

1 **AMENDED AND RESTATED PERMIT NO. 27276**

2 **27276**

3 THIS AMENDED AND RESTATED PERMIT NO. 27276 is made and
4 entered, in duplicate, as of December 16, 2019, for reference purposes only, pursuant to
5 a minute order adopted by the City Council of the City of Long Beach at its meeting held
6 on December 10, 2019, by and between the CITY OF LONG BEACH, a municipal
7 corporation ("City"), and HARBOR BREEZE, INC., a California corporation, whose
8 address is 2325 Palos Verdes Drive West, Suite 304, Rancho Palos Verdes, CA 90274
9 ("Permittee").

10 WHEREAS, City and Permittee entered into Permit No. 27276, (the
11 "Permit"), pursuant to a minute order approved by the City Council of the City of Long
12 Beach on April 24, 2001 to use and occupy portions of the docks, the slips and end ties in
13 Rainbow Harbor for embarking and disembarking passengers in connection with
14 charters, harbor cruises and whale watching tours, and subsequently amended and
15 supplemented the Permit several times; and

16 WHEREAS, the parties desire to re-state the various amendments and
17 supplements to the Permit in one document, as well as to further amend the Permit;

18 NOW, THEREFORE, in consideration of the mutual terms, covenants, and
19 conditions contained in this Amended and Restated Permit, the parties agree as follows:

20 1. PERMIT AREA: The Permit Area shall be that area shown in Exhibit
21 "D". The Permit Area shall be subject to change at the discretion of the Manager of the
22 Marine Bureau of the Department of Parks, Recreation and Marine or his or her designee
23 ("Manager of the Marine Bureau") on thirty day written notice, or in accordance with
24 Rainbow Harbor Rules and Regulations.

25 2. USES: Permittee warrants that it will keep its vessel(s) in use for the
26 uses described below on a near continuous basis during business hours agreed between
27 the Permittee and the City Manager or his or her designee ("Manager").

28 A. The Permit Area and the improvements thereof shall be used

1 for the purpose of berthing Permittee's vessel(s) and for embarking and
2 disembarking passengers in connection with charters, harbor cruises and whale
3 watching tours, except as referenced in subparagraph 2.D. below.

4 B. No use not specifically permitted by this section shall be
5 allowed without the written permission of the Manager.

6 C. Permittee shall not be in breach of this warranty if the Permit
7 Area fails to be in continuous use no more than forty-five (45) days in a calendar
8 year, no more than thirty (30) of which shall be consecutive without the
9 permission of the Manager of the Marine Bureau.

10 D. Permittee shall not operate scuba-diving charters or
11 sportfishing charters within the limits of the City of Long Beach.

12 E. Permittee may sell and operate individually-ticketed cruises, in
13 addition to its chartered cruises.

14 2.1. Delivery and Loading.

15 Permittee, its subpermittees, concessionaires or other person or
16 entity person or entity operating under a contract with Permittee or on behalf of
17 Permittee delivering, loading or unloading goods, services or merchandise to the
18 Permit Area shall use the area(s) marked for loading located at Pine Avenue
19 Circle, Shoreline Park parking lot and Aquarium Way for access. Permittee shall
20 instruct all parties delivering, loading or unloading goods, services or merchandise
21 to use hand trucks orushman type carts with inflatable tires. No trucks or vans
22 shall be allowed within the Permit Area or the Esplanade and grounds surrounding
23 Rainbow Harbor.

24 2.1.1. Delivery and Loading Hours. Delivery, loading and
25 unloading shall be limited to the hours from midnight until 9:00 a.m., seven
26 (7) days a week. Permittee shall contact the Manager of the Marine Bureau
27 to coordinate deliveries outside of the hours defined.

28 2.2. Rainbow Harbor Rules and Regulations. Permittee shall

1 comply with the Rainbow Harbor Rules and Regulations of the City of Long Beach
2 whether known by that or some other name or names.

3 2.3. Customer Satisfaction. Permittee shall make available
4 customer satisfaction evaluation surveys to all customers.

5 3. TERM: The term of this Permit shall commence at 12:01 a.m. on
6 January 1, 2020 and shall terminate at midnight on December 31, 2034. Upon
7 termination of this Permit (whether by lapse of time or otherwise), Permittee shall quit and
8 surrender possession of the Permit Area and remove its personal property therefrom.
9 The term of this permit may be extended for three (3) additional five-year periods at the
10 discretion of the City Manager.

11 4. COMPENSATION:

12 4.1. Dock Fee. Permittee shall pay to the City for the use of the
13 Permit Area an amount equal to \$18.25 per linear foot, per month, or other fee
14 subsequently adopted by the City Council of the City of Long Beach, occupied
15 and/or reserved by Permittee for any time such slip or end tie is so used. The
16 Dock Fee shall be paid on or before the first day of each month during the term of
17 this Permit. The Dock Fee shall be paid in advance and Permittee shall not have
18 any right of abatement, deduction, set off, prior notice or demand. Permittee is
19 currently assigned 700-feet of dock space on Docks 2, 3 and 7, or other Dock as
20 approved by the Marine Bureau in Rainbow Harbor.

