

LEASE

between

CITY AND COUNTY OF SAN FRANCISCO, Lessor

and

THE GOLDEN GATE YACHT CLUB, Lessee

For the Lease of

**the Building at 1 Yacht Road and the Associated Berths
at
Marina Yacht Harbor,
San Francisco, California**

June ____, 2019

**CITY AND COUNTY OF SAN FRANCISCO
London Breed, Mayor**

SAN FRANCISCO RECREATION and PARK COMMISSION

Mark Buell, President

Allan Low, Vice President

Kat Anderson, Commissioner

Gloria Bonilla, Commissioner

Tom Harrison, Commissioner

Eric McDonnell, Commissioner

Larry Mazzola, Commissioner

Philip A. Ginsburg, General Manager

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(To be updated when body of lease is final)

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Exhibits

- A. Depiction of Premises
- B. Depiction of Dredge Area
- C. Commission Resolutions #11189 & #16169a: Resolution Governing The Use of Recreation and Park Department Properties By Private Organizations

- D. Assignment of Real Estate Lease and Agreement: Addendum to GGYCs US Small Business Administration Loan Document
- E. Youth Educational Program
- F. Description of 2018 Improvements
- G. First Source Program Agreement

GOLDEN GATE YACHT CLUB LEASE

AT

1 YACHT ROAD
MARINA YACHT HARBOR,

SAN FRANCISCO

This Lease, dated as of June ____, 2019, is by and between the City and County of San Francisco, a municipal corporation (“City” or “Lessor”) acting by and through its Recreation and Park Commission (“Commission”), and The Golden Gate Yacht Club, a California corporation (“Lessee”).

RECITALS

A. City and Lessee entered into that certain Golden Gate Yacht Club Lease at Marina Yacht Harbor, San Francisco, dated as of July 25, 1991 (the "Original Lease"), as amended by that certain First Amendment to the Golden Gate Yacht Club Lease dated February 1, 1999 (the "First Amendment"). The Original Lease, as amended by the First Amendment, shall be referred to as the "1991 Lease".

B. Under the 1991 Lease, Lessee leased from City certain land and water in the San Francisco Marina Small Craft Harbor described as the “Demised Premises” in Section 1 of the Original Lease (“Original Premises”), for the purpose of operating and maintaining a first rate and complete nonprofit recreational boating and racing oriented yacht club.

C. The term of the 1991 Lease expired on May 31, 2017, and Lessee has since remained at the Original Premises with City’s permission on a month to month holdover basis.

D. The Original Premises is within the area sometimes known as the “West Harbor”, which was transferred by the State of California to City under Chapter 437 of the Statutes of 1935, as amended by Chapter 670 of the Statutes of 1970 (as amended the "State Grant"). The State Grant requires the Original Premises to be used solely for aquatic, recreational, boulevard, park, and playground purposes, and restricts any City lease of the Original Premises to no more than forty (40) years.

E. City performed a major improvement project in the West Harbor (the "Harbor Renovation Project"), and as a result of such Harbor Renovation Project, certain berths in the Original Premises have been reconfigured.

F. The parties presently desire to terminate the 1991 Lease and enter into a new lease for the reconfigured premises, all on the terms and conditions more particularly set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the matters described in the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, City and Lessee agree as follows:

1. PREMISES

(a) Lease. Subject to the terms, covenants and conditions of this Lease, City leases to Lessee and Lessee leases from City, the real property outlined and labeled “Premises” on the attached Exhibit A (the “Premises”), which is comprised of a total land and water area of

approximately 22,000 square feet, a clubhouse, grounds, dock space, parking area, and nine (9) boat berths, and occupies 370 linear feet of berth. The Premises are under the jurisdiction of the City's Recreation and Park Department ("Department").

(b) Condition of Premises. Lessee acknowledges it has occupied the Premises pursuant to the Original Lease since June 1, 1992, and is aware of its condition. Lessor does not warrant the condition of the Premises in regard to safety, repair, fitness for use or otherwise, and Lessee hereby accepts the Premises in the condition in which the same may be on the day and at the time authorized herein and Lessor shall not be responsible for any loss, damage, or injury thereby. Lessee will not commit or permit any waste or injury or damage to any part of the Premises, or properties adjacent thereto, and will maintain and return the Premises at the expiration of the Term (as defined in Section 5) in as good condition and repair as of the Commencement Date (as defined in Section 5), reasonable and ordinary wear and tear thereof excepted.

(c) Unique Nature of Premises. Lessee acknowledges (a) the Premises are located along the waterfront and protected by a structure that is in a marine environment ("Seawall"), (b) there is a risk that all or a portion of the Premises and adjacent improvements and real property owned by City, including roads (collectively, the "Adjacent City Property"), will be inundated with water due to floods or sea level rise, (c) there is a risk that sea level rise will increase the cost of maintenance, repairs, and any alterations to the Premises, and (d) City does not guarantee the Seawall will adequately support the Premises, keep it above sea levels during the entire Term, or support or keep the Adjacent City Property above sea levels.

In addition, Lessee acknowledges that on September 21, 2007, the Federal Emergency Management Agency ("FEMA") issued a preliminary Flood Insurance Rate Map ("FIRM") tentatively identified the shoreline in and along the San Francisco Bay area as a special flood hazard area subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood" and consisting of "A zones" (areas subject to inundation by tidal surge) and "V zones" (areas subject to the additional hazards that accompany wave action). This area and these zones generally affect the Premises. FEMA has not yet issued a final FIRM for the Francisco Bay area. City's Board of Supervisors has further adopted a floodplain management ordinance governing new construction and substantial improvements in flood-prone areas of San Francisco (as amended, the "Floodplain Ordinance"), including the Premises. The Floodplain Ordinance imposes requirements on any new construction or substantial improvement of structures in such City-designated flood areas to minimize or eliminate flood hazard risks.

Finally, Lessee acknowledges that according to the United States Geological Survey, roughly one-quarter of the San Francisco Bay region may be exposed to liquefaction. More information about the potential liquefaction areas is at: <http://geomaps.wr.usgs.gov/sfgeo/liquefaction/susceptibility.html>. Lessee assumes the risk of the Seawall failing, the Premises and Adjacent City Property being inundated by floods, and the Premises and Adjacent City Property being damaged by liquefaction and agrees City has no obligation under this Lease to protect the Premises or the Adjacent City Property from flooding or to repair any damage to the Premises or the Adjacent City Property caused by flooding or to maintain, repair, or replace the Seawall or any other Adjacent City Property.

(d) Dredging. Lessee acknowledges City shall have no obligation to dredge the Premises or any other portion of the San Francisco Marina Small Craft Harbor, comprised of the East and West Harbors (collectively, the "Harbor"), under this Lease. Lessee shall not perform any dredging or dredging-related activities of the Harbor ("Dredging Work") without the prior written consent of the Department's General Manager ("General Manager"), which shall not be unreasonably withheld as long as the proposed Dredging Work is within the "Permitted Dredge Area" depicted in the attached Exhibit B. Lessee shall also obtain the prior written consent of the San Francisco Harbor Master to the proposed Dredging Work schedule so City can provide appropriate notice to its tenants in the area and coordinate safe water travel during the

performance of the proposed Dredging Work. If the General Manager consents in writing to any proposed Dredging Work, Lessee shall be solely responsible performing such proposed Dredging Work in compliance with all applicable laws and shall bear all costs associated with the Dredging Work, including hydrographic surveys, pre-dredge testing, sampling, chemical analyses, bioassays permitting, obtaining all necessary regulatory approvals and permits, and all consultant and dredging contracts. Lessee, at its sole cost, shall promptly provide copies to City of all pre-dredge and post-dredge surveys, submittals to all regulatory agencies with jurisdiction over the Dredging Work, soundings, reports, data, and any other information obtained in connection with the Dredging Work. Lessee shall be responsible for testing, sampling, removing, and disposing of the sediment, debris, and other materials it elects to dredge from the Marina Harbor all in accordance with this Lease. Dredging Work shall be performed in accordance with the requirements of the permit issued to Lessee by the Dredged Material Management Office. For avoidance of doubt, Lessee has no obligation to perform any dredging and the dredging requirements in this Section shall only apply if Lessee elects, in its sole discretion, to perform any dredging.

(e) Accessibility Disclosure. California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist (“CASp”) to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Lessee is hereby advised that the Premises have not been inspected by a CASp. A CASp can inspect the Premises and determine if they comply with all the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, City may not prohibit Lessee from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of Lessee if requested by Lessee. City and Lessee shall mutually agree on the arrangements for the time and manner of such CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

2. USE OF PREMISES

(a) Yacht Club. Lessee is granted the exclusive right to occupy and use the Premises to operate and maintain a first rate and complete nonprofit recreational boating and racing-oriented yacht club. Lessee shall provide on the Premises (1) a clubhouse with amenities for family-type participation, and (2) meeting room and dining facilities for the use of marine-oriented organizations and for yacht club functions and for banquet and event functions. It is further understood and agreed that the articles sold within the Yacht Club shall be of a general marine oriented character and nothing shall be sold therein which will be inappropriate to the end of maintaining the boating and yachting spirit. Lessee shall cooperate with the Commission in the development and implementation of programs to facilitate youth involvement in watercraft education and watercraft activities. Such involvement may include use of the club facilities.

Lessee shall, at all times during the Term hereof, actively use the Premises for the above purposes, and shall not at any time leave the Premises without written consent of Lessor. Lessee shall not permit anything to be done in or about the Premises, or bring or keep anything therein which will in any way conflict with any law, ordinance, rule, regulations or commit or suffer to be committed any waste upon the Premises, or use, or allow the Premises to be used for any improper, immoral or unlawful purpose, or place any load upon the floors, walls, ceiling or decking, moorings slips and docks which endanger the structures or obstruct the passageways in or about the Premises.

(b) Youth Educational Programs. Commencing not later than 30 days after the Commencement Date, Lessee shall implement the youth educational programs described in the attached Exhibit C.

(c) City Construction Projects. Notwithstanding Lessee's permitted use of the Premises, Lessee acknowledges and agrees that City reserves the right to conduct construction projects in the vicinity of the Premises that may impact Lessee's use of the Premises. Lessee waives all claims against City with respect to any such City construction-related impacts as long as City uses reasonable efforts to conduct such construction in a manner that minimizes impacts on Lessee's use of the Premises. Lessee agrees such reasonable efforts do not include those that would increase City's costs or cause it to incur construction delays.

3. OWNERSHIP OF IMPROVEMENTS; SBA LOAN

Lessee represents and warrants it has made the clubhouse improvements and alterations detailed in the attached Exhibit D (the "2018 Improvements") in compliance with all applicable laws and the terms set forth in Section 23 of the 1991 Lease. In consideration of the improvements (including the 2018 Improvements) made to the Premises by the Lessee prior to the Commencement Date, it is acknowledged that title to buildings and other improvements made within the Premises has historically rested with the Lessee. City and Lessee acknowledge the existing improvements and any contemplated improvements to the Premises will be the full responsibility of the Lessee and belong to the Lessee during the Term. All such improvements shall become the property of the Lessor immediately upon the expiration or earlier termination of the Term.

Lessee, during the Term, shall have no right to convey any interest in the improvements it makes to the Premises to any third party other than the Small Business Administration ("SBA") pursuant to that certain Loan Authorization and Agreement ("Loan Agreement") for Loan No. DLB-41326230-08 ("SBA Loan") between Lessee and the SBA dated as of June 12, 1990, as amended by a letter from the SBA to Lessee dated as of August 31, 1992, and countersigned by Lessee as of September 16, 1992, which among other things, increased the original principal amount of the SBA Loan to \$406,300. Lessee shall not modify the Loan Agreement or any related documents made by Lessee in connection with the SBA Loan in any manner that extends or expands the SBA's lien as to this Lease or the improvements at the Premises without first obtaining the General Manager's prior written consent. As of May ____, 2019, Lessee represents the outstanding principal amount of the SBA Loan is \$_____, with a maturity date of August 1, 2022, and monthly payments of \$1,944.00 that are fully amortizing over the remainder of the SBA Loan term.

4. POSSESSION OF PREMISES

Lessee shall have exclusive possession and control of the Premises subject to Lessor's right to inspect and to public access requirements, and may allow any assurances to the SBA for their access pursuant to the Loan Agreement.

5. TERM

The term of this Lease (the "Term") will commence on the full execution of this Lease (the "Commencement Date"), and shall terminate at 12:01 am on the eighteenth (18th) anniversary of such date; provided, however, that if Lessee is in default under the 1991 Lease and fails to cure such default within ten (10) days after receiving written notice of such default from City, City shall have the right to terminate this Lease by delivering written notice of such termination to Lessee. Provided City does not terminate this Lease pursuant to the foregoing sentence, the 1991 Lease shall terminate at 11:59 pm on the day immediately preceding the Commencement Date, provided, however, that the parties' indemnification obligations under the 1991 Lease shall survive such termination with respect to all claims, injuries, losses, damages, costs and expenses, including attorneys' fees, arising from or connected with circumstances, actions or omissions that occurred prior to such time.

