation are pending.

18.2 Lessor shall notify Lessee in writing of any Condemnation within thirty (30) business days after the later of (i) the filing of a complaint by Condemnor or (ii) the final agreement and determination by Lessor and Condemnor of the extent of the taking ("Condemnation Notice").

18.3 If the Premises are totally taken by Condemnation, this Agreement shall terminate as of the date on which Condemnor takes possession of the Premises that are subject to the Condemnation ("Termination Date") and Lessor shall be relieved of any obligations it has under this Agreement. If this Agreement is terminated under this Section, the termination shall be

effective on the Termination Date, and Lessor shall prorate rent to that date. Lessee shall be obligated to pay rent for the period up to, but not including, the Termination Date, as prorated by Lessor. Lessor shall return to Lessee prepaid rent allocable to any period on or after the Termination Date.

18.4 If a temporary taking of part of the Premises occurs through (i) the exercise of any government power by Condemnor or (ii) a voluntary sale or transfer by Lessor to any Condemnor, either under threat of exercise of eminent domain by a Condemnor or while legal proceedings for condemnation are pending, Base Rent shall abate during the time of such taking in proportion to the portion of the Premises taken.

18.5 In the event of Condemnation of whole or part of the Premises, Lessor shall receive the entire award which may be made in such taking or condemnation, and Lessee hereby assigns to Lessor any and all rights of Lessee now or hereafter arising in or to the same whether or not attributable to the value of the unexpired portion of this Agreement; provided, however, that nothing contained herein shall be deemed to give Lessor any interest in or to require Lessee to assign to Lessor any award made to Lessee for Lessee's moving expenses, or the taking of the unamortized or the undepreciated value of Lessee's personal property, or that portion of the unamortized or undepreciated portion of Lessee's improvements, which were not purchased with any funds from a tenant improvement allowance supplied by Lessor. Lessee hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of California Code of Civil Procedure, or any successor statute.

19. Indemnification

To the fullest extent permitted by law, Lessee shall indemnify, defend and hold harmless Lessor, its City Council, boards and commissions, officers, agents, attorneys, volunteers, and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a "Claim"; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to any breach of the terms and conditions of this Agreement, any work performed or services provided under this Agreement including, without limitation, defects in workmanship or materials or Lessee's presence or activities conducted on the Bait Barge or Premises (including the negligent and/or willful acts, errors and/or omissions of Lessee, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them).

Notwithstanding the foregoing, nothing herein shall be construed to require Lessee to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Lessee.

20. Insurance

Without limiting Lessee's indemnification of Lessor, Lessee shall obtain, provide, and maintain at its own expense during the Term of this Agreement, a policy or policies of insurance of the type, amounts and form acceptable to Lessor. The policy or policies shall provide, at a minimum, those items described in Exhibit "D."

21. Hazardous Substances

21.1 Lessee shall not, at any time, use, store, manufacture or maintain any Hazardous Substances on the Bait Barge or Premises.

21.2 For purposes of this Agreement, the term "Hazardous Substance" means: (i) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq.* ("CERLCA"); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq.*; the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 *et seq.*; the California Hazardous Substance Account Act, Health and Safety Code Sections 25330 *et seq.*; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 *et seq.*; California Health and Safety Code Sections 25280 *et seq.* (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1 *et seq.*; California Health and Safety Code Sections 25501 *et seq.* (Hazardous Materials Response Plans and Inventory); or the Porter-Cologne Water Quality Control Act, Water Code Sections 13000 *et seq.*, all as they, from time-to-time may be amended, (the above-cited statutes are here collectively referred to as "the Hazardous Substances Laws") or any other Federal, State or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous

waste, substance or material, as now or at any time hereafter in effect; (ii) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory, including but not limited to negligence, trespass, intentional tort, nuisance, waste or strict liability or under any reported decisions of a state or federal court; (iii) petroleum or crude oil; and (iv) asbestos.

21.3 Notwithstanding any contrary provision of this Agreement, and in addition to the indemnification duties of Lessee set forth in this Agreement, Lessee agrees to indemnify, defend with counsel reasonably acceptable to Lessor, protect, and hold harmless Lessor, its officials, officers, employees, agents, and assigns from and against any and all losses, fines, penalties, claims, damages, judgments, or liabilities, including, but not limited to, any repair, cleanup, detoxification, or preparation and implementation of any remedial, response, closure or other plan of any kind or nature which the Lessor, its officials, officers, employees, agents, or assigns may sustain or incur or which may be imposed upon them in connection with the use of the Bait Barge or Premises provided under this Agreement, arising from or attributable to the storage or deposit of Hazardous Substances or alleged or actual violation of any Hazardous Substance Laws. This Section is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 USC Section 9607(e), and California Health and Safety Code Section 25364, to insure, protect, hold harmless, and indemnify Lessor for any claim pursuant to the Hazardous Substance Laws or the common law.