21 4.2. Permit Fee. Permittee shall pay to the City percentage fees in
22 the amount of five percent (5%) of Permittee's annual "gross receipts" (as that
23 term is defined in subparagraph 4.5 below) per month on the twentieth (20th) day
24 of each month following each and every month in which gross receipts are
25 received whether received by Permittee, its subpermittees, concessionaires or
26 other person or entity operating under a contract with Permittee from all permitted
27 concessions, operations and activities during the initial fifteen (15) year term. Upon
28 execution of the first renewal option, the percentage rate shall increase to six

1 percent (6%) of annual gross receipts, with an annual minimum amount calculated
2 at seventy-five percent (75%) of the average of annual gross receipts over the
3 three previous permit years. Upon execution of the second renewal option, the
4 percentage rate shall increase to seven percent (7%) of annual gross receipts,
5 with an annual minimum amount calculated at seventy-five percent (75%) of the
6 average of annual gross receipts over the three previous permit years. Upon
7 execution of the third renewal option, the percentage rate will increase to eight
8 percent (8%) of annual gross receipts, with an annual minimum amount calculated
9 at seventy-five percent (75%) of the average of annual gross receipts over the
10 three previous permit years. Permittee will pay whichever is greater of the
11 percentage rate and annual minimum amount for the duration of each of the three
12 renewal options.

13 4.3. Charge for Late Permit Fee Payment.

14 A. If Dock Fee payment is not received within ten days
15 after the same has become due, a late fee shall be assessed. The late fee
16 shall be, in addition to the amount of the Dock Fee, a sum equal to ten
17 percent (10%) thereof.

18 B. If Permit Fee payment is not received on the twentieth
19 (20th) day following the preceding month, a late fee shall be assessed. The
20 late fee shall be 5% or \$50, whichever is greater.

21 C. In addition to the late fees above, interest shall accrue
22 on all amounts owed from the due date, at a rate of ten (10) percent per
23 annum until paid.

24 D. The late fees above are intended to compensate City
25 for its additional administrative costs resulting from Permittee's failure, and
26 has been agreed upon by City and Permittee, after negotiation, as a
27 reasonable estimate of the additional administrative costs that will be
28 incurred by City as a result of Permittee's failure. The actual cost in each

1 instance is extremely difficult, if not impossible, to determine. These late
2 fees will constitute liquidated damages and shall be paid to City together
3 with such unpaid amounts. The payment of these late fees shall not
4 constitute a waiver by city of any default by Permittee under this Permit.

5 4.4. Gross Receipts. "Gross receipts" as used herein shall include
6 the following:

7 A. The gross selling price of all boat tickets or other
8 charges for the use of or passage aboard any Permittee authorized vessel
9 that docks or ties up at the Permit Area.

10 B. The gross selling price for all food, beverages, and
11 other merchandise or services sold or delivered by Permittee, its permitted
12 licensees, concessionaires, and persons, firms, or corporations aboard said
13 vessels.

14 C. Gross receipts shall include sales for cash, credit, or
15 services whether collected or not. Gross receipts shall not include, or if
16 included shall be deducted (but only to the extent they have been included),
17 any sales and use taxes, transportation taxes, excise taxes, franchise
18 taxes, and other similar taxes now or in the future imposed on the sale of
19 tickets, food, beverages, merchandise, or services, but only if such taxes
20 are added to the selling price, separately stated, collected separately from
21 the selling price and collected from customers. Gross receipts shall not
22 include any value imputed to charitable charters (i.e., any charter in which
23 Permittee does not collect a fee or reimbursement for expenses).

24 4.5. Statement of Gross Receipts.

25 A. Permittee shall prepare and deliver or cause to be
26 prepared and delivered to the City at:

27 Department of Parks, Recreation and Marine
28 2760 Studebaker Road

1 Long Beach, CA 90815-1697

2 Attention: Accounting Section

3 within twenty (20) days after the end of each month during the term of this
4 permit or extension thereof, a financial statement showing in reasonable
5 detail Permittee's gross receipts for the preceding calendar month or partial
6 calendar month and a computation of the percentage fee provided for
7 herein.

8 B. Permittee shall within thirty (30) days of each calendar
9 year deliver to the City, at the address set forth in subparagraph 4.5.A.
10 above, a statement showing gross receipts of the preceding calendar year
11 or partial calendar year. Such statement shall be prepared and delivered to
12 City in accordance with generally accepted accounting practices containing
13 a statement of gross receipts and a computation of percentage of gross
14 receipts.

15 C. Each statement shall be signed and certified to be
16 correct by an officer of Permittee.

17 5. FEES AND CHARGES: All fees and charges associated with the
18 permitted concessions, operations and activities and any changes to fee schedules shall
19 be subject to the prior written approval of the Manager.