6. RENT; ANNUAL MINIMUM RENT GUARANTEE; ADJUSTMENT TO ANNUAL MINIMUM RENT GUARANTEE.

(a) Percentage Rent; Rent. On or before the fifteenth day of each month during the Term, Lessee shall make monthly payments of ten percent (10%) of all its Gross Receipts (as defined in Section 7) for the preceding month to City ("Percentage Rent"). "Rent" shall mean Percentage Rent and all other payments to be made by Lessee to City under this Lease, whether or not any such amounts are specifically characterized as rent.

(b) Annual Minimum Rent Guarantee. Each year during the Term, Lessee shall pay Percentage Rent monthly as set forth above, but in no event shall the total Percentage Rent paid for any calendar year be less than less than \$85,000 per year (the "Annual Minimum Rent Guarantee"); provided that if the Commencement Date occurs, or this Lease expires or terminates, on a day other than December 31, the Annual Minimum Rent Guarantee for that partial year shall be prorated based on a 365-day year. On or before the date which is ninety (90) days following the close of each calendar year during the Term and ninety (90) days following the expiration or earlier termination of this Lease, Lessee shall deliver to Lessor a statement (the "Annual Gross Receipts Statement"), certified as correct by an officer of Lessee and otherwise in form satisfactory to Lessor. The Annual Gross Receipts Statement shall set forth the Gross Receipts as shown on Lessee's books, for the calendar year (or partial calendar year, as applicable) just concluded broken down by category, and the Percentage Rent paid during such calendar year (or partial calendar year, as applicable), and at the time Lessee delivers the Annual Gross Receipts Statement, Lessee shall pay Lessor any deficiency necessary to make up the Annual Minimum Rent Guarantee for the calendar year (or partial calendar year, as applicable) covered by such statement.

Commencing on January 1, 2021, on each January 1 of the Term (each such date an "Adjustment Date"), the **Annual** Minimum Rent Guarantee shall be adjusted as follows:

The Consumer Price Index All Urban Consumers (base years 1982-1984 = 100) for San Francisco-Oakland-Hayward area published by the United States Department of Labor, Bureau of Labor Statistics (the "Index") published most immediately preceding the Adjustment Date ("Adjustment Index"), shall be compared with the Index published most immediately preceding the Commencement Date (the "Beginning Index").

If the Adjustment Index has increased over the Beginning Index, the Annual Minimum Rent Guarantee on and after the Adjustment Date shall be set by multiplying the Annual Minimum Rent Guarantee by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index. In no event shall the Annual Minimum Rent Guarantee on or after the Adjustment Date be less than Annual Minimum Rent Guarantee in effect immediately prior to the Adjustment Date.

If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

(c) Harbor Maintenance Surcharge Fee. In addition to the Percentage Rent and Annual Minimum Rent Guarantee, on or before the fifteenth day of each month during the Term, Lessee shall make monthly payments to City equal to ten percent (10%) of the membership fees and dock fees actually collected by Lessee for the month immediately preceding such payment (collectively, the "Harbor Fees"). The Harbor Fees shall be City's property, provided that City will only use the Harbor Fees for major Harbor maintenance costs (which include, but are not limited to, dredging). City will use good faith efforts to use the Harbor Fees it receives for major Harbor maintenance during the Term; provided, however, that if the General Manager reasonably determines the Department will not have sufficient funds for major Harbor

maintenance during the Term, City will suspend Lessee's obligation to pay Harbor Fees. Such suspension shall not require City to return any delivered Harbor Fees.

To further supplement major Harbor maintenance costs, if City enters into any written agreement during the Term that grants a party the right to use Harbor berths, or amends during the Term any existing agreement that grants a party the right to use Harbor berths, City will require such party to contribute towards major Harbor maintenance costs. Nothing in the foregoing sentence will require City to include such requirement in any berth agreement resulting from actual or threatened eminent domain. Subject to City's specific obligations in this subsection, Lessee agrees City has no obligation to perform any Harbor maintenance (major or routine) under this Lease.

(d) Payments; Gross Receipts Statements. Each payment of Percentage Rent and Harbor Fees shall be accompanied with a fully completed concessionaire payment statement showing the Gross Receipts for the period applicable to such payment. Such statements shall comply in form and methods of accounting as reasonably directed by the City's Controller, as customary for similarly situated tenants.

It shall be Lessee's responsibility to see that all payments are postmarked by the due date and delivered to Lessor. All payments shall be made payable to the Recreation and Park Department, Property Management Office, McLaren Lodge, Golden Gate Park, 201 Stanyan Street, San Francisco, CA 94117. Lessee hereby acknowledges and agrees that if payment is not made within five (5) days after written notice from City, Lessee will be assessed a late charge of five percent (5%), of the amount due for the period of time which the payment is late and said late charges shall be due and payable on demand by Lessor. Rents not paid when due shall bear interest from the date due until paid at one percent (1%) per month.

Acceptance of any late charge shall not constitute a waiver of Lessee's default with respect to the overdue amount, or prevent the Department from exercising any of the other rights and remedies available to the Department.

Lessee shall maintain adequate documentation to support its reports of Gross Receipts, including a general ledger, monthly income statements, daily sales summaries, and cash register tapes that have non-resettable features. Lessee shall use a system for itemizing Gross Receipts with a computerized cash register system or other approved point of sale system with non-resettable features, which shall be used for all its monetary transactions with respect to the Premises.

7. DEFINITION OF GROSS RECEIPTS

The term "Gross Receipts" as herein used is defined to mean the total gross revenues derived from dues and assessments to members, day use fees, guest berth fees, earned income and all other revenues derived by Lessee or any other person, firm or corporation from operations of Lessee on the Premises, however, that only the commissions received by Lessee from operations of vending machines at the Premises by an independent third party shall be and become a part of "Gross Receipts" within the meaning hereof.

The following are the only sums which may be deducted from "Gross Receipts" for the purposes of calculating percentage rent:

1. Taxes, such as California sales tax, collected from patrons and payable directly to the taxing authority;

2. The monthly payments of \$1,944.00 made by Lessee to the SBA through the SBA Loan maturity date of August 1, 2022, or the monthly payment of any loan obtained by Lessee to refinance the SBA Loan if the General Manager has approved such refinancing and the amount of such monthly payment in writing; and

3. Possessory interest taxes owed by Lessee as a result of this Lease, if any.

8. ACCOUNTING AND RECORDS

Lessee shall install and maintain such bookkeeping and accounting methods, and methods of collection of monies as shall permit the Lessor accurately to compute the "Gross Receipts" from all operations of Lessee and said records shall be made reasonably available to Lessor for such purpose. The Controller of the City and County of San Francisco, or any other authorized representative of the City and County of San Francisco, or the Lessor shall have the right to examine the books and records of the Lessee at any reasonable time for the purpose of auditing the same.

Lessee shall keep full, true and correct books of account showing the amounts and character of items and articles sold or charged in or about the Premises and said books of account shall at all times be open and available for inspection by Lessor or its representatives. Lessee shall also use a cash register, with tape, built-in features such as the non-resettable sequential transactions, date, and time on which all sales shall be recorded. Lessee shall retain until needed hereunder such original source documents as are necessary for verification of Lessee's reports of gross sales, according to the requirements of the Controller's office, City and County of San Francisco.

9. AUDIT OF BOOKS

The books of accounts and records of Lessee covering the Gross Receipts shall, at the cost and expense of Lessee, be audited annually by a certified public accountant firm. On or before the thirtieth (30th) day of each April in the Term, and the ninetieth (90th) day immediately following the expiration or earlier termination of this Lease, a certified copy of the report of such audit for the previous calendar year (or partial calendar year, as applicable) shall be furnished to the General Manager. Lessee shall have available at all times the books of accounts and records of Lessee's operation upon request for inspection by the Recreation and Park Department and the Controller. Lessee will also cooperate with any San Francisco Budget Analyst management audit of Lessee's financial records to investigate whether Lessee is operating as efficiently, effectively, and economically as reasonably possible. Lessee will use good faith efforts to implement any reasonable recommendations resulting from the audit.

10. MAINTENANCE ACCOUNT

Lessee shall establish a segregated interest-bearing depository account for use for the purposes set forth in this Section, with a depository institution reasonably approved by City in writing (the "Maintenance Account"). In addition to Rent described in this Lease, on each June 1 of the Term, commencing on June 1, 2020, Lessee shall deposit into the Maintenance Account the lesser of 3% of Gross Receipts for the prior calendar year or Forty-Five Thousand Dollars (\$45,000), subject to a credit for Qualifying In-Kind Contributions actually received in the previous twelve (12) month period, as described below. The funds in the Maintenance Account (the "Maintenance Funds") shall be used solely for the payment of Qualifying Non-Routine Work. Commencing on June 1, 2020, Lessee shall annually submit to City a maintenance plan, reasonably detailing anticipated non-routine improvement, repair, replacement and maintenance work to be performed to the Premises and an estimated budget for such work, and the General Manager shall confirm in writing whether the proposed work would qualify as appropriate non-routine improvement, repair, replacement or maintenance of the Premises (which confirmation shall not be unreasonably withheld or delayed). Lessee may update the maintenance plan and estimated budget from time to time during the year by written notice to City.

"Qualifying Non-Routine Work" means the non-routine improvement, repair, replacement or maintenance of the Premises that has been proposed by Lessee and confirmed as appropriate in advance by the General Manager in writing as provided above. If part or all of the

materials or labor required to perform Qualifying Non-Routine Work is donated to Lessee, Lessee shall provide City with reasonable written documentation of the donation (such as signed and dated time sheets or signed and dated receipts for materials) and value thereof, based on standard objective sources reasonably approved by the General Manager, and provided that the General Manager approves the documentation and the valuation (which approval shall not be unreasonably withheld), the approved value of the donated materials or labor (the "Qualifying In-Kind Contributions") shall be credited against the next deposit into the Maintenance Account due hereunder. If the Qualifying Non-Routine Work (including, if applicable, the portion thereof provided through Qualifying In-Kind Contributions) exceeds the minimum annual deposit into the Maintenance Fund required by this Section for any particular year or years, then the amount of such overage shall be credited to the deposit requirements for subsequent years.

Lessee shall keep accurate books and records of all costs incurred in connection with the Qualifying Non-Routine Work in accordance with accounting principles generally accepted in the construction industry and retain copies of the deposit slips (or other documentation of the deposits required hereunder) and documentation of the Qualifying In-Kind Contributions as permanent records, and City may at City's election review any such records from time to time and upon reasonable notice. Commencing on June 1, 2020, and on each June 1 thereafter, Lessee shall deliver to City an itemized statement of the payments made by Lessee from the Maintenance Account during the preceding twelve month period, accompanied by reasonable documentation substantiating such expenditures and the applicable dates such expenditures were made.

The insufficiency of the balance in the Maintenance Account shall not abrogate Lessee's obligation to fulfill the preservation and maintenance covenants in this Lease. Upon termination of this Lease, any unexpended monies within the Maintenance Account shall become the property of the City.

11. SECURITY DEPOSIT

At Lessee's direction, City retained the \$5,000 security deposit made by Lessee under the Original Lease as a security deposit ("Security Deposit") to guarantee Lessee's payment of Rent and faithful performance of all of the terms and conditions of this Lease. City shall be entitled to retain such deposit or such portion thereof as shall be sufficient to reimburse loss or damages it incurs in the event of breach by Lessee of any or all of the terms, covenants and conditions of this Lease. The Security Deposit shall be returned to Lessee following expiration of the Lease if Lessee has fully and faithfully performed all of the terms, covenants and conditions hereof.

12. TAXES, ASSESSMENTS AND LIENS

Lessee shall pay for and obtain all licenses and permits necessary for the operations hereunder and shall pay all fees, taxes, including possessory interest taxes, and charges lawfully assessed against it. Should Lessee desire to contest the legal validity thereof, the same may be paid under protest. Lessee agrees not to suffer any lien to be imposed upon the Premises or upon any equipment or personal property located thereon without promptly discharging the same.

13. UTILITIES

Lessee hereby agrees to pay for all costs of utility services including, but not limited to, gas, electricity, telephone service, water, sewer and all other services necessary and required for the occupancy and use of the Premises under the terms of this Lease from the meters in to the Premises, including the cost of bringing the utilities to the locations where needed or required. Lessee shall be responsible for maintenance of the sewer line which runs underneath the channel, and for any upgrade of the sewer service. Lessee shall be responsible for compliance with all applicable codes regarding utility services and connections. Lessee shall be responsible for

reasonable accommodation which may be necessary within the Premises during any dredging which shall be done within the Marina Yacht Harbor.

14. DAYS AND HOURS OF OPERATION

Lessee shall actively operate the Premises and use its best business-like efforts to further the operations thereof. Lessee shall be open for business at least Friday evenings and weekends.

15. QUALITY OF SERVICE

Lessee hereby agrees that all goods offered for sale shall be of good quality and quantity and that the service shall be prompt, clean, courteous and efficient. Lessor shall have the right to raise objections to the conditions of the Premises, and quality of the food, items or articles sold, as well as the character of the service rendered and to require all objectionable practices discontinued and remedied. All waste material shall be stored in a manner satisfactory to Lessor and Lessee agrees to promptly dispose of all waste material at its own expense.