21.4 Lessor and Lessee agree that they will not, and will not authorize any third party to use, generate, store, or dispose of any Hazardous Substances on, under, about or within the Bait Barge or Premises in violation of any law or regulation. Lessor and Lessee each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs (including reasonable attorneys' fees and costs) arising from any breach of any representation, warranty or agreement contained in this Section. This Section shall survive the termination of this Agreement. Upon expiration or earlier termination of this Agreement, Lessee shall surrender and vacate the Premises and deliver possession thereof to Lessor on or before the termination date free of any Hazardous Substances released into the environment at, on or under the Bait Barge or Premises that are attributable to Lessee.

22. Quiet Possession

22.1 So long as no default by Lessee has occurred under this Agreement, Lessee shall peaceably and quietly use and enjoy the Premises for the

Term, without hindrance or interruption by Lessor or any other person or persons claiming by, through or under Lessor.

- 22.2 Lessor shall in no event be liable in damages or otherwise, nor shall Lessee be released from any obligations hereunder, because of the interruption or termination of any service provided by Lessor (such as water or sewer service), or a termination, interruption or disturbance of any service attributable to any act or neglect (other than gross negligence or willful misconduct) of Lessor or its servants, agents, employees, licensees, business invitees, or any person claiming by, through or under Lessee.

23. Easements and Reservations

- 23.1 Lessor reserves all rights, title and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises.
- 23.2 Lessor reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as it deems advisable, in its sole discretion, for the public good.
- 23.3 Lessor has the right to enter the Premises for the purpose of making repairs to or developing municipal resources and services.

24. Compliance with Laws

Lessee, at its sole cost, shall observe, perform, and comply with all laws, statutes, ordinances, rules, and regulations promulgated by any governmental agency, including, but not limited to, Code Title 17, and all applicable zoning ordinances, building codes, Hazardous Substance Laws and environmental laws. Lessee shall not occupy or use the Premises, or permit any portion of the Premises to be occupied or used for any use or purpose that is unlawful in part or in whole, or deemed by Lessor to be disreputable in any manner or extra hazardous in any way or for any use not expressly permitted herein.

25. Not Agent of Lessor

Neither anything in this Agreement nor any acts of Lessee shall authorize Lessee or any of its employees, agents or contractors to act as agent, contractor, joint venturer or employee of Lessor for any purpose.

26. No Third Party Beneficiaries

Lessor and Lessee do not intend, by any provision of this Agreement, to create in any third party, any benefit or right owed by one Party, under the terms and

conditions of this Agreement, to the other Party.

27. Limitation of Leasehold

This Agreement and the rights and privileges granted Lessee in and to the Premises are subject to all covenants, conditions, restrictions, and exceptions of record, including those which are set out in the Beacon Bay Bill by the State of California to Lessor. Lessee agrees not to use the Premises in any manner which will be inconsistent to any uses set out in the Beacon Bay Bill.

Nothing contained in this Agreement or in any related document shall be construed to imply the conveyance to Lessee of rights in the Premises which exceed those owned by Lessor.

28. Notices

All notices and other communications required or permitted to be given under this Agreement, including any notice of change of address, shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the Parties intended to be notified. Notice shall be deemed given as of the date of personal delivery, or if mailed, upon the date of deposit with the United States Postal Service. Notice shall be given as follows:

To Lessor: City of Newport Beach
 Attn: Real Property Administrator
 PO Box 1768
 100 Civic Center Drive
 Newport Beach, CA 92658

With a copy to: City of Newport Beach
 Attn: Harbor Resources Manager
 PO Box 1768
 100 Civic Center Drive
 Newport Beach, CA 92658

To Lessee: Mr. Mark Pisano
 San Pedro Bait Co.
 1231 West 26th Place
 San Pedro, CA 90731

29. Entire Agreement/Amendments

29.1 The terms and conditions of this Agreement, all exhibits attached hereto, and all documents expressly incorporated by reference, represent the entire Agreement of the Parties with respect to the subject matter of this Agreement.