20 6. AUDIT: The City shall be entitled during the initial term or any
21 extension thereof and within two (2) years after the expiration or termination of this
22 Permit to inspect, examine, and audit all Permittee's books of account, records, cash
23 receipts, and other pertinent data so City can ascertain Permittee's gross receipts.
24 Permittee shall cooperate fully with City in making any such inspection, examination, and
25 audit. The inspection, examination, or audit shall be conducted during usual business
26 hours. If an audit shows that there is a deficiency in the payment of any sum due the City,
27 the deficiency shall become immediately due and payable. The costs of the audit shall be
28 paid by the City unless the audit shows that Permittee understated gross receipts by

1 more than three percent (3%), in which case Permittee shall pay all City's costs of the
2 audit. If it is determined by an audit that there is an overpayment of percentage fees, a
3 refund shall become due from the City.

4 7. BOOKS OF ACCOUNT AND RECORDS:

5 A. Permittee shall keep, within the City of Long Beach, complete
6 and accurate books of account, records, cash receipts, and other pertinent data
7 showing all gross receipts, all in accordance with generally accepted accounting
8 principles.

9 B. Permittee shall install and maintain accurate receipt printing
10 cash registers or computer systems and shall record on the cash registers or
11 computer systems every sale of merchandise and services or other transactions at
12 the time of the transaction on either a cash register having a sealed, continuous
13 cash register tape with cumulative totals that numbers, records and duplicates
14 each transaction entered into the register, or serially numbered sales slips.

15 If Permittee chooses to record each sale by using a cash register,
16 the continuous cash register tape will be sealed or locked in such a manner that it
17 is not accessible to the person operating the cash register.

18 If Permittee chooses to record each sale by using a computer
19 system, the computer generated receipts shall be retained in chronological order
20 (including those canceled, voided or not used) for three (3) years.

21 If Permittee chooses to record each sale on individual slips, the sales
22 slips (including those canceled, voided, or not used) will be retained in numerical
23 sequence for three (3) years.

24 C. For the purpose of ascertaining the number of Rainbow
25 Harbor passengers, Permittee will submit monthly, in writing, vessel schedules,
26 including the name of the boat, and the passenger counts with the gross receipts
27 statements to the Accounting Section of the Department of Parks, Recreation and
28 Marine at the following address:

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Department of Parks, Recreation and Marine

2760 Studebaker Road

Long Beach, CA 90815-1697

Attention: Accounting Section

D. Permittee, will prepare or cause to be prepared, preserve, and maintain, for a period of not less than three (3) years these books, accounts and records:

i. daily cash register summary tapes and sealed, continuous cash register tapes or prenumbered sales slips or computer transaction receipts on transaction summary reports;

ii. a single, separate bank account into which all receipts of business or other revenue from operations on or from the Permit Area are deposited;

iii. all bank statements detailing transactions in or through any business bank account;

iv. daily or weekly sales capitulations;

v. a general ledger or a summary record of all cash receipts and disbursements from operations on or from the Permit Area;

vi. copies of all tax returns filed with any governmental authority that reflect in any manner sales, income, or revenue generated in or from the Permitted Premises, including, but not limited to, federal income tax returns and state sales or use tax returns;

vii. daily vessel schedules, including the name(s) and identification number(s) of the boat(s), and passenger counts;

viii. other records or accounts that City may reasonably require in order to ascertain, document, or substantiate gross receipts.

E. Permittee shall keep within the City of Long Beach all of the books, records, and other documents in the manner recited in this paragraph, and

1 will make said books, records and documents available for inspection,
2 examination, or audit by City or City's designated representative upon giving
3 Permittee five (5) days' prior notice of City's intention to exercise its rights under
4 this paragraph. In connection with an examination of audit, City will have the right
5 to inspect the records of sales from any other store operated by Permittee, but
6 only if the examination is reasonably necessary to ascertain gross sales from the
7 Permit Area. If upon inspection or examination of Permittee's available books and
8 records of account, City determines that Permittee has failed to maintain,
9 preserve, or retain the documents, books, and records that this Permit requires
10 Permittee to maintain in the manner set forth in this paragraph, City will give the
11 Permittee sixty (60) days to cure the deficiencies. Further, if Permittee is found to
12 be deficient in maintaining any of documents, books, or records, Permittee will
13 reimburse City for all reasonable expenses incurred by City in determining the
14 deficiencies, including without limitation any audit or examination fees.

15 F. The receipt by City of any statement or any payment of
16 compensation for any period shall not bind City as to the correctness of the
17 statement or payment.

18 8. IMPROVEMENTS: Permittee shall not install, erect, or construct any
19 building, improvement, or structure on the Permit Area nor alter the same without the
20 prior written approval of the Manager. In the event Permittee, with the prior written
21 approval of the Manager, shall make any improvement to the structures within the Permit
22 Area, title to any such improvement shall vest in the City.

23 Any approval shall be subject to conditions as may be required for such
24 improvements and imposed by the Manager.

25 9. ADVERTISING:

26 9.1. Advertising Signs. Permittee, at its cost, may place or erect
27 and maintain signs on the Permit Area, provided that Permittee obtains prior
28 written approval from the Department of Parks, Recreation and Marine. Further,

1 Permitee' s sign shall be in compliance with City's sign ordinance and conditions
2 of the Department of Parks, Recreation and Marine.