16. PUBLIC ACCESS

Lessee acknowledges the provisions of Commission Resolution 11189, a copy of which is attached hereto as Exhibit E. Lessee further agrees that Lessee shall obtain the prior written approval of the Lessor for its method of operation in connection with the manner by which members of Lessee and non-members gain access to the Premises and are permitted the use of facilities, equipment and areas on or about the Premises, including any conditions imposed on members of Lessee or non-members before such persons are entitled to use the facilities and amenities of the Lessee. The method of operation described herein and proposed by Lessee shall be filed with the Lessor and said method of operation shall not be altered by Lessee without the written approval of Lessor first had and obtained.

Lessee will provide access to the public according to the provisions of Commission Resolution #11189, and with the following specifications:

(a) Restrooms must be available for free public use whenever the Premises is open for Lessee's members.

(b) The Premises must be made available to the public at least one-half of the total days and hours they are open for Lessee's members, including at least one weekend day and evening per week.

(c) A \$10 day-use fee per person will be charged for non-member access to the Premises. Any changes in such day-use fees must be set by the Commission.

(d) Notices shall be posted conspicuously at all entrances to the Premises, advising members of the public (i) that the property is a public park facility operated on behalf of the Commission by Lessee and open to the general public on the same terms and conditions it is available to Tenant's members, (ii) of the hours during which the property is open or otherwise available to the public, (iii) of the procedures and fees for use of the property, and (iv) that membership in Lessee is open and available to all interested parties.

17. RATES AND CHARGES

Rates and charges for the following activities shall be filed with and subject to prior approval by Commission. Any change in the rates or charges shall be subject to prior approval by the Commission: (a) membership dues and initiation fees; (b) special assessments charged to members; and (c) day use fees for the Premises by non-members.

18. USE OF GUEST BERTHS

Lessee agrees that guest berths are to be used only by bonafide guests of the Lessee or visiting guests of Lessee's members, or in connection with Lessee-sponsored activities such as competitive boating events. No boat, which is not owned by the club, may be berthed at Lessee guest berths for longer than fourteen days without prior notification to the Harbormaster's office. Long-term berthing at designated guest berths is not permitted. Restrictions on use of guest berths will not apply during the months November through March of each year. Rental rates for guest berths shall be established by the Lessee. Visiting members of the public may use guest berths to the extent they are not required for club activities by payment of the day use fee and the guest berth rental.

19. PREMISES TO BE KEPT CLEAN

Lessee agrees to keep the Premises and all fixtures and equipment clean, neat, safe, and sanitary and in good order at all times. Lessee agrees to remove all waste, trash, rubbish, papers, cartons and refuse from the Premises used solely for and by Lessee in containers provided for that purpose by Lessee. Lessee also agrees to keep all waste, trash, rubbish, papers, cartons, and refuse in a dumpster and keep dumpster area clean, neat, safe, sanitary and in good order at all times. If Lessee fails after notice from Lessor to maintain, repair or keep the Premises clean and orderly, such action shall be constituted a breach of the Lease.

21. NO REPAIRS BY LESSOR

Under no circumstances shall City be responsible for repairing the Premises, including but not limited to its improvements, personal property, equipment, machinery, landscaping, parking lot area and guest berths. Lessee expressly waives the benefit of any existing or future laws or judicial or administrative decision that would otherwise permit it to make repairs or replacements at City's expense, or to terminate this Lease because of City's failure to keep the Premises or any adjoining property (including, without limitation, access roads, utilities and other infrastructure serving the Premises) or any part thereof in good order, condition or repair, or to abate or reduce any of Lessee's obligations under this Lease on account of the Premises or any adjoining property (including, without limitation, access roads, utilities and other infrastructure serving the Premises) or any part thereof being in need of repair or replacement. Without limiting the foregoing, Lessee expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Lessee to terminate this Lease and with respect to any obligations of City for tenantability of the Premises and any right of Lessee to make repairs or replacements and deduct the cost thereof from Rent.

22. LESSEE TO PAY FOR SERVICES AND DAMAGES

Lessee hereby agrees to pay promptly all persons, firms, and corporations, including the Lessor, all amounts due under the terms of this Lease and all amounts due for telephone services, gas and other services, wages, equipment, materials, supplies, merchandise and commodities furnished to said Lessee or used in connection with the construction, installation, operation and maintenance of the Premises and all damages to persons or property due to any negligence, wantonness, malice or other act or omission of the Lessee or of any person in the employ or acting in the interest of or under the direction of the Lessee.

23. REPAIR, MAINTENANCE AND IMPROVEMENTS BY LESSEE

Lessee, at its own cost and expense, shall keep and maintain the Premises and all improvements thereon and such improvements as will be constructed thereon in good order and repair and in good and safe condition and shall make all repairs necessary thereto. All alterations, improvements and repairs shall be in conformity with the general architectural requirements of the City, acting in its regulatory capacity, and shall meet all health and building codes and

ordinances as well as applicable State and Federal regulations. Before any alterations, improvements and repairs are done to the Premises, Lessee must obtain all necessary permits. Any alterations, improvements and repairs to the Premises must be inspected by the appropriate City agencies as well as by the Department.

Lessee shall not construct, install or otherwise place any improvements or make or permit any alterations in, to or about the Premises without the prior written consent of the General Manager in each instance, which the General Manager may give or withhold in his or her sole and absolute discretion with respect to any improvements or alterations visible from the exterior of the buildings and in his or her reasonable discretion with regard to any interior improvements or alterations not visible from the exterior of the buildings.

Subject to the General Manager's consent as provided above, any permitted improvements or alterations shall be done at Lessee's sole expense (i) in strict accordance with designs, plans and specifications approved in advance by the General Manager in writing, (ii) by duly licensed and bonded contractors or mechanics approved by the General Manager, (iii) in a good and professional manner, (iv) in strict compliance with all laws (including, without limitation, all health, disabled access and building codes and ordinances), and (v) subject to all other conditions that the General Manager or the San Francisco Recreation and Park Commission may reasonably impose, including, without limitation, provision of such completion security as is reasonably acceptable to City.

In no event shall the construction or installation of any such improvements or the making of any alterations impair the use or operation of Department facilities, or any portion thereof, or the Department's access thereto. Prior to the commencement of any work on the premises to construct any permitted improvements or make any permitted alterations, Lessee, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to City. No material change from the plans and specifications approved by City may be made without City's prior written consent. City and its agents, employees, officers, contractors and representatives ("Agents") shall have the right to inspect the course of such construction at all reasonable times upon reasonable notice. Upon completion of such improvements or alterations, upon City's request, Lessee shall furnish City with a complete set of final as-built plans and specifications. Lessee shall require from each contractor and subcontractor performing any work on or about the premises a policy of commercial general liability insurance, with such limits as may reasonably be required by City from time to time, but in any event not less than Two Million Dollars (\$2,000,000) combined single limit.

24. IMPROVEMENTS BECOME CITY'S PROPERTY

Any alterations, additions, improvements and repairs affixed to the Premises shall become the City's property immediately upon the expiration or earlier termination of this Lease, and shall remain upon and be surrendered with the Premises upon expiration or sooner termination of this Lease, except that Lessee shall retain ownership and shall have the right to remove all fixtures, furniture, furnishings and personal property that were used by Lessee in the operation of the Premises, were purchased by or added to the Premises of Lessee, and can be removed from the Premises without damage to the walls, floors or other appurtenances. Lessee shall obtain City's written approval before making any alterations or improvements and repairs performed by Lessee shall meet all health and building codes and ordinances as well as applicable State and Federal regulations. City agrees not to unreasonably withhold its consent to such requested alterations, additions, improvements and repairs.

25. EQUIPMENT/TRADE FIXTURES/MATERIALS/SUPPLIES

Lessee hereby agrees to, at Lessee's own expense, furnish and install any and all equipment, trade fixtures, materials and supplies, as well as any and all other items and services necessary and required for the proper operation and maintenance of the Premises.

26. CODE COMPLIANCE

Lessee agrees that they will abide by all laws and governmental orders or regulations, and amendments thereto, controlling or limiting the use of the Premises. Lessee agrees that they will use the Premises herein designated for no purpose other than herein above specified. Lessee does hereby agree to comply with all police, health, fire and safety rules and regulations of the City and County of San Francisco and the State of California pertaining to the operations hereunder and to the sale of food and refreshments and to secure all necessary permits prior to the first day of operation under the terms of this Lease.

27. HAZARDOUS MATERIALS/PESTICIDES

(a) No Hazardous Materials. Lessee covenants and agrees that neither Lessee nor any of its Agents or clients, customers, invitees, guests, members, licensees, vendors, assignees and sublessees ("Invitees") shall cause or permit any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or any improvements thereon ("Improvements") or transported to or from the Premises or any Improvements, other than typical cleaning products, typical material used for office work at the Premises, and fuel and oil stored within vessels parked in the boat slips, all in compliance with applicable laws. Notwithstanding the foregoing, Lessee shall not be responsible for any handling of Hazardous Materials by members of the public outside of Lessee's control outside of the interior of buildings on the Premises or the handling of Hazardous Materials by City, except to the extent such handling is caused by, arises from, or is exacerbated by the negligence or willful misconduct of Lessee or any Agent or Invitee of Lessee.

Lessee shall immediately notify City if and when Lessee learns or has reason to believe there has been any Release (as defined in the following subsection) of Hazardous Material in, on or about the Premises or any Improvements. City may from time to time request Lessee to provide adequate information for City to determine that any Hazardous Material permitted hereunder is being handled in compliance with all applicable present or future federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises (including any permitted Improvements) and any other property, including, without limitation, soil, air and groundwater conditions ("Environmental Laws"), and Lessee shall promptly provide all such information. Without limiting City's right to access the Premises pursuant to the terms and conditions of this Lease or as provided by applicable law, City and its Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof at all reasonable times upon reasonable advance oral or written notice to Lessee (except in the event of an emergency).

As used herein, "Hazardous Material" means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health and Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Premises, any improvements to be constructed on the Premises by or on behalf of Lessee, or are naturally occurring substances on, in or about the Premises; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids.

(b) Lessee's Environmental Indemnity. If Lessee breaches any of its obligations contained in the foregoing subsection (a), or, if any act or omission or negligence of Lessee or any of its Agents or Invitees results in any Release (as defined below) of Hazardous Material in, on, under or about the Premises (including any Improvements thereon) or any other City property, without limiting Lessee's general indemnity contained in this Lease, Lessee, on behalf of itself and its successors and assigns, shall indemnify, protect, defend and hold harmless City, including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, the Department, and all of its and their respective Agents, and their respective heirs, legal representatives, successors and assigns, and each of them (collectively, the "Indemnified Parties") from and against all Hazardous Materials claims arising during or after the Term of this Lease to the extent relating to such Release. The foregoing Indemnity includes, without limitation, all costs associated with the Investigation and Remediation (as such terms are defined below) of Hazardous Material and with the restoration of the Premises or any other City property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other City property to the extent relating to such Release. Without limiting the foregoing, if Lessee or any of Lessee's Agents or Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises or any other City property, Lessee shall, immediately, at no expense to City, take any and all appropriate actions to return the Premises or other City property affected thereby to the condition existing prior to such Release and otherwise Investigate and Remediate the Release in accordance with all Environmental Laws. Lessee shall provide City with written notice of and afford City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

As used in this Lease, (i) "Release" means any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any improvements, or in, on, under or about the Premises or Recreation and Park Department facilities or any portion thereof, (ii) "Investigation" means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises, any improvements or any portion thereof or which have been, are being, or threaten to be Released into the environment, including, without limitation, preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the Premises or any improvements, and (iii) "Remediation" means any activities undertaken to clean up, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material located in, on, under or about the Premises or Recreation and Park Department facilities or which have been, are being, or threaten to be Released into the environment, and includes, without limitation, those actions included within the definition of "remedy" or "remedial action" in California Health and Safety Code Section 25322 and "remove" or "removal" in California Health and Safety Code Section 25323.

(c) Hazardous Substance Disclosure. California law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Lessee is hereby advised that occupation of the Premises may lead to exposure to Hazardous Materials such as, but not limited to, gasoline, diesel and other vehicle fluids, vehicle exhaust, cleaning fluids, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. Lessee further acknowledges it has been in sole possession of the Premises since pursuant to the Original Lease since June 1, 1992. By execution of this Lease, Lessee acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes.

(d) Restrictions on Use of Pesticides. Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "IPM Ordinance") describes an integrated pest management ("IPM") policy to be implemented by all City departments. Lessee shall not use or apply or allow the use or application of any pesticides on the Premises or

contract with any party to provide pest abatement or control services to the Premises without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Lessee may need to apply to the Premises during the term of this Lease, (ii) describes the steps Lessee will take to meet the City's IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Lessee's primary IPM contact person with the City. Lessee shall comply, and shall require all of Lessee's contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Lessee were a City department. Among other matters, such provisions of the IPM Ordinance: (A) provide for the use of pesticides only as a last resort, (B) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (C) impose certain notice requirements, and (D) require Lessee to keep certain records and to report to City all pesticide use at the Premises by Lessee's staff or contractors. If Lessee or Lessee's contractor will apply pesticides to outdoor areas at the Premises, Lessee must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("CDPR") and any such pesticide application shall be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website.