- 29.2 This written Agreement shall supersede any and all prior agreements, oral or written, regarding the subject matter between Lessee and Lessor.
- 29.3 No other agreement, promise or statement, written or oral, relating to the subject matter of this Agreement, shall be valid or binding, except by way of a written amendment to this Agreement.
- 29.4 The terms and conditions of this Agreement shall not be altered or modified except by a written amendment to this Agreement signed by Lessee and Lessor and approved as to form by the City Attorney.
- 29.5 If any conflicts arise between the terms and conditions of this Agreement, and the terms and conditions of the attached exhibits or the documents expressly incorporated by reference, the terms and conditions of this Agreement shall control.
- 29.6 Any obligation of the Parties relating to monies owed, as well as those provisions relating to limitations on liability and actions, shall survive termination or expiration of this Agreement.

30. Waivers

The waiver by either Party of any breach or violation of any term, covenant or condition of this Agreement, or of any ordinance, law or regulation, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, law or regulation, or of any subsequent breach or violation of the same or other term, covenant, condition, ordinance, law or regulation. The subsequent acceptance by either Party of any fee, performance, or other consideration which may become due or owing under this Agreement, shall not be deemed to be a waiver of any preceding breach or violation by the other Party of any term, condition, covenant of this Agreement or any applicable law, ordinance or regulation.

31. Costs and Attorneys' Fees

The prevailing Party in any action brought to enforce the terms and conditions of this Agreement, or arising out of the performance of this Agreement, shall not be entitled to recover its attorneys' fees.

32. City Business License

Lessee shall obtain and maintain during the duration of this Agreement, a City business license as required by the Code.

33. Applicable Law

This Agreement shall be construed in accordance with the laws of the State of California. Any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange.

34. Interpretation

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

35. Incorporation of Recitals

The Recitals contained herein are true and correct and are incorporated into the operative part of this Agreement.

37. Time is of the Essence

Time is of the essence for each and every term in this Agreement.

38. Memorandum of Lease Agreement

A Memorandum of Lease Agreement, in a form and content similar to that contained in Exhibit "E" shall be recorded by the parties promptly upon execution of this Agreement. Upon execution by both parties, the Memorandum of Lease Agreement shall be recorded against the Premises in the office of the Orange County Clerk-Recorder, as required by Government Code Section 37393.

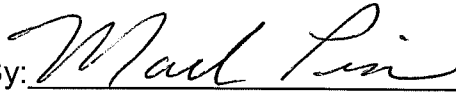
[SIGNATURES ON NEXT PAGE]

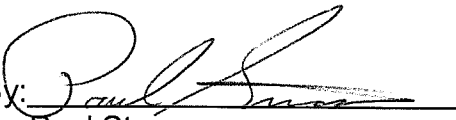
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

CITY OF NEWPORT BEACH ("Lessor"),
a California municipal corporation
and charter city


San Pedro Bait Company ("Lessee"),
a California corporation

By: 
Dave Kiff
City Manager

By: 
Mark Pisano
President

By: 
Paul Strasser
Treasurer

ATTEST:


Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY


 (for)
Aaron C. Harp am 12/17/15
City Attorney

EXHIBIT "A"

BAIT BARGE

Bait Barge is constructed of three-sixteenth inch (3/16") thick A36 steel formed and welded into thirty-six inch (36") x thirty-six inch (36") pontoons as the perimeter. The overall outside dimensions of the Bait Barge is twenty-eight feet (28') wide x one hundred and fourteen feet (114') long.

The interior of the Bait Barge consists of eight (8) ten feet (10') x six inch (6") openings for rigid "boxes" and two (2) twenty-two foot (22') x twenty-two foot (22') openings with a depth of eight feet (8') for net wells. The "boxes" are ten feet (10') x ten feet (10') across the top by ten feet (10') deep and are made of three (3) x three (3) s quarter (¼) type 316L stainless steel angle which is enclosed with a PVC coated, half inch (½") square opening, wire mesh. The Bait Barge was designed with specific intent to create a superior method of eliminating floating bait by disposing of it through the bottom of the Bait Barge, thus protecting and eliminating attraction by wildlife to the discarded bait.

The "house" is raised three (3) feet off the deck, supported by three (3) x three (3) x two-hundred and fifty (250) type three-hundred and sixteen (316) stainless steel tube and is approximately eight feet (8') wide x nineteen feet (19') long and constructed to local building codes.

The one hundred ten (110) volt power to the Bait Barge is supplied by a super quiet Honda gas generator model EU6500. The twenty-four (24) volt system is supplied by a closed cell battery system, which is charged by three (3) solar panels on top of the house. The super quiet generator will only need to be run approximately three (3) hours per day, due to solar panels and an inverter, which converts a twenty-four (24) volt power supply to a one hundred ten (110) volt power supply.

The Bait Barge is painted gray.