3 9.2. Advertising Budget. Within thirty (30) days after the
4 commencement date of the term of this Permit, and within thirty (30) days after the
5 end of each calendar year during the term of this Permit, Permitee shall submit to
6 the Manager a written budget describing in reasonable detail proposed
7 expenditures for advertising, publicity and promotion (including direct expenses for
8 salaries associated therewith) proposed to be made during the calendar year.
9 Beginning in year 2, the budget shall not be less than one percent (1%) of
10 Permitee's gross sales for previous calendar year. Permitee shall submit to the
11 Manager upon demand a detailed statement of expenditures made by it to
12 advertise, publicize and promote the permitted concession, operations and
13 activities. In the event Permitee fails or refuses to comply with the provisions of
14 this paragraph, such failure or refusal shall be deemed a material breach and the
15 City may terminate this Permit upon fifteen (15) days written notice Permitee.

16 10. UTILITIES: Permitee, at its cost, shall promptly pay or cause to be
17 paid all utility fees, costs and charges resulting from such use or assessments for utilities
18 levied against the Permit Area for any period during the term of this Permit. If Permitee
19 requires utilities which are beyond the capacity provided, Permitee shall coordinate and
20 submit request for additional services through the Manager of the Marine Bureau.

21 11. TRASH REMOVAL AND DISPOSAL: The City shall provide, for
22 Permitee, at each dock for trash disposal except the floating docks located at Pierpoint
23 Landing. Trash from Permitee's operation shall be disposed of in the trash bins for
24 collection by the Maintenance Operations Bureau of the Department of Parks, Recreation
25 and Marine. The Maintenance Operations Bureau shall perform collection services from
26 the water and the collection schedule shall be according to demand. The City shall have
27 the right to modify or change the trash removal operation and Permitee agrees to accept
28 and comply with such modifications or changes.

1 12. MAINTENANCE AND REPAIR: The City shall maintain the Permit
2 Area and the improvements thereon in good condition and repair, reasonable wear and
3 tear excepted. Permittee understands that the water area within the Rainbow Harbor area
4 is subject to collection of debris from the Los Angeles River runoff. Further, Permittee
5 acknowledges that water conditions including debris and sediment may occur at times in
6 the adjacent area of the Los Angeles River which could affect access to the Rainbow
7 Harbor. City shall not be required to dredge the Permit Area or adjacent area of the Los
8 Angeles river. Neither the City nor its officers or employees shall be liable and Permittee
9 waives all claims for damage to its vessels or its business as a result of any such
10 condition. Permittee's vessels and their gear and Permittee's property thereon shall be at
11 the Permit Area at Permittee's risk and the City shall not be liable for damage thereto or
12 theft or appropriation thereof.

13 13. DAMAGE OR DESTRUCTION OF IMPROVEMENTS:

14 13.1. Responsibility for Repair. If any building or improvement at
15 any time on the Permit Area shall be damaged or destroyed by any cause
16 whatsoever during the Permit term, Permittee shall, with reasonable promptness,
17 report the damage to the City. The City shall have responsibility to make repairs to
18 replace the same, to at least the condition existing immediately prior to such
19 damage or destruction. The Permittee shall be responsible for reimbursing the City
20 for the pro rata share of expenses incurred to repair or replace the damage or
21 destruction to the Permit Area to the extent contributed to by the act or omission of
22 Permittee, its employees or agents. Permittee shall be responsible for reimbursing
23 the City even though the proceeds of any insurance policies covering the loss
24 ("Insurance Proceeds") shall be insufficient to reimburse Permittee therefor;
25 provided, however, that if such proceeds of insurance are more than sufficient to
26 pay the cost of any such rebuilding, Permittee shall be entitled to receive any
27 surplus. City at its discretion may authorize Permittee to make repairs to replace
28 the same to at least the condition existing immediately prior to such damage or

1 destruction. Such authorization shall be in writing.

2 13.2. Insurance Proceeds. Insurance Proceeds shall be held by an
3 Insurance Trustee mutually agreed to by the parties, but shall be paid to the
4 Permittee or as Permittee may direct from time to time as the restoration of the
5 Permit Area progresses, to pay or reimburse City for the cost of such restoration
6 upon the written request of City accompanied by evidence satisfactory to the
7 Insurance Trustee that:

8 A. an amount equal to the amount requested is then due
9 and payable or has been paid and is properly a part of such cost of
10 restoration;

11 B. that the net Insurance Proceeds not yet advanced will
12 be sufficient for the completion of the restoration.

13 If at any time during the period of restoration and/or reconstruction the City shall
14 determine that the Insurance Proceeds are insufficient to cause such restoration,
15 then upon delivery of written notice thereof and specifying the deficit Permittee
16 shall deposit in trust with the Insurance Trustee such additional sums as may be
17 required to complete the restoration of the Permit Area. Upon receipt by the
18 Insurance Trustee of evidence satisfactory to it that:

19 A. the restoration of the Permit Area has been completed;
20 B. the cost thereof has been paid in full; and
21 C. there are no mechanic's or similar liens for labor or
22 materials supplied in connection therewith, the balance, if any, of such
23 Insurance Proceeds shall be paid to Permittee or as the Permittee may
24 direct.