28. RIGHTS NOT TRANSFERABLE

It is expressly agreed that this Lease is granted based in part on the personal qualifications of Lessee in the conduct of the yacht club as stipulated in this Lease. The rights and privileges herein given are granted to Lessee and the same shall not be transferable by operation of law. Lessee shall not assign or transfer any right, privilege or license conferred by this Lease, either in whole or in part, or sublet the Premises without having obtained in advance the written consent of the Lessor. However, Lessee shall have the right to assign this Lease to an entity that is an affiliate of Lessee or a successor entity that will operate the yacht club for the same purposes as Lessee subject to the prior written consent of the General Manager, which consent shall not be unreasonably withheld.

The Lease shall not be assignable except to the SBA and may be re-assigned by SBA upon Lessee's default under either this Lease or the Loan Agreement. Lessee understands and agrees that City shall have the absolute right to withhold consent to any other proposed assignment or sublease to any third party for any reason. Until the SBA Loan is paid in full or otherwise satisfied (the "SBA Completion Event"), it is expressly agreed that SBA is a third party beneficiary under this Lease and any successive Lease and provisions for the protection of the interests of SBA are set forth in Section 40. It is further agreed by the parties hereto that the SBA's rights under this Lease and an Assignment of Real Estate Lease and Agreement dated as of _____, 201__, by and between the SBA and Lessee, consented to by City, and attached as Exhibit F, shall be cumulative and not alternate and shall be in addition to any and all rights which SBA may have as a matter of law.

29. INDEMNIFICATION

(a) Waiver of Claims. Lessee covenants and agrees that City shall not be responsible for or liable to Lessee for, and, to the fullest extent allowed by Law, Lessee hereby waives all rights against City and its Agents and releases City and its Agents from, any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs ("Losses"), including, but not limited to,

incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises or any other City property, from any cause whatsoever. Nothing herein shall relieve City from liability to the extent caused by the gross negligence or willful misconduct of City or its Agents or bar Lessee from enforcing the terms and conditions of this Lease, but City shall not be liable under any circumstances for any consequential, incidental or punitive damages. Without limiting the foregoing:

(i) Lessee expressly acknowledges and agrees that the rent payable hereunder does not take into account any potential liability of City for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to the Improvements or Lessee's uses hereunder. City would not be willing to enter into this Lease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of City or its Agents, and Lessee expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Lessee or other waivers contained in this Lease and as a material part of the consideration for this Lease, Lessee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against City for consequential and incidental damages (including without limitation, lost profits), and covenants not to sue for such damages, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, arising out of this Lease or the uses on the Premises authorized hereunder, including, without limitation, consequential and incidental damages arising as a result of any interference with uses conducted by Lessee pursuant to this Lease regardless of the cause, and whether or not due to the negligence or gross negligence of City or its Agents.

(ii) In connection with the foregoing releases, Lessee acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Lessee acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims of the type released hereunder. Lessee realizes and acknowledges that it has agreed upon this Lease and the Second Amendment to this Lease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any termination of this Lease.

(b) Lessee's Indemnity. Lessee, on behalf of itself and its successors and assigns, shall indemnify, protect, defend and hold harmless City and the other Indemnified Parties from and against any and all Losses to the extent incurred in connection with or arising directly or indirectly, in whole or in part, out of: (i) any accident, injury to or death of a person, including, without limitation, Agents and Invitees of Lessee, or loss of or damage to property (including, without limitation, the Recreation and Park Department facilities) howsoever or by whomsoever caused, occurring in, on or about the Premises or any other City property; (ii) any default by Lessee in the observation or performance of any of the terms, covenants or conditions of this Lease to be observed or performed on Lessee's part; (iii) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Lessee, its Agents or Invitees or any person or entity claiming through or under any of them, of the Premises or any Improvements; (iv) the condition of the Premises or any Improvements constructed by or on behalf of Lessee, or Lessee's failure to properly repair or maintain any Improvements on the Premises; (v) any construction or other work undertaken by Lessee on or about the Premises or any Improvements whether before or during the Term of this Lease; or (vi) any acts, omissions

or negligence of Lessee, its Agents or Invitees, or of any trespassers, in, on or about the Premises or any Improvements; all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable Law in effect on or validly retroactive to the date of this Lease and further except only such Losses to the extent caused by the gross negligence or intentional wrongful acts and omissions of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any Loss. Lessee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Lessee by City and continues at all times thereafter. Lessee's obligations under this Section shall survive the expiration or sooner termination of the Lease.

30. INSURANCE

(a) Coverage. Lessee shall procure and maintain during the term of this Lease the following insurance from a California licensed carrier:

(i) Worker's Compensation, with Employer's Liability limits not less than \$1,000,000 each accident.

(ii) Commercial General Liability Insurance with limits not less than Two Million Dollars (\$2,000,000) combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Two Hundred Fifty Thousand Dollars (\$250,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU). If Lessee's operations at the Premises include the sale or other provision of alcoholic beverages, such coverage shall include legal liquor liability coverage with limits not less than One Million Dollars (\$1,000,000) each occurrence.

(iii) Comprehensive Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit Bodily Injury and Property Damage, including Employer's non-ownership liability and hired auto coverages.

(iv) Property insurance on building and fixtures insuring against the perils of fire, lightning, extended coverage perils, vandalism and malicious mischief in an amount equal to 100% of the replacement value. Any loss shall be appraised by a licensed appraiser. Until the SBA Completion Event occurs, SBA shall be designated a Loss-Payee on the insurance policy insuring against the aforesaid perils. After the SBA Completion Event occurs, City shall be designated a sole Loss-Payee on the insurance policy insuring against the aforesaid perils.

(v) Sexual molestation and abuse coverage with minimum limits of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate. Coverage may be held as a separate policy or included by endorsement in the Commercial General Liability or Errors and Omissions policy.

(b) Endorsements. All insurance policies described above shall be endorsed to provide the following:

(i) Name as Additional Insureds the City and County of San Francisco, Recreation and Park Department, its officers, agents and employees.

(ii) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(iii) That with respect to the City and County of San Francisco, the insurance will operate as primary insurance and no other insurance effected by said City and County of San Francisco will be called on to contribute to a loss covered by said policy or policies. If such policy or policies also provides insurance for Lessee or anyone other than said City and County of San Francisco, then such policy or policies shall also contain a standard cross liability endorsement. Said policy or policies shall be effected in insurance company or companies having a policy holder's surplus of at least \$10,000,000.

(iv) All policies shall be endorsed to provide thirty (30) days advance written notice to the City of cancellation, non-renewal or reduction in coverage, mailed to the following:

Recreation and Park Department
Property Management
McLaren Lodge Annex
501 Stanyan Street
San Francisco, CA 94117

Add endorsement showing a waiver of subrogation for workers compensation insurance

(c) Certificates. Certificates of insurance evidencing all coverage above shall be furnished to the City ten (10) days before the Commencement Date. If City has not received satisfactory evidence of the required insurance coverage by the stated deadline, City may proceed with obtaining insurance to protect its interests at the expense of the Lessee.

31. WAIVER OF DAMAGE

Lessee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of any services to, in or about the Premises and against the City and County of San Francisco and further releases and discharges the Lessor, the City and County of San Francisco, its commissioners, officers, servants, agents and employees from any and all demands, claims, judgements, actions and causes arising from any of the causes aforesaid, excepting matters caused by Lessor's willful act, or from Lessor's failure to keep the surrounding area in good condition.

32. WAIVER OF BREACH

The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition for any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed a waiver of any prior occurring breach by Lessee of any term, covenant or condition herein contained regardless of the Lessor's knowledge of such prior existing breach at the time of acceptance of such rent.

33. RIGHT TO AMEND

City and Lessee reserve the right to amend by supplementing this Lease at any time by mutual consent for any purpose related to the functions herein and the administration thereof or to overcome any unforeseen problems arising hereafter. Furthermore, it is mutually understood and agreed no alteration or variation of the terms of this Lease shall be valid unless made in writing and signed by the parties hereto, and that no oral understandings or agreements not incorporated herein, and no alteration or variations of the terms hereof, unless made in writing between the parties hereto, shall be binding on any of the parties hereto. Until the SBA Loan is

fully paid or otherwise satisfied, no amendments will be made to the Lease without the written consent of SBA, which shall not be unreasonably withheld.

34. RENT CREDIT

If City requires and authorizes improvements to be made by Lessee to the Premises beyond those contemplated in this Lease, Lessee may be allowed rent credits for those authorized improvements, with the General Manager's prior written approval.

35. DESTRUCTION OF PREMISES

In the event of the destruction of the Premises, or any part thereof, in which the operation is situated so as to make the service untenable and which destruction Lessee elects not to repair, the rights and privileges granted hereunder may be terminated by City without any legal obligation to Lessee by reason of said termination. If City terminates this Lease pursuant to this Section, Lessee shall be relieved of all obligations to make payments of Rent that accrue between the date of such destruction and such termination.

36. FORCE MAJEURE

Should any matter or condition beyond the control of either party hereto, such as war, public emergency or calamity, fire, earthquake, flood, Act of God, strike, epidemic outbreaks, or any other labor disturbance, or any governmental restriction, prevent performance of this Lease in accordance with the provisions hereof, this Lease, together with the rights and privileges granted herein, shall be immediately suspended or terminated and Lessor shall be under no legal obligation to Lessee by reason of said suspension or termination.

37. CONDEMNATION

If there are any condemnation proceedings for any portion of the Premises during the pendency of this Lease, this Lease shall terminate at the option of either party hereto and Lessee hereby waives and surrenders any rights to compensation from City or Commission in said proceedings founded upon the existence of this Lease.

38. BANKRUPTCY OR REORGANIZATION PROCEEDINGS

If Lessee files a voluntary petition in bankruptcy or proceedings in bankruptcy are instituted against Lessee and Lessee is thereafter adjudicated bankrupt pursuant to such proceedings, or a court takes jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act, or a receiver of Lessee's assets is appointed, or if Lessee executes an assignment for the benefit of its own creditors, Lessor shall have the right to terminate this Lease. Such termination shall, in such instance, be deemed to occur upon the happening of any of said events and from thenceforth Lessee shall have no rights in or to the Premises, or to any of the rights herein conferred, and Lessor shall have the right to take possession of said Premises.

39. DEFAULT

The occurrence of any of the following events shall constitute default under this Lease (each, an "Event of Default"):

(a) Lessee defaults in the due and punctual payment of Rent, and such default continues for five (5) days after written notice from Lessor; however, Lessee will not be entitled to more than one (1) notice for monetary defaults during any twelve (12) month period, and if after such notice any Rent is not paid when due, Default will be considered to have occurred without further notice.

- (b) Lessee vacates or abandons the Premises.
- (c) The appointment of a receiver to take substantially all of the assets of the Lessee.
- (d) A general assignment by the Lessee for the benefit of creditors.
- (e) Lessee files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state.
- (f) Lessee breaches any of the other agreements, terms, covenants or conditions which this Lease requires Lessee to perform, and such breach continues for a period of fifteen (15) days after written notice from Lessor to Lessee; or if such breach cannot be cured reasonably within such fifteen (15) day period and Lessee fails to commence and proceed diligently to cure such breach within a reasonable time period.
- (g) Lessee defaults in payment of its debt to the SBA, or violates any of the terms and conditions of the Loan Agreement.

On the occurrence of any Event of Default, Lessor may terminate this Lease as provided in Section 40.

40. TERMINATION

Other than in cases where there is a default in any payment of Rent, City may elect to terminate this Lease if the Lessee fails to timely perform its obligations under this Lease or violates any of the terms, conditions, stipulations, or covenants of this Lease, and the Lessee fails to remedy the same within fifteen (15) days after written demand from City to do so, or if the breach is considered by City to be both material and irremediable, then this Lease shall terminate immediately upon a date certain as set by City following Lessee's receipt of City's notice of termination.

If the Lessee fails to timely pay the Rent due hereunder and fails to cure said default within five (5) days after written demand from City to do so, City may elect to terminate this Lease.

If Lessee defaults on this Lease, City shall notify the SBA immediately in writing at 211 Main Street, 4th Floor, San Francisco, CA 94105-1988. City and SBA shall immediately commence joint negotiations regarding the satisfactory disposition of the leasehold created by this Lease. City has executed an Assignment of Real Estate Lease and Agreement in favor of SBA which provides that in the event of default under the Lease or the Loan Agreement, SBA may transfer and assign this Lease to such persons who are qualified to assume the SBA Loan and who meet the City's qualifications. Alternatively, City may terminate this Lease and enter into a new lease with a qualified candidate selected by the SBA. City agrees that any such candidate will be required to assume Lessee's obligation to the SBA under the Loan Agreement either by assuming installment of the SBA Loan or by lump sum payment of the then outstanding balance of the SBA Loan. Under no circumstances shall the City or Commission be liable for any payment whatsoever to the SBA.