EXHIBIT "B"
BAIT BARGE PHOTOS

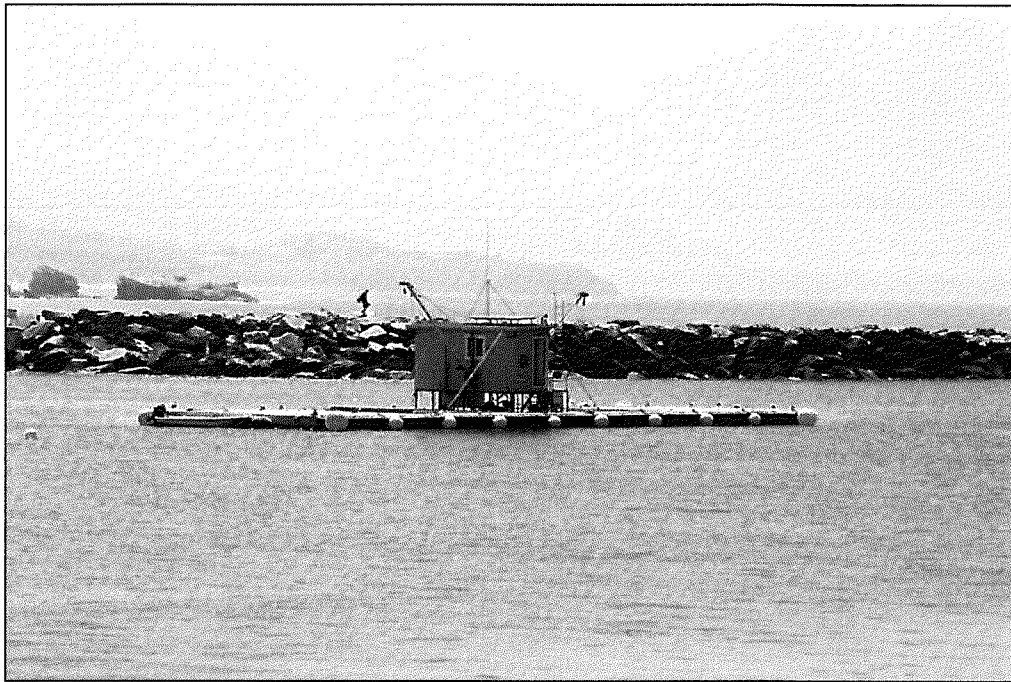




EXHIBIT "C"
PREMISES



Newport
Beach
GIS



0 2,000 4,000
Feet

Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2013 photos provided by Eagle Imaging www.eagleaerial.com

10/27/2015



Newport
Beach
GIS



0 417 833
Feet

Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2013 photos provided by Eagle Imaging www.eagleaerial.com

10/27/2015



Newport
Beach
GIS



0 100 200
Feet

Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2013 photos provided by Eagle Imaging www.eagleaerial.com

10/27/2015

EXHIBIT "D"

INSURANCE

1. Without limiting Lessee's indemnification of Lessor, Lessee shall obtain, provide and maintain at its own expense during the Term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to Lessor.
 - 1.1 Certificates of Insurance. Lessee shall provide certificates of insurance with original endorsements to Lessor as evidence of the insurance coverage required herein. Insurance certificates must be approved by Lessor's Risk Manager prior to commencement of performance or issuance of any permit. Current certification of insurance shall be kept on file with Lessor at all times during the Term of this Agreement.
 - 1.2 Signature. A person authorized by the insurer to bind coverage on its behalf shall sign certification of all required policies.
 - 1.3 Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by Lessor's Risk Manager.
 - 1.4 Occurrence-Made Form. All insurance shall be written on an occurrence-made form. A claims-made form of insurance is prohibited under this Agreement.
 - 1.5 Coverage Requirements.
 - (a) Workers' Compensation Coverage. Lessee shall maintain Workers Compensation Insurance and Employer's Liability Insurance for its employees in accordance with the laws of the State of California. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by Lessor at least thirty (30) calendar days (ten (10) calendar days written notice of non-payment of premium) prior to such change. The insurer shall agree to waive all rights of subrogation against Lessor, its officers, agents, employees and volunteers for losses arising from work performed by Lessee for Lessor.

Lessess shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers. This policy shall also include an

endorsement for Federal Acts including Longshore and Harbor Workers' Compensation Act.