25 13.3. Procedure for Restoration of Improvements. Following
26 damage to all or any portion of the Permit Area, Permittee shall reimburse the City
27 for restoration of the Permit Area and/ or the improvements thereon, whether or
28 not insurance proceeds are sufficient to do so.

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13.4 No Termination. Except as otherwise expressly agreed to in writing by the parties hereto, no destruction of or damage to the Permit Area, improvements thereon or any part thereof, whether such damage or destruction be partial or total or whether such damage or destruction shall have been covered by insurance or not, shall entitle or permit either City or Permittee to surrender or terminate this Permit or relieve Permittee from liability to pay in full the fee payable by Permittee hereunder. Permittee hereby waives any rights now or hereafter conferred upon it by statute or other law to surrender this Permit or to quit or surrender the Permit Area or any part thereof, or to receive any suspension, diminution, abatement or reduction of fees or other sums and charges payable to Permittee hereunder on account of any such destruction or damage.

14. INSURANCE: Concurrent with the execution of this Permit and in partial performance of Permittee's obligations hereunder, Permittee shall procure and maintain at Permittee's expense for the duration of this Permit, including any extensions, renewals, or holding over thereof, the following insurance coverages from insurance companies that are admitted to write insurance in the State of California or from authorized nonadmitted insurers that have ratings of or equivalent to an A:VIII by A.M. Best and Company:

A. Commercial General Liability insurance (equivalent in coverage scope to ISO form CG 00 01 11 85 or 11 88) in an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and covering the Permittee's operations under or in connection with this Permit. If the policy contains a general aggregate, the general aggregate shall be in an amount not less than Two Million Dollars (\$2,000,000). Such insurance shall include, as may be applicable to Permittee's operations under or in connection with this Permit, broad form contractual liability, products and completed operations liability and liquor liability. The City of Long Beach, its officials, employees and agents shall be added as additional insureds by endorsement (equivalent in coverage

1 scope to ISO form CG 20 26 11 85). This insurance shall contain no special
2 limitations on the scope of protection afforded to the City, its officials, employees
3 and agents, and shall provide cross-liability protection.

4 B. Protection and Indemnity including, as may be applicable to
5 Permittee' s operations under or in connection with this Permit, injury to
6 passengers, damage to piers, docks and pilings and property on piers and docks,
7 wreck removal, and collision liability in an amount not less than One Million Dollars
8 (\$1,000,000) per occurrence for each vessel operating under this Permit. If the
9 policy contains a general aggregate, the general aggregate shall be in an amount
10 not less than Two Million Dollars (\$2,000,000). The City of Long Beach, its
11 officials, employees and agents shall be added as additional insureds by
12 endorsement. This insurance shall contain no special limitations on the scope of
13 protection afforded to the City, its officials, employees, and agents, and shall
14 provide cross-liability protection.

15 C. Workers' Compensation as required by the State of California
16 endorsed, as applicable, to include United States Longshoremen and Harbor
17 Workers' Compensation Act coverage and Jones' Act coverage and Employer's
18 Liability insurance with minimum limits of One Million Dollars (\$1,000,000).

19 Any self-insurance program or self-insured retention must be approved
20 separately in writing by City and shall protect the City of Long Beach, its officials,
21 employees, and agents in the same manner and to the same extent as they would have
22 been protected had the policy or policies not contained retention provisions.

23 Each insurance policy shall be endorsed to state that coverage shall not be
24 suspended, voided, materially changed, or canceled by either party except after thirty
25 (30) days prior written notice to City, and shall be primary to City. Any insurance or self-
26 insurance maintained by City shall be excess to and shall not contribute to insurance or
27 self-insurance maintained by Permittee.

28 Permittee shall deliver to City certificates of insurance and the required

1 endorsements for approval as to sufficiency and form prior to commencement of this
2 Permit. The certificates and endorsements for each insurance policy shall contain the
3 original signature of a person authorized by that insurer to bind coverage on its behalf.
4 Permittee shall, at least thirty (30) days prior to expiration of such policies, furnish City
5 with evidence of renewals. City reserves the right to require complete certified copies of
6 all said policies at any time.

7 Such insurance as required herein shall not be deemed to limit Permittee's
8 liability relating to performance under this Permit. The procuring of insurance shall not be
9 construed as a limitation on liability or as full performance of the indemnification and hold
10 harmless provisions of this Permit. Permittee understands and agrees that,
11 notwithstanding any insurance, Permittee's obligation to defend, indemnify, and hold City,
12 its officials, agents, and employees harmless hereunder is for the full and total amount of
13 any damage, injuries, loss, expense, costs, or liabilities caused by or in any manner
14 connected with the operations of Permittee. Not more frequently than every three (3)
15 years, if in the opinion of City the amount of the foregoing insurance coverages is not
16 adequate, Permittee shall amend the insurance coverage as required by City's Risk
17 Manager or designee. Any modification or waiver of the insurance requirements herein
18 shall be made only with the written approval of the City's Risk Manager or designee.