City further agrees that, if Lessee's rights in this Lease are terminated, until the SBA Completion Event, no successor lessee under this Lease or any successive lease will occupy the Premises unless the successor lessee and SBA have agreed that the successor lessee will assume installment payment of the SBA Loan or cause the SBA Completion Event. It is the intention of the parties that until the SBA Completion Event, the SBA is a third party beneficiary of this Lease or any successive lease and that the leasehold estate will remain as collateral for the SBA

Loan until SBA Completion Event. Under no circumstances shall SBA be liable to the City of payment of rent or reasonable rental value or for the performance of any other covenant or condition of this Lease.

41. DELIVERY OF POSSESSION BY LESSEE

Lessee agrees to yield and deliver to Lessor possession of the Premises at the expiration or earlier termination of this Lease or as otherwise herein provided, in good condition and in accordance with the express obligation hereunder, except for reasonable wear and tear.

42. STRICT PERFORMANCE

City's failure to insist upon strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

It is expressly agreed that each term stipulation, condition and covenant herein to be performed or kept by Lessee is material and is a material consideration to City for the award of this Lease, and Lessee agrees that the breach by it of any one of the within terms, stipulation, rent, payment, conditions or covenants shall be a ground for the termination by Lessor, at its election, of the entire Lease as provided in Section 40.

43. CITY'S RIGHTS CUMULATIVE

City's rights hereunder shall be cumulative and not alternative and shall be in addition to any and all rights which it may have as a matter of law.

44. NOTICES

Except as otherwise expressly provided in this Lease, any notice given hereunder by City or Lessee shall be effective only if in writing and given by delivering the notice in person, or by sending it first-class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid, to the following addresses or such other address as may be thereafter in writing so designated by either party to the other party:

If to Lessee: Golden Gate Yacht Club
One Yacht Road
San Francisco, CA 94123

If to City: Recreation and Park Department
Property Management
McLaren Lodge Annex
501 Stanyan Street
San Francisco, CA 94117

Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first-class or certified mail, one day after the date it is made if sent by commercial overnight courier, or upon the date personal delivery is made, and any refusal by City or Lessee to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this Section and applicable laws, shall be deemed receipt of such notice. For convenience of City and Lessee, copies of notices may also be given by electronic mail to the electronic mail address for either party provided from time to time; however, neither party may give official or binding notice by electronic mail. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a copy of the notice by electronic mail or facsimile.

45. AUTHORITY OF CITY AGENTS

No City agent or representative has any authority to modify the terms of this Lease, to extend the rights and privileges, or to make any statements or representations concerning this Lease or the rights and privileges herein set forth, except in writing and only after approval by the General Manager.

46. EACH PROVISION A MATERIAL CONDITION

It is expressly agreed that each term, condition and covenant herein to be performed or kept by Lessee is material and is a material consideration to City for the award of this Lease and Lessee agrees that the breach by Lessee of any one of the within terms, conditions or covenants shall be a material breach of the whole and entire Lease and shall be grounds for the termination by Lessor, at its election, of the entire Lease, except that there shall be no termination until City has given the Lessee notice in writing as required by law.

47. NON-DISCRIMINATION

(a) Covenant Not to Discriminate. In the performance of this Lease, Lessee covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, height, weight, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Lessee, in any of Lessee's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Lessee.

(b) Subleases and Other Subcontracts. Lessee shall include in all subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such sublessee or other subcontractor in substantially the form of subsection (a) above. In addition, Lessee shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all sublessees and other subcontractors to comply with such provisions. Lessee's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Non-Discrimination in Benefits. Lessee does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Lease. As a condition to this Lease, Lessee shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD 12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Lessee shall comply fully with and

be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Lessee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Lessee and/or deducted from any payments due Lessee.

48. SIGNS AND ADVERTISING

Lessee hereby agrees not to erect or maintain, nor permit to be erected or maintained, upon any part of the Premises, any signs, without obtaining the General Manager's prior written consent.

49. VENDING MACHINES

All vending machines on the Premises must comply with the food nutritional and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the "Nutritional Standards Requirements"). Lessee agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section shall be deemed a material breach of this Lease. Without limiting City's other rights and remedies under this Lease, City shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any Restaurant (as defined in San Francisco Health Code Section 451(s)) located on the Premises is encouraged to ensure that at least 25% of Meals (as defined in San Francisco Administrative Code Section 4.9-1(c)) offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code Section 4.9-1(e), as may be amended.

50. LEASE MADE IN CALIFORNIA

This Lease shall be deemed to be made in and shall be construed in accordance with the laws of the State of California.

51. INDEPENDENT CONTRACTOR

Lessee shall perform its work under this Lease as an independent contractor and not as City's agent or employee. Lessee has and hereby retains the right to exercise full control and supervision of the services and full control of employment, direction, compensation and discharge of all persons assisting it in the performance of services hereunder. Lessee agrees to be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters. Lessee agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Lease.

52. CONFLICT OF INTEREST

Lessee covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which could conflict in any manner or degree with the faithful performance of this Lease. Lessee acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of such provisions, and agrees that if Lessee becomes aware of any such fact during the term of this Lease, Lessee shall immediately notify City.

53. EMPLOYEES OF LESSEE

Lessee shall at all times employ only those persons of good moral character and each person so employed by Lessee shall be neatly dressed and courteous at all times.

54. LOITERING

Lessee hereby agrees that there shall be no undue loitering in or about the Premises and no boisterous or objectionable conduct. The privileges granted herein shall be conducted in a first class manner and in the conduct thereof, Lessee shall comply with all laws and ordinances applicable thereto and such rules and regulations as Lessor may from time to time reasonably prescribe.

55. TRESPASS

Lessee shall at all times exercise reasonable diligence and care to protect the Premises from trespass and improper use.

56. INSPECTION AND USE OF PREMISES BY LESSOR

Lessee will permit City, its agents and employees to enter into and upon the Premises at all reasonable times for the purpose of inspection the same. All requirements of the City or State Board of Health contained in health or sanitary regulations adopted by the City or any legal authority shall be fully met by Lessee and Lessee shall give access for inspection purposes to any duly authorized representative of the applicable City departments.

57. APPLICATION OF PROVISION OF CHARTER

All terms of this Lease shall be governed by and shall be subject to the fiscal and other provisions of the City's Charter.

58. HOLDING OVER

Any holding over of the term created shall be a tenancy from month to month only on the same terms and conditions herein specified.

59. FIRST SOURCE HIRING ORDINANCE

Lessee and City are parties to the First Source Agreement attached to this Lease as Exhibit G pursuant to San Francisco Administrative Code, Chapter 83 (the "First Source Agreement"). Any default by Lessee under the First Source Agreement shall be a default under this Lease.

60. NOTIFICATION OF LIMITATIONS ON CONTRIBUTIONS

Through its execution of this Lease, Lessee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Lessee acknowledges that the foregoing restriction applies only if the contract or a

combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Lessee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Lessee's board of directors, and Lessee's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Lessee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Lessee. Additionally, Lessee acknowledges that Lessee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Lessee further agrees to provide to City the name of the each person, entity or committee described above.

61. PRESERVATIVE-TREATED WOOD CONTAINING ARSENIC

Lessee may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Lessee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Lessee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

62. FOOD SERVICE AND PACKAGING WASTE REDUCTION REQUIREMENTS

Lessee agrees to comply fully with and be bound by all of the provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Lease as though fully set forth. This provision is a material term of this Lease. By entering into this Lease, Lessee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, without limiting City's other rights and remedies, Lessee agrees that the sum of \$100 liquidated damages for the first breach, \$200 liquidated damages for the second breach in the same year, and \$500 liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Lessee's failure to comply with this provision.

63. GRAFFITI REMOVAL

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Lessee shall remove all graffiti from the Property within forty eight (48) hours of the earlier of Lessee's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. The term "graffiti"

means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. Sections 101 et seq.). Any failure of Lessee to comply with this Section of this Lease after notice and a reasonable opportunity to cure such breach shall constitute an event of default of this Lease.

64. SUNSHINE ORDINANCE

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

65. SUSTAINABLE FOODS

Sustainable foods are those which, through their production, purchase, and consumption, enhance the health of the environment, producers and consumers through one or more of these methods: growing, processing and distributing locally; using low or no synthetic agricultural chemicals; fairly trading with developing countries; meeting animal welfare standards; processing minimally; no genetic modification; no unnecessary antibiotics; and no added growth hormones. Lessee shall use commercially reasonable efforts to incorporate sustainable food concepts into everyday operations of the business on the Premises. City encourages Lessee to source sustainable foods by buying certified and/or locally produced food products. Acceptable sustainability certifications are limited to organic certification under the National Organic Standards Act ("USDA Organic), Fair Trade certification, Protected Harvest certification, Food Alliance certification, Rainforest Alliance certification, Certified Humanely Raised and Handled certification, American Humane certification, Marine Stewardship Council certification, and Salmon-Safe certification. Sustainability-related product claims that are acceptable under this clause include "grass-fed" claims, "not treated with artificial growth hormones (RBGH)" claims," produced without the nontherapeutic use of antibiotics" claims, and "raised without added hormones/no hormones added" claims. Locally produced food products are produced within 200 miles of San Francisco including the following counties in the North Coast, Central Coast, Sacramento and San Joaquin Valleys: Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Kern, Kings, Lake, Madera, Marin, Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Sierra, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, and Yuba counties. At City's request made not more frequently than annually, Lessee shall provide an report outlining how Lessee incorporated these sustainable food concepts into everyday operations of the food and beverage concession and how Lessee informed customers and the youth employed by the Lessee, if any, regarding sustainable foods. This report shall include the percentage of total sales that were products certified as sustainably produced.

66. WAGES AND WORKING CONDITIONS

(a) Generally. Any undefined, initially-capitalized term used in this subsection shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Lessee require its Contractors and Subcontractors performing (i) labor in connection with a “public work” as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, “Prevailing Wage Requirements”). Lessee agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements. Lessee shall include, and shall require its sublessees and Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Lessee’s failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A Contractor’s or Subcontractor’s failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, see www.sfgov.org/olse/prevailingwages or call the City’s Office of Labor Standards Enforcement at 415-554-6235.

(b) Prevailing Wages for Theatrical Workers, Trade Shows and Special Event Work, and Off-Street Parking Lot, Garage or Automobile Storage Facility. Lessee shall pay, and shall require its sublessees, and contractors and subcontractors (regardless of tier) to pay, prevailing wages, including fringe benefits or the matching equivalents thereof, to persons performing services for the following activity on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Trade Show or Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

If Lessee, or its sublessees, contractors, and subcontractors fail to comply with the applicable obligations in San Francisco Administrative Code Chapter 21C, City shall have all available remedies set forth in Chapter 21C and the remedies set forth in this Lease. City may inspect and/or audit any workplace, job site, books and records pertaining to the applicable services and may interview any individual who provides, or has provided, such services. Lessee shall provide to City (and to require any sublessee, contractor or subcontractor who maintains such records to provide to City) immediate access to all workers’ time sheets, payroll records, and paychecks for inspection on request to the extent they relate to such services.

The types of covered services related to a Show includes individuals engaged in theatrical or technical services, including rigging, sound, projection, theatrical lighting, videos, computers, draping, carpentry, special effects, and motion picture services.

The types of covered services related to a Special Event includes individuals engaged in on-site installation, set-up, assembly, and dismantling of temporary exhibits, displays, booths,

modular systems, signage, drapery, specialty furniture, floor coverings, and decorative materials in connection with trade shows, conventions, expositions, and other special events on City property.

The types of covered services related to Broadcast Services includes individuals engaged in the electronic capture and/or live transmission of on-site video, digital, and/or video content for commercial purposes through the use of a remote production or satellite trust on-site, including any technical director, video controller, assistant director, and stage manager, and individuals engaged in audio, camera, capture and playback, graphics and utility functions.

67. LOCAL HIRING REQUIREMENTS FOR IMPROVEMENTS AND ALTERATIONS

Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "Local Hiring Requirements"). Improvements and Alterations are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than \$750,000 per building permit or (ii) meets any of the other exemptions in the Local Hiring Requirements. Lessee agrees that it shall comply with the Local Hiring Requirements to the extent applicable. Before starting any Improvement or any Alteration, Lessee shall contact City's Office of Economic Workforce and Development ("OEWD") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "Covered Project").

Lessee shall include, and shall require its sublessees to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Lessee shall cooperate, and require its sublessees to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Lessee's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

68. INTELLECTUAL PROPERTY; MUSIC BROADCASTING RIGHTS

Lessee shall be solely responsible for obtaining any necessary clearances or permissions for the use of intellectual property on the Premises, including, but not limited to musical or other performance rights.

69. SUPERVISION OF MINORS

(a) Records Request. If any person applies for employment or for a volunteer position with Lessee, or any sublessee or subcontractor, in which such applicant would have supervisory or disciplinary power over a minor or any person under such applicant's care, then Lessee, and any sublessee or subcontractors providing services at the Premises, shall request from the California Department of Justice records of all convictions or any arrest pending adjudication of such applicant involving the offenses listed in Welfare and Institution Code Section 15660(a), in accordance with the procedures established in California Penal Code Section 11105.3.

(b) Restriction on Hires for Recreational Sites. If Lessee, or any sublessee or subcontractor, is providing services under this Lease at a City park, playground, recreational center or beach (separately and collectively, "Recreational Site"), Lessee shall not hire, and shall prevent its subcontractors from hiring, any person for employment or a volunteer position to provide supervisory or disciplinary power over a minor or any person under his or her care if that

person has been convicted of any offense listed in Welfare and Institution Code Section 15660(a).