- (b) General Liability Coverage. Lessee shall maintain commercial general liability insurance in an amount not less than Two Million and no/100 Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage, including without limitation, contractual liability. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit.
- (c) Watercraft Insurance. Lessee shall maintain Watercraft Insurance to include Hull Insurance with a stated value equal to the replacement cost of the vessel; and Protection and Indemnity Insurance in an amount not less than One Million and no/100 Dollars (\$1,000,000.00). Policy is also to include Pollution Buy-back and Collision and Towers coverage.

1.6 Endorsements. Each general liability insurance policy shall be endorsed with the following specific language:

- (a) Lessor, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of Lessee.
- (b) This policy shall be considered primary insurance as respects to Lessor, its elected or appointed officers, officials, employees, agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from Lessee's operations. Any insurance maintained by Lessor, including any self-insured retention Lessor may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.
- (c) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
- (d) The insurer waives all rights of subrogation against Lessor, its elected or appointed officers, officials, employees, agents and volunteers.

- (e) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Lessor, its elected or appointed officers, officials, employees, agents or volunteers.
 - (f) The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, by either Party except after thirty (30) calendar days (ten (10) calendar days written notice of non-payment of premium) written notice has been received by Lessor.
- 1.7 Timely Notice of Claims. Lessee shall give Lessor prompt and timely notice of any claim made or suit instituted arising out of or resulting from Lessee's performance under this Agreement.
- 1.8 Additional Insurance. Lessee may also procure and maintain, at its own cost and expense, any additional kinds of insurance which Lessee deems necessary for its proper protection and prosecution of its work.
- 1.9 Change in Coverage. In the event Lessor's Risk Manager determines that (i) the Lessee's activities on the Bait Barge or Premises creates an increased or decreased risk of loss to the Lessor, (ii) greater insurance coverage is required due to the passage of time, or (iii) changes in the industry require different coverages be obtained, Lessee agrees that the minimum limits of any insurance policy required to be obtained by Lessee may be changed accordingly upon receipt of written notice from the Risk Manager; provided that Lessee shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Manager within ten (10) calendar days of receipt of notice from the Risk Manager.

EXHIBIT "E"

RECORDING REQUESTED AND
WHEN RECORDED RETURN TO:

Office of the City Clerk
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

[Exempt from Recordation Fee - Govt. Code Sec. 6103]

MEMORANDUM OF AGREEMENT FOR LEASE OF SUBMERGED PUBLIC TRUST LANDS

This Memorandum of Agreement for Lease of Submerged Public Trust Lands ("Memorandum") is dated January 1, 2016, and is made between City of Newport Beach, a California municipal corporation and charter city ("Lessor" or "City") and San Pedro Bait Company ("Lessee"), concerning the Premises described in Exhibits "A" and "B," attached hereto and by this reference made a part hereof.

For good and adequate consideration, Lessor leases the Premises to Lessee, and Lessee hires them from Lessor, for the term and on the provisions contained in the Agreement dated January 1, 2016, including without limitation provisions prohibiting assignment, subleasing, and encumbering said leasehold without the express written consent of Lessor in each instance, all as more specifically set forth in said Agreement, which said Agreement is incorporated in this Memorandum by this reference.

The term is five (5) years, beginning January 1, 2016, and ending December 31, 2020, and one (1) additional successive "Renewal Term" of five (5) years, on the same terms and conditions contained in the Agreement.

This Memorandum is not a complete summary of the Agreement. Provisions in this Memorandum shall not be used in interpreting the Agreement's provisions. In the event of conflict between this Memorandum and other parts of the Agreement, the other parts shall control. Execution hereof constitutes execution of the Agreement itself.


[SIGNATURES ON NEXT PAGE]


IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

CITY OF NEWPORT BEACH ("Lessor"),
a California municipal corporation
and charter city


San Pedro Bait Co. ("Lessee"),
a California corporation

By: 
Dave Kiff
City Manager

By: 
Mark Pisano
President


By: 
Paul Strasser
Treasurer

ATTEST:


Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

 (for)
Aaron C. Harp
City Attorney

CM 12/17/15

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

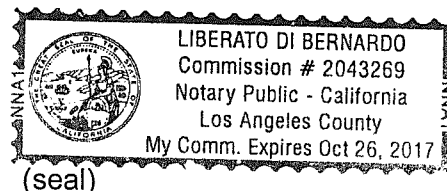
County of Los Angeles } ss.

On 12-30-2015, 2015, before me, Liberto D. Bernardo,
Notary Public, personally appeared Mark Pizarro and Paul Houser,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Liberto D. Bernardo
Signature



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of ORANGE } ss.

On JANUARY 25, 2016, before me, JENNIFER ANN MULVEY,
Notary Public, personally appeared DAVE KIEF,
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jennifer Ann Mulvey
Signature