19 15. INDEMNIFICATION:

20 15.1. General Indemnity. Permittee shall defend and indemnify the
21 City of Long Beach and its officers and employees while acting within the scope of
22 their duties from and against any and all actions, suits, proceedings, claims and
23 demands, costs (including attorneys' fees and court costs), expense and liability of
24 any kind or nature whatsoever ("claims") for injury to or death of persons or
25 damage to property (including property owned by or under the control of the City)
26 which may be brought, made, filed against, imposed upon or sustained by the City,
27 its officers or employees based upon or arising out of:

28 A. An act or omission of Permittee, its officers, agents,

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employees, contractors, licensees or invitees or of any person entering upon the Permit Area with the express or implied invitation of Permittee;

B. A violation by Permittee, its officers, agents, employees, contractors, licensees or invitees or of any other person entering upon the Permit Area with the express or implied invitation of Permittee of any law ordinance or governmental order of any kind;

C. The use or occupancy of the Permit Area by Permittee, its officers, agents, employees, contractors, licensees or invitees or of any other person entering upon the Permit Area with the express or implied invitation of Permittee. This indemnity shall not include claims based upon or arising out of the sole negligence, gross negligence, or willful misconduct of the City, its officers and employees. Further, this indemnity shall not require payment of a claim by the City or its officers or employees as a condition precedent to the recovery under the same. This indemnification provision supplements and in no way limits the scope of the indemnifications set out in subparagraph 15.2 below. The indemnity obligation of Permittee under this paragraph shall survive the expiration or termination, for any reason, of this Permit.

15.2. Environmental Release and Indemnification. Permittee hereby agrees to hold harmless, defend and indemnify the City and its employees, members and officials from and against all liability, loss, damage, costs, penalties, fines and/or expenses (including attorneys' fees and court costs) arising out of or in any way connected with or the activities, acts or omissions of Permittee, its permittees, employees, contractors or agents on or affecting the Permit Area without regard to fault or negligence including but not limited to the release of any hazardous materials into the air, soil, groundwater or surface water on, in, under or from the Permit Area whether such condition, liability, loss, damage, cost, penalty, fine and/or expense shall accrue or be discovered before or after termination of

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this Permit. This indemnification supplements and in no way limits the scope of the indemnification set forth in paragraph 15.1. above.

In addition, Permittee waives, releases, acquits and forever discharges City, its employees, members and officials or any other person acting on behalf of City, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, or compensation (collectively "claims") whatsoever (including, but not limited to, all claims at common law and/or under any federal, state or local environmental, health and/or safety-related law, rule, regulation or order, currently existing and as amended or enacted in the future ("Environmental Law"), whether direct or indirect, known or unknown, foreseen or unforeseen, which Permittee now has or may have or which may arise in the future on account of or in any way growing out of or in connection with any hazardous materials on, under from, or affecting the Permit Area, or any law or regulation applicable thereto. Permittee 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 favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."; and hereby releases the Permittee from any unknown claims and waives all rights it may have under Section 1542 of the Civil Code or under any other statute or common law principle of similar effect.

15.2.1. Exclusions.

- A. Contamination on, beneath, or abutting the Permit Area which existed prior to the initial commencement date of the Permit.
- B. Contamination which has emanated or emanates from a location off site the Permit Area and which has trespassed onto, underneath or across the Permit Area.
- C. Contamination which is unrelated to Permittee's

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use, occupancy of Permittee's subpermittees, invitees, or guests, on the Permit Area.

D. Permittee need not indemnify City for activities carried on or around the Permit Area by City as part of occasional use of the Permit Area by City or its other permittees, licensees, or the like or actions of the public who have not been permitted or solicited by Permittee.

15.3. Definition. "Hazardous material" means any substance:

A. the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law; or

B. which is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance or amendments thereto including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.); or

C. which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of California or any political subdivision thereof; or

D. the presence of which on the Permit Area causes or threatens to cause a nuisance upon the Permit Area or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Permit Area; or

E. the presence of which on adjacent properties could

1 constitute a trespass by Permittee; or polychlorinated bipheynols (PCBs),
2 asbestos or urea formaldehyde foam insulation.

3 15.4 City's Indemnification of Permittee. The City shall defend and
4 indemnify Permittee and its officers, directors, shareholders and employees from
5 and against any and all actions, suits, proceedings, claims and demands, costs
6 (including attorneys' fees and court costs) , expense and liability of any kind or
7 nature whatsoever for injury to or death of persons or damage to property
8 (including the Permit Area) which may be brought, made, filed against, imposed
9 upon or sustained by Permittee and its officers, directors, shareholders and
10 employees based upon or arising out of the use of the Permit Area for any City
11 purpose (as provided in paragraph 2.C.) by persons authorized by the City
12 (including City employees) to use the Permit Area, including said persons'
13 employees and guests (but excluding Permittee and its officers, directors,
14 shareholders, employees and guests).