(c) Notice Required for Sites Other Than Recreational Sites. If Lessee, or any of its sublessees or subcontractors, hires an employee or volunteer to provide services to minors at any location other than a Recreational Site, and that employee or volunteer has been convicted of an offense specified in Penal Code Section 11105.3(c), then Lessee shall comply, and cause its sublessees and subcontractors to comply, with Penal Code Section 11105.3(c) and provide written notice to the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer not less than ten (10) days prior to the day the employee or volunteer begins his or her duties or tasks. Lessee shall provide, or cause its sublessees or subcontractors to provide, City with a copy of any such notice at the same time that it provides notice to any parent or guardian, to the extent permitted by law.

(d) General Requirements. Lessee shall expressly require any of its subcontractors with supervisory or disciplinary power over a minor to comply with this Section as a condition of its contract with the subcontractor. Lessee acknowledges and agrees that failure by Lessee or any of its subcontractors to comply with any provision of this Section of this Lease shall constitute an event of default. Lessee further acknowledges and agrees that such event of default shall be grounds for the City to terminate the Lease, partially or in its entirety, to recover from Lessee any amounts paid under this Lease, and to withhold any future payments to Lessee. The remedies provided in this Section shall not limited any other remedy available to the City hereunder, or in equity or law for an event of default, and each remedy may be exercised individually or in combination with any other available remedy. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

70. SAN FRANCISCO PACKAGED WATER ORDINANCE

Lessee agrees to comply with San Francisco Environment Code Chapter 24 (“Chapter 24”). Lessee shall not sell, provide or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Lease or on City property unless Lessee obtains a waiver from the City’s Department of the Environment. If Lessee violates this requirement, City may exercise all remedies in this Lease and the Director of the City’s Department of the Environment may impose administrative fines as set forth in Chapter 24.

71. CRIMINAL HISTORY IN HIRING AND EMPLOYMENT DECISIONS

(a) Unless exempt, and subject to the provisions of Section 73 above, Lessee agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; “Chapter 12 T”), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Lessee who would be or are performing work at the Premises.

(b) Lessee shall incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and shall require all sublessees to comply with such provisions, subject to the provisions of Section 73 above. Lessee’s failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Lessee and sublessees shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant’s or potential applicant for employment, or employee’s: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a

Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Lessee and sublessees shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Lessee and sublessees shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Lessee and sublessees shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Lessee or sublessee at the Premises, that the Lessee or sublessee will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Lessee and sublessees shall post the notice prepared by the Office of Labor Standards Enforcement ("OLSE"), available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Lessee and sublessees understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Lease.

(h) If Lessee has any questions about the applicability of Chapter 12T, it may contact the Department for additional information. The Department may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

72. VENDING MACHINES; NUTRITIONAL STANDARDS

Lessee shall not install or permit any vending machine on the Premises without the prior written consent of the General Manager. Any permitted vending machine must comply with the food nutritional and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the "Nutritional Standards Requirements"). Lessee agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 76 shall be deemed a material breach of this Lease. Without limiting Landlord's other rights and remedies under this Lease, Landlord shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any restaurant located on the Premises is encouraged to ensure that at least 25% of Meals offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code Section 4.9-1(e), as may be amended.

73. ALL-GENDER TOILET FACILITIES

If applicable, Lessee shall comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City where extensive renovations are made. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex

or gender identity by means of signage, design, or the installation of fixtures, and "extensive renovations" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Lessee has any question about applicability or compliance, Lessee should contact the General Manager for guidance.

74. POSSESSORY INTEREST TAXES

(a) Lessee recognizes and understands that the Lease may create a possessory interest subject to property taxation and that Lessee may be subject to the payment of property taxes levied on such interest.

(b) Lessee agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Lessee's usage of the Premises that may be imposed upon Lessee by law, all of which shall be paid when the same become due and payable and before delinquency.

(c) Lessee agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Lessee, if so desiring, may have reasonable opportunity to contest the validity of the same.

(d) San Francisco Administrative Code Sections 23.38 and 23.39 require that City report certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of the Lease to the County Assessor within sixty (60) days after any such transaction, and that Lessee report certain information relating to such matters to City within thirty (30) days after the applicable transaction. Lessee agrees to provide such information as may be reasonably requested by City to enable it to comply with this requirement.

75. DRUG-FREE WORKPLACE

Lessee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Tenant agrees that any violation of this prohibition by Lessee, its Agents or assigns shall be deemed a material breach of this Lease.

76. TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN

Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Lessee shall not provide or permit the use of any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product in the performance of any alterations or improvements in or on the Premises or otherwise in the performance of this Lease. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. In the event Lessee fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Lessee shall be liable for liquidated damages for each violation in any amount equal to Lessee's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

77. TOBACCO PRODUCT ADVERTISING AND SALE PROHIBITION

Lessee acknowledges and agrees that no advertising or sale of cigarettes (including electronic cigarettes, as defined in the San Francisco Health Code) or tobacco products is allowed under this Lease. This advertising prohibition includes the placement of the name of a

company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product.

78. ATTORNEYS FEES

If a dispute arises concerning this Lease, the party not prevailing in such dispute shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Lease, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

79. COOPERATIVE DRAFTING

This Lease has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Lease reviewed and revised by legal counsel. No party shall be considered the drafter of this Lease, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Lease.

80. NO THIRD PARTY BENEFICIARIES

This Lease shall not be deemed to confer any rights or benefits on any party other than the parties hereto; provided, however, that the SBA shall be a third party beneficiary with respect to Section 24 and Section 28 until the SBA Completion Event.

81. EFFECTIVE DATE

This Lease shall become effective as on the date on which (i) legislation adopted by the Board of Supervisors to approve City's execution of this Lease becomes effective, and (ii) this Lease is duly executed and exchanged by the parties hereto.

82. COMPLIANCE WITH CITY BUSINESS AND TAX AND REGULATIONS CODE

Lessee acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If any payment City is required to make to Lessee under this Lease is withheld under that authority, then City will not be in breach or default under this Lease, and the Treasurer and Tax Collector will authorize release of any payments withheld under this Section to Lessee, without interest, late fees, penalties, or other charges, once Lessee returns to compliance with its San Francisco Business and Tax Regulations Code obligations.

83. MISCELLANEOUS

(a) This Lease is the entire agreement of the parties concerning the subject matter hereof, and supersedes and conceals any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein. (b) The execution of this Lease shall not constitute a waiver or relinquishment of any rights or remedies that City may have relating to the Lessee's obligations under 1991 Lease accruing prior to the Commencement Date. (c) City and Lessee agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this Lease. (d) This Lease shall be governed by, construed and enforced in accordance with the laws of the State of California. (e) This Lease shall not be

effective for any purpose whatsoever until legislation approving it is adopted by the City's Board of Supervisors. (f) Neither this Lease nor any activity by City hereunder creates a partnership or joint venture between City and Lessee relating to this Lease or otherwise. This Lease does not constitute authorization or approval by City of any activity conducted by Lessee, and City shall in no way be responsible for the acts or omissions of Lessee on the Premises or otherwise. (g) Time is of the essence of this Lease and every part hereof. (h) If this Lease is executed in counterparts, each shall be deemed an original. (i) The section and paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Lease.

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

LESSEE:

GOLDEN GATE YACHT CLUB,
a California nonprofit corporation

By: _____
Name: _____
Its: _____

LESSOR:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Philip Ginsburg, General Manager
Recreation and Park Department

APPROVED BY:

RECREATION AND PARK COMMISSION
PURSUANT TO RESOLUTION NO.

_____ DATED: _____

Margaret McArthur, Commission Liaison

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong, Deputy City Attorney

EXHIBIT A

Depiction of Premises

Exhibit A – Premises

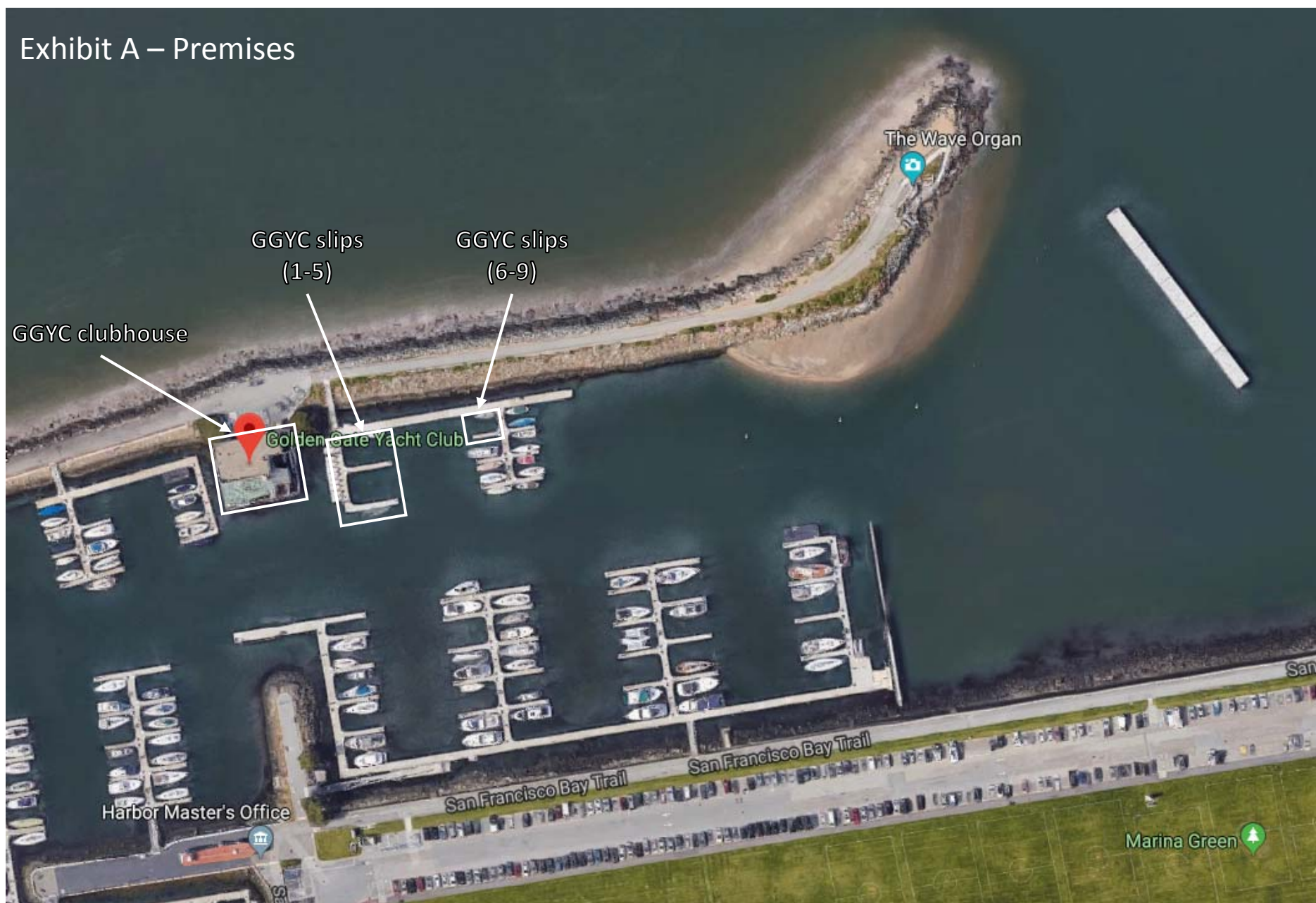


EXHIBIT B

Permitted Dredge Area

Exhibit B – Permitted Dredge Area

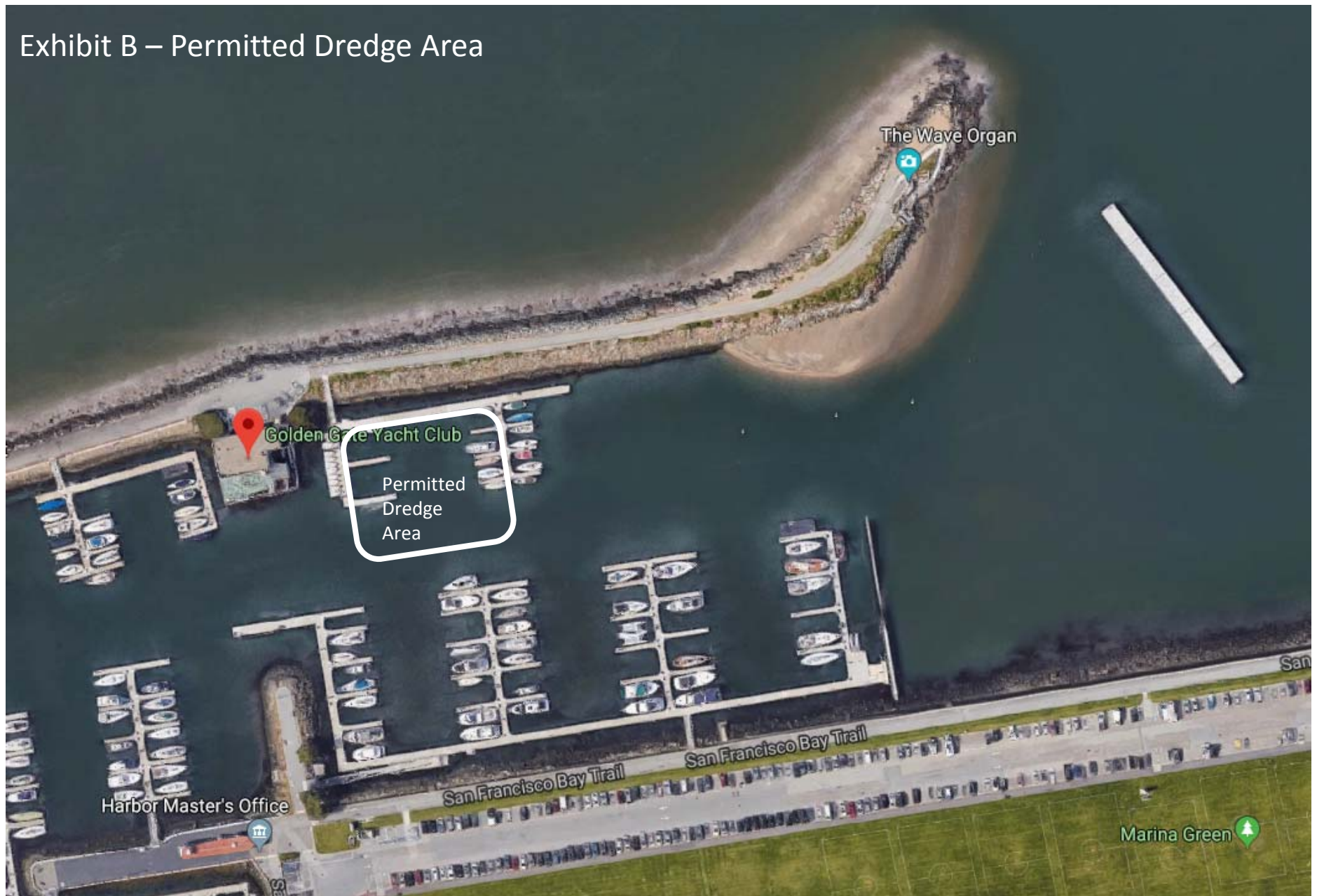


EXHIBIT C

Commission Resolution 11189 and 16169a



COMMISSION RESOLUTION #11189

RESOLUTION GOVERNING THE USE OF RECREATION AND PARK DEPARTMENT PROPERTIES BY PRIVATE ORGANIZATIONS.

WHEREAS, the policy of the Recreation and Park Commission is mandated by Section 3.552 of the San Francisco City Charter to be the promotion and fostering of a program providing for organized public recreation of the highest standard; and

WHEREAS, park property dedicated to public use is for the benefit and enjoyment of all members of the public; and

WHEREAS, park property is not lawfully used by private organizations or individuals to the exclusion of the general public for extended periods of time; and

WHEREAS, private organizations can promote public recreational use of park property by organizing and directing recreational activities on park property;

NOW THEREFORE BE IT RESOLVED, that notwithstanding any provision in any existing lease or other agreement between the Recreation and Park Commission or Recreation and Park Department and a private organization concerning the use of park property, every lease to a private organization of park property dedicated to public use and every agreement whereby a private organization is allowed to use such park property for an extended period of time is subject to the following conditions:

When the property leased or used by the private organization is open and available to members of the organization, it shall also be open and available to members of the general public on the same terms as it is open and available to members of the organization. Thus, no member of the public shall be excluded from the property so long as such person uses the property for the recreational purpose for which the lease or agreement was entered into and so long as such person obeys all reasonable rules and regulations of the organization pertaining to proper use of the facilities.

If the property leased or used by the private organization is not open on a daily basis, or if the hours during which the property is open cannot accommodate the demands of all members of the public seeking to make use of the property, then the organization shall establish a procedure whereby non-members may reserve use of the property upon request. If a private organization has control of property which is used primarily for storage and opened only occasionally to its members, the organization shall establish a procedure whereby non-members are allowed use of the storage space and access to it for the same purposes and on the same terms as are members.

Since making the property leased or used available to persons who are not members of the organization may involve additional expense, the organization may charge such persons a fee for use of facilities on the property, so long as such fee is reasonably related to the additional costs involved and are not so high as to make use of the facilities prohibitive.

Notice shall be posted conspicuously at all entrances, advising members of the public that the property is a public park facility operated on behalf of the Recreation and Park Commission by the organization, that the property is open to the general public on the same terms and conditions as it is available to members of the organization, of the hours during which the property is open or otherwise available, and of the procedures and fees for use, and that membership in the administering organization is open and available to all interested persons.

The charter of by-laws of the organization shall provide the following:

1. The purpose of the organization, so long as it occupies public park property, shall be to operate and maintain said property on behalf of the Recreation and Park Commission, in accordance with such policies, rules, regulations and purposes as said Commission may decree from time to time.

2. Applicants for membership to the organization shall not be discriminated against on the basis of race, color, religion, age, ancestry, national origin, sex, political affiliation, sexual orientation, disability, or any other grounds prohibited by law. Each membership applicant shall be given a copy of these bylaws at the time he or she receives the application form.

3. Each application form for membership to the organization shall have printed upon it in a conspicuous place, the following statement:

This is a public park facility operated and maintained on behalf of the City and County of San Francisco for the benefit of the public desiring to use these public recreation facilities by (name of organization), a non-profit organization. It is unlawful for any such organization to discriminate in its membership application or acceptance procedures on the basis of race, color, religion, age, ancestry, national origin, sex, political affiliation, sexual orientation, disability, or any other grounds prohibited by law. Any complaint concerning allegations of discrimination shall be reported to the Recreation and Park Department of the City and County of San Francisco, McLaren Lodge, Golden Gate Park.

4. An applicant for membership shall be rejected only for good cause and shall be notified in writing by an appropriate officer or committee of the reason for the rejection of the application and all money submitted with the application shall be returned to the applicant. An applicant shall be deemed accepted to membership in the club unless, within 45 days from the date of application, the applicant is notified in writing of the rejection and the reason therefor. An applicant otherwise eligible but for lack of space shall be placed on a waiting list on a first come first serve basis.

5. Good cause for rejection of applicants for membership must be defined and must be based on a record of past acts or conduct demonstrating that the admission of the applicant would substantially impair the public recreational purpose of the property, the health, safety, or welfare of its intended users, or the preservation or maintenance of the property.

6. An applicant, having been rejected, shall be eligible to re-apply for membership within a specified period of time, not to exceed three (3) months, after rejection for membership.

7. No member may be expelled unless the organization provides a hearing in order to determine that good cause for expulsion exists. "Good cause" shall be defined according to the requirements set out in (5) above. The member shall be given at least thirty (30) days notice in writing of the purpose of the hearing, and the charges against such member, and the names of the parties making such charges. At such hearing, said member shall be given an opportunity to be advised of the charges, and an opportunity to meet them and to present a defense. A finding of good cause for expulsion shall be made and communicated, in writing, to such member. A finding of good cause for expulsion shall be subject to review, at the member's election, by the Recreation and Park Department of the City and County of San Francisco.

The only initiation fee charged new members shall be in the form of a membership application fee and such fee shall be reasonably related to the costs incurred in processing applications and performing any routine tasks necessary to make the facilities available to the new member. Annual dues shall be limited to the amount necessary to meet the current operating expenses and to maintain and preserve the property in accordance with all regulations, rules and policies of the Commission. Any other funds required by the organization shall be raised by special assessment, approved at a meeting of the membership of the club, by a majority of the members present, and notice of said meeting and its purpose, at which the special assessment is to be put to a vote, shall be given to each member at least two weeks prior to the date of the meeting. All fees, dues, assessments and membership application rates charged to members and daily use rates charged to non-members shall be subject to the approval of the Commission.

Refusal to enforce any policy or procedure required by the Commission concerning fees, dues, assessments, membership application rates, daily use rates or public access to property shall constitute grounds for immediate termination of the lease or agreement whereby the organization is using the property.

This resolution shall apply to clubs or private organizations using or having access to park property on a daily basis for a period exceeding 29 days within a calendar year. It does not apply to:

1. Clubs or private organizations which lease or use park property for special events which do not exceed 29 days within a calendar year.
2. Leases with professional athletic organizations.
3. Any lease of Candlestick Park, Kezar Stadium, Kezar Pavilion, or Balboa Park Stadium.
4. The operation of a concession. (A concession shall be defined as an agreement whereby an individual, partnership or corporation is granted permission by the Recreation and Park Commission to provide goods or services on park property to the public at a price which enables such individuals, partnership or corporation to make a profit.)

Recreation and Park Commission Minutes - July 18, 1991

* * * * *

Note for the Record: The following amendments were made to Resolution No. 11189, adopted March 16, 1978.

RESOLUTION #16169a

RESOLUTION GOVERNING THE USE OF RECREATION AND PARK DEPARTMENT PROPERTIES BY PRIVATE ORGANIZATIONS.

WHEREAS, The policy of the Recreation and Park Commission is mandated by Section 3.552 of the San Francisco City Charter to promote and foster a program providing for organized public recreation of the highest standard; and

WHEREAS, The purpose of this resolution is to establish general policies for use of park property by non-profit organizations. Specific exceptions, modifications or additions to the requirements of this resolution that pertain to any particular non-profit organization or circumstance will be approved by the Commission in a separate resolution pertaining to that non-profit organization or circumstance;

WHEREAS, Park property dedicated to public use is for the benefit and enjoyment of all members of the public; and

WHEREAS, Park property is not lawfully used by private organizations or individuals to the exclusion of the general public for extended periods of time; and

WHEREAS, Private organizations can promote public recreational use of park property by organizing and directing recreational activities on park property;

NOW THEREFORE BE IT RESOLVED, That notwithstanding any provision in any existing lease or other agreement between the Recreation and Park Commission or Recreation and Park Department and a private organization concerning the use of park property, every lease to a private organization of park property dedicated to public use and every agreement whereby a private organization is allowed use such park property for an extended period of time is subject to the following conditions:

When the property leased or used by the private organization is open and available to members of the organization, it shall also be open and available to member's of the general public on the same terms as it is open and available to members of the organization. Thus, no member of the public shall be excluded from the property so long as such person uses the property for the recreational purpose for which the lease or agreement was entered into and so long as such person obeys all reasonable rules and regulations of the organization pertaining to proper use of the facilities.

If the property leased or used by the private organization is not open on a daily basis, or if the hours during which the property is open cannot accommodate the demands of all members of the public seeking to make use of the property, then the organization shall establish a procedure whereby non-members may reserve use of the property upon request. If a private organization has control of property which is used primarily for storage and opened only occasionally to its members, the organization shall establish a procedure whereby non-members are allowed use of the storage space and access to it for the same purposes and on the same terms as are

9. DOLPHIN CLUB/SOUTH END ROWING CLUB RES. NO. 11189
REVIEW OF GROUP USAGE POLICY AND PROCEDURES (Continued) (Continued)

Since making the property leased or used available to persons who are not members of the organization may involve additional expense, the organization may charge such persons a fee for use of facilities on the property, so long as such fee is reasonably related to the additional costs involved and are not so high as to make use of the facilities prohibitive.

Notice shall be posted conspicuously at all entrances, advising members of the public that the property is a public park facility operated on behalf of the Recreation and Park Commission by the organization, that the property is open to the general public on the same terms and conditions as it is available to members of the organization, of the hours during which the property is open or otherwise available, and of the procedures and fees for use, and that membership in the administering organization is open and available to all interested persons.

The charter of by-laws of the organization shall provide the following:

1. The purpose of the organization, so long as it occupies public park property, shall be to operate and maintain said property on behalf of the Recreation and Park Commission, in accordance with such policies, rules, regulations and purposes as said Commission may decree from time to time.
2. Applicants for membership to the organization shall not be discriminated against on the basis of race, color, religion, age, ancestry, ethnicity, national origin, sex, political affiliation, sexual orientation, physical handicap, marital status, medical condition (cancer related), conditions diagnosed as Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Conditions (ARC), or any other grounds prohibited by law. Each membership applicant shall be given a copy of these by-laws at the time he or she receives the application form.
3. Each application form for membership to the organization shall have printed upon it in a conspicuous place, the following statement:

This is a public park facility operated and maintained on behalf of the City and County of San Francisco for the benefit of the public desiring to use these public recreation facilities by (name of organization), a non-profit organization. It is unlawful for any such organization to discriminate in its membership application or acceptance procedures on the basis of race, color, religion, age, ancestry, ethnicity, national origin, sex, political affiliation, sexual orientation, physical handicap, marital status, medical condition (cancer related), conditions diagnosed as Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Conditions (ARC), or any other grounds prohibited by law. Any complaint concerning allegations of discrimination shall be reported to the Recreation and Park Department of the City and County of San Francisco, McLaren Lodge, Golden Gate Park.