15 16. FORCE MAJEURE: City and Permittee shall not be deemed to be in
16 default in the performance of the terms, covenants or conditions of this Agreement if
17 either party is prevented from performing said terms, covenants or conditions by causes
18 beyond its control, including, without limitation, acts of God or the public enemy; failures
19 due to nonperformance or delay of performance by suppliers or contractors; any order,
20 directive or other interference by municipal, state, federal or other governmental official or
21 agency; any catastrophe resulting from the elements, flood, fire, explosion, or any other
22 cause reasonably beyond the control of a party, but excluding strikes or other labor
23 disputes, lockouts, work stoppages or financial inability.

24 17. VESSELS: Permittee agrees, with respect to its operation of charter
25 cruises and its use of the Permit Area, Permittee shall at all times comply with the
26 Rainbow Harbor Rules and Regulations of the City of Long Beach, including other
27 conditions herein:

28 A. Permittee shall submit weekly, in writing, daily vessel

1 schedules, including the name(s) and identification number(s) of the boat(s), and
2 passenger counts. The schedules shall be submitted by the Friday of the
3 preceding week. Permittee may amend the reported information to make changes
4 to or correct information pursuant to the vessel schedule, boat name or
5 identification number and passenger count. Permittee must give the Manager of
6 the Marine Bureau prior written notification of any changes.

7 B. Permittee, at its cost, shall maintain each of its vessels in
8 good, seaworthy condition. At all times, if any condition is discovered affecting the
9 safety of the vessel or its seaworthiness, that vessel shall be immediately
10 withdrawn from service and all necessary repairs promptly commenced.
11 Permittee's vessels shall be attractive in design and shall at all times be
12 maintained in a neat and clean condition free from deteriorations. To maintain an
13 attractive appearance at all times, Permittee, at its cost, shall cause its vessels to
14 have all gear stored and to be regularly painted. No rips, tears or missing pieces or
15 excessive fading shall be permitted.

16 18. LICENSE AND CERTIFICATION: Permittee shall not permit any
17 person charged with the responsibility of operating any of its vessels providing dinner,
18 harbor or charter cruises to do so unless and until that person is qualified and duly
19 licensed to operate and in compliance with the U.S. Coast Guard regulations, the vessel
20 or vessels to which that person is assigned. Permittee shall deliver to the Manager of the
21 Marine Bureau copies of such licenses for all vessel operators. Permittee's vessel
22 operators and crew and ticket sellers shall at all times be dressed in clean, well-kept
23 coordinated uniforms, except when performing required maintenance.

24 Permittee's vessels shall at all times be certified and licensed and inspected
25 by those governmental agencies having jurisdiction over Permittee's activities. Permittee
26 shall at all times comply with all United States Coast Guard regulations.

27 19. PARKING: Parking facilities at Shoreline Village shall not be used
28 by Permittee's patrons.

1 19.1. Parking/Traffic Management. Permittee and employees of
2 Permittee may be required to participate in a parking/traffic management program
3 which may designate parking areas for Permittee's employees.

4 20. ASSIGNMENT OR TRANSFER: Permittee shall not assign or
5 transfer this Permit nor shall any interest herein be assignable or transferable by
6 operation of law or by any process or proceedings of any court or otherwise. Any
7 attempted transfer or assignment shall be void and confer no rights whatsoever upon a
8 transferee or assignee.

9 Notwithstanding the foregoing, each year, for three days preceding the
10 opening of the Long Beach Grand Prix through and including three days following the
11 conclusion of the event, Permittee may temporarily sublet its commercial boat slips to up
12 to ten (10) private boat owners and/or Grand Prix attendees. Furthermore, Permittee may
13 grant subpermits, licenses or concessions to others provided Permittee shall first obtain
14 the written consent of the Manager. The Manager shall not be required to give any
15 consent to a proposed subpermitting, licensing or grant of concession rights, unless and
16 until Permittee has submitted to the Manager such additional information regarding the
17 identity of proposed subpermittee, licensee or concessionaire and the terms and
18 conditions of the proposed transaction as may be required by the Manager to make a
19 determination to grant or withhold such consent. Further, the Manager shall have the
20 right to impose such further conditions in connection with the granting of consent as may
21 be required to assure that public health, safety, welfare and convenience will be best
22 served by the proposed sub-permit, license or concession.

23 If Permittee shall be adjudicated a bankrupt or become insolvent or any
24 interest in this Permit be taken by virtue of attachment, execution, or receivership, the
25 City may terminate this Permit upon five (5) days written notice to Permittee.

26 21. HOLDING OVER: This Permit shall terminate without any further
27 notice as of the Permit expiration date set forth in paragraph three above. Any holding
28 over by Permittee after the Permit expiration date shall not constitute a renewal or

1 extension or give Permittee any rights in or to the Permit Area except as expressly
2 provided in this Permit. Any holding over after the Permit expiration date with the consent
3 of City shall be construed to be a tenancy from month to month, at fees equal to the fees
4 due for the last year of the Permit term, and shall otherwise be on the terms and
5 conditions herein specified.