9. DOLPHIN CLUB/SOUTH END ROWING CLUB RES. NO 11189
REVIEW OF GROUP USAGE POLICY AND PROCEDURES (Continued) (Continued)

4. An applicant for membership shall be rejected only for good cause and shall be notified in writing by an appropriate officer or committee of the reason for the rejection of the application and all money submitted with the application shall be returned to the applicant. An applicant shall be deemed accepted to membership in the organization unless, within 45 days from the date of application, the applicant is notified in writing of the rejection and the reason therefor. An applicant otherwise eligible but for lack of space shall be placed on a waiting list on a first come first serve basis.

5. Good cause for rejection of applicants for membership must be defined and must be based on a record of past acts or conduct demonstrating that the admission of the applicant would substantially impair the public recreational purpose of the property, the health, safety, or welfare of its intended users, or the preservation or maintenance of the property.

6. An applicant, having been rejected, shall be eligible to re-apply for membership within a specified period of time, not to exceed three (3) months, after rejection for membership.

7. No member may be expelled unless the organization provides a hearing in order to determine that good cause for expulsion exists. "Good cause" shall be defined according to the requirements set out in (5) above. The member shall be given at least thirty (30) days notice in writing of the purpose of the hearing, and the charges against such member, and the names of the parties making such charges. At such hearing, said member shall be given an opportunity to be advised of the charges, and an opportunity to meet them and to present a defense. A finding of good cause for expulsion shall be made and communicated, in writing, to such member. A finding of good cause for expulsion shall be subject to review, at the member's election, by the Recreation and Park Department of the City and County of San Francisco.

The only initiation fee charged new members shall be in the form of a membership application fee and such fee shall be reasonably related to the costs incurred in processing applications and performing any routine tasks necessary to make the facilities available to the new member. Annual dues shall be limited to the amount necessary to meet the current operating expenses and to maintain and preserve the property in accordance with all regulations, rules and policies of the Commission. Any other funds required by the organization shall be raised by special assessment, approved at a meeting of the membership of the organization, by a majority of the members present and notice of said meeting and its purpose, at which the special assessment is to be put to a vote, shall be given to each member at least two weeks prior to the date of the meeting. All fees, dues, assessments and membership application rates charged to members and daily use rates charged to non-members shall be subject to the approval of the Commission.

Refusal to enforce any policy or procedure required by the Commission concerning fees, dues, assessments, membership application rates, daily use rates or public access to property shall constitute grounds for immediate termination of the lease or agreement whereby the organization is using the property.

Recreation and Park Commission Minutes - July 18, 1991

9. DOLPHIN CLUB/SOUTH END ROWING CLUB RES. NO. 11189
REVIEW OF GROUP USAGE POLICY AND PROCEDURES (Continued) (Continued)

This resolution shall apply to clubs or private organizations using or having access to park property on a daily basis for a period exceeding 29 days within a calendar year. It does not apply to:

1. Clubs or private organizations which lease or use park property for special events which do not exceed 29 days within a calendar year.
2. Leases with professional athletic organizations.
3. Any lease of Candlestick Park, Kezar Stadium, Kezar Pavilion, or Balboa Park Stadium.
4. The operation of a concession. (A concession shall be defined as an agreement whereby an individual, partnership or corporation is granted permission by the Recreation and Park Commission to provide goods or services on park property to the public at a price which enables such individuals, partnership or corporation to make a profit.)

EXHIBIT D

Assignment of Real Estate Lease and Agreement

EXHIBIT D

WHEN RECORDED MAIL TO:

U.S. Small Business Administration

P.O. Box 13795

Sacramento, CA 95853-4795

Attn: Legal Dept.

SBA Loan No. DLH-41326230-08 Space above this line for Recorder's use only

ASSIGNMENT OF REAL ESTATE LEASE AND AGREEMENT

This Assignment of Real Estate Lease and Agreement made and entered into by and between The Golden Gate Yacht Club (Lessee, hereinafter called Borrower), and the City and County of San Francisco by and through the Recreation and Park Commission (hereinafter called Lessor), and the SMALL BUSINESS ADMINISTRATION, an agency of the United States Government (hereinafter called Assignee):

WITNESSETH:

WHEREAS, Borrower and Lessor have entered into a 40 year lease dated July 25, 1991, of premises commonly referred to as One Yacht Road, San Francisco, CA 94123 more specifically described as follows:

Real property which is comprised of a total land and water area of 31,256 square feet. This area includes the Clubhouse, grounds, parking area and four guest berths, to-wit, a portion of that certain premises which occupies 359 linear feet of berth, 3,600 square feet of land and 7,968 square feet of water described and which is outlined on the Marina Small Craft Harbor map dated May 15, 1962, a copy of which is attached hereto, marked Exhibit A, and incorporated in the terms of this Assignment. (Hereafter referred to the "Leased Premises".)

AND, WHEREAS, Assignee has authorized a loan to Borrower in the amount of \$368,900.00 due and payable on or before July 31, 2021;

AND, WHEREAS, the loan benefits both Borrower and Lessor, in that loan funds are to be used in whole or in part for repair of the leased premises and for the benefit of the Activities conducted on the leased premises;

NOW, THEREFORE, for and in consideration of the matters herein above stated and of disbursement of the loan or any part thereof, Borrower, with the consent of Lessor, hereby assigns, transfers, and conveys to Assignee the lease above described, to have and to hold the same for and during the remainder of the term mentioned in the lease and all renewals and extensions of said term.

A. Borrower and Lessor further Covenant and Agree:

1. Borrower is not now in default in the performance of the lease, and Borrower and Lessor will each perform the covenants and conditions required of him by the lease for the term of the loan and any extensions, substitutions, or renewals of it.
2. Except as otherwise herein permitted, Borrower and Lessor will not, alone or by agreement between them, modify or terminate the lease without consent of Assignee.
3. In the event Borrower defaults on the lease, Lessor shall have the right to terminate the lease in accordance with its terms, provided however Lessor shall first give Assignee 10 days written notice of the default. Assignee shall then first have the right to transfer and assign the lease and borrower's rights therein to a party who is mutually satisfactory to the Assignee and Lessor and upon assignment the obligations of the lease shall be binding on the transferee.
4. In the event Borrower defaults in the performance of any of his obligations on the aforesaid loan, any renewal, substitution, or extension thereof, or any agreement made in connection therewith, including this agreement, then Assignee, may, at its option, without notice and using such force as may be necessary, enter the leased premises and do any one or more of the following:

- a. Remove all property of Borrower that is hypothecated as collateral for loan.
- b. Sell the property referred to in Paragraph 4a on the leased premises.
- c. Transfer and assign the lease and Borrower's rights therein to a party who is mutually satisfactory to Assignee and Lessor, and upon Assignment the obligations of the lease shall be binding on the transferee.

In the event Assignee shall exercise any of the options provided in Paragraphs 4a, 4b, or 4c, it shall have no obligation to pay rent or any reasonable rental value accruing during the period of its possession of the premises.

- 5. None of the property required to be hypothecated as collateral for the aforesaid loan constitutes fixtures or real property.
- B. Lessor and Borrower hereby agree that the rights of assignee hereunder and under a Lease Agreement dated July 25, 1991 between the Lessor and Borrower shall be cumulative and not alternate and shall be in addition to any and all rights which Assignee may have as a matter of law.
- C. Lessor represents and warrants that it holds title to the leased premises and that it has full power and authority to enter into this agreement.
- D. This agreement shall be binding upon and inure to the benefit of the personal representatives, successors and assigns of the parties hereto.

Dated _____, 19____.

The Golden Gate Yacht Club
Lessee

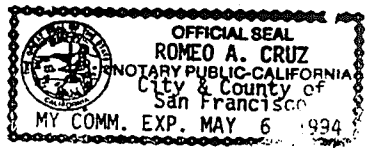
By: *Karen McManus*
Karen McManus, Commodore

By: *Femie King*
Femie King, Secretary

State of California)
County of SAN FRANCISCO)

On JUNE 10, 1992 before me, a Notary Public in and for the State of California, personally appeared KAREN McMANUS; FEMIE KING, personally known to me (or 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 signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
Signature *Romeo A. Cruz*



City and County of San Francisco
Recreation and Park Commission

APPROVED AS TO FORM:
Louise Renne, City Attorney
By: *Wara E. Linder*
Deputy City Attorney

Lessor
By: *Shauna Marie Rose*
Shauna Marie Rose, Secretary
Date 7/25/91
Resolution No. 16175
By: *Mary Burns* (for)
Mary Burns, General Manager,
Recreation and Park Department

EXHIBIT E

Youth Educational Programs

MAIN POINTS:

- A. Lessee has the only youth sailing program that promotes San Francisco public high school team sailing.
- B. Lessee offers low cost of entry to sailing for San Francisco students.
- C. Lessee's youth sailors come from mixed schools and socioeconomic backgrounds and traditionally form long term bonds.
- D. Lessee's Youth Sailing Foundation provides scholarships to students who request them.
- E. The goal of Lessee's Foundation is to provide sailing lessons to the children of our community with emphasis on safety, team interaction, and environmental respect for our waters.

DETAILS:

Lessee will offer a school term program over three separate sessions. Students will pay nominal fee for approximately nine (9) weeks of professional instruction. The use of boats is included at no additional cost. Lessee's youth program seeks to offer affordability and accessibility without sacrifice to quality.

Lessee's Youth Sailing Foundation will also provide sailing scholarships to any San Francisco student who wants to learn to sail but does not have the funds or access to do so. Lessee strives to provide scholarships to every student who requests one. The scholarship program is comprised of a mixed group of students from various schools, economic backgrounds and varying degrees of sailing experience from zero to race-ready.

Lessee is one of the smaller Bay Area programs, yet we typically take three teams to each regatta venue from San Francisco locations to as far away as Long Beach, CA. Typically, the Lessee's program will receive 20-25 students each fall which practice two-three afternoon sessions per week. In addition, Lessee will occasionally offer private weekend sessions for larger groups. Some students simply come out for the fun of sailing and don't have time to compete. Lessee encourages competition whenever possible.

Aside from developing competent sailors, the most beneficial outcome of the Lessee's program is the cross-cultural bonding. Students from various schools and different backgrounds learn to trust each other and create long-term relationships with group members.

Sharmaine Ramasamy is the Program Manager for the GGYC Youth Sailing Program. GGYC has five coaches for the Youth Sailing Program: Mills Forni, Alberto Ricera, Brett Davis, Sarah Davis, Chris Johnson, Natasha Jarett, and Brett Bastien.

EXHIBIT F

Description of the 2018 Improvements

- (1) Installation of new floors.
- (2) Installation of new windows.
- (3) Installation of new upgraded electronics.
- (4) Renovation of all bathrooms, including installation of ADA access.
- (5) Installation of ADA compliant elevator lift to provide access to all floors of the clubhouse.
- (6) Exterior and interior waterproofing
- (7) Exterior and interior painting

EXHIBIT G

First Source Agreement



EXHIBIT A WORKFORCE PROJECTIONS

FOR BUSINESS, COMMERCIAL, OPERATION AND LEASE OCCUPANCY

Business Name: GOLDEN GATE YACHT CLUB Phone: 415.346.2678
 Main Contact: ROBERT F. McLHERN Email: GENERALMANAGER@GGYC.COM
 Signature of authorized representative* [Signature] Date 8.6.18

*By signing this form, the lessee agrees to participate in the Workforce System managed by the Office of Economic and Workforce Development (OEWD) and comply with the provisions of its First Source Hiring Agreement pursuant to San Francisco Administrative Code Chapter 83.

Instructions:

- Upon entering into leases for the commercial space of the building, the Lessee must submit to OEWD, a signed First Source Agreement, including its signature to Exhibit A thereto. Lessee will also complete and submit Exhibit A annually to reflect employment conditions.
- The employer must notify the First Source Hiring Program (Contact Info below) if an **Entry Level Position** becomes available.

Section 1: Select your Industry

- | | | | |
|--|--|--|-------------------|
| <input type="checkbox"/> Auto Repair | <input type="checkbox"/> Entertainment | <input type="checkbox"/> Personal Services | Section 2: |
| <input type="checkbox"/> Business Services | <input type="checkbox"/> Elder Care | <input type="checkbox"/> Professionals | |
| <input type="checkbox"/> Consulting | <input type="checkbox"/> Financial Services | <input type="checkbox"/> Real Estate | |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Healthcare | <input type="checkbox"/> Retail | |
| <input type="checkbox"/> Government Contract | <input type="checkbox"/> Insurance | <input type="checkbox"/> Security | |
| <input type="checkbox"/> Education | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Wholesale | |
| <input type="checkbox"/> Food and Drink | <input type="checkbox"/> I don't see my industry (Please Describe) _____ | | |

Describe Primary Business Activity

Dishwasher / HOUSEMAN

Section 3: Provide information on all Entry Level Positions

Entry-Level Position Title	Job Description	Number of New Hires	Projected Hiring Date

Please email, fax, or mail this form SIGNED to:

ATTN: Business Services
 Office of Economic and Workforce Development
 1 South Van Ness Avenue, 5th Floor, San Francisco, CA 94103
 Tel: 415-701-4848
 Fax: 415-701-4897
<mailto:Business.Services@sfgov.org>
 Website: www.workforcedevelopmentsf.org