6 22. INSPECTION: The City's authorized representatives shall have
7 access to and across the Permit Area during business hours and, in the event of an
8 emergency, at any other time for inspection, repair of publicly-owned utilities and
9 structures, and for fire and police purposes. The City, acting through the Marine Bureau
10 of the Department of Parks, Recreation and Marine, shall have the right, but not the
11 obligation, to board and inspect any such vessels to assure compliance by Permittee with
12 the provisions of this Permit. City shall coordinate inspections with Permittee.

13 23. GENERAL PROVISIONS:

14 23.1. Notices, Demands and Communication Between the Parties.

15 Written notices, demands, and communication between City and Permittee shall
16 be in writing and shall be sufficiently given if personally served or if mailed by
17 registered or certified mail, postage prepaid, return receipt requested addressed
18 as follows:

19 TO CITY: City Manager
20 10th Floor, City Hall
21 411 West Ocean Boulevard
22 Long Beach, California 90802

23 WITH A COPY TO: Director of Parks, Recreation & Marine
24 2760 Studebaker Road
25 Long Beach, California 90815-1697

26 TO PERMITTEE: Harbor Breeze, Inc.
27 2325 Palos Verdes Drive West, Suite 304
28 Rancho Palos Verdes, CA 90274

Either party may change its address by notifying the other party of
the change of address. Notice shall be deemed communicated within forty-eight
(48) hours from the time of mailing if mailed as provided in this paragraph.

1 23.2. Conflict of Interest. No member, official or employee of City
2 shall have any personal interest, direct or indirect, in this Permit, nor shall any
3 such member, official or employees participate in any decision relating to this
4 Permit which affects his personal interest or the interests of any corporation,
5 partnership or association in which he is, directly or indirectly, interested. No
6 member, official or employee of City shall be personally liable to Permittee, or any
7 successor in interest, in the event of any default or breach by City or for any
8 amount which may become due to Permittee or successor or on any obligations
9 under the terms of this Permit.

10 23.3. Defaults and Remedies.

11 23.3.1. Defaults - General. Failure by either party to perform
12 any term or provision of this Permit constitutes default under this Permit, if
13 not cured within thirty (30) days from the date of receipt of a written notice
14 from the other party specifying the claimed default provided that is such
15 default cannot reasonably be cured within such thirty (30) day period, the
16 party receiving such notice of default shall not be in default under this
17 Permit if such party commences the cure of such default within such thirty
18 (30) day period and thereafter diligently prosecutes the steps to cure such
19 default to completion.

20 23.3.2. Institution of Legal Actions. In addition to any other
21 rights or remedies, either party may institute legal action to cure, correct, or
22 remedy any default, to recover damages for any default, or to obtain any
23 other remedy consistent with the purpose of this Permit. Such legal actions
24 must be instituted in the South Branch of the Superior Court of the County
25 of Los Angeles, State of California, in an appropriate municipal court in that
26 county, or in the Federal District court in the Central District of California.
27 The prevailing party in any action commenced pursuant to this Permit shall
28 be entitled to recover reasonable costs, expenses and attorneys' fees.

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23.3.3. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Permit. Permittee during its use and occupancy of the Permit Area shall at all times comply with all laws, ordinances, rules, and regulations of and obtain permits from all federal, state, and local governmental authorities having jurisdiction over the Permit Area, Permittee's vessels and Permittee's activities thereon.

23.3.4. Service of Process. In the event any legal action is commenced by Permittee against City, service of process on City shall be made by personal service upon the City Clerk of the City, or in such other manner as may be provided by law.

In the event that any legal action is commenced by City against Permittee, service of process on Permittee shall be made as provided by law and shall be valid whether made within or without the State of California.

23.3.5. Rights and Remedies Are Cumulative. Except as otherwise expressly stated in this Permit, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

23.3.6. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

23.3.7. Remedies. In the event of a default by Permittee, which is not cured by Permittee within the times specified in this Permit,

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City without further notice to Permittee, may declare this Permit and/or Permittee's right of possession at an end and may reenter the Permit Area by process of law, in which event, City shall have the right to recover from Permittee:

23.3.7.1. The worth at the time of award of the unpaid fees which has been earned at the time of termination, plus interest;

23.3.7.2. The worth at the time of award of the amount by which the unpaid fees which would have been earned after termination until the time of award exceeds the amount of such fee loss that Permittee proves could have been reasonably avoided, plus interest;

23.3.7.3. The worth at the time of award of the amount by which the unpaid fees for the balance of the term after the time of award exceeds the amount of such fee loss for the same period the Permittee proves could be reasonably avoided, plus interest thereon; and

23.3.7.4. The remedies of City as hereinabove provided are cumulative to the other provisions of this Permit.

23.4. Partial Invalidity. If any term or provision of this Permit or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Permit, or the application of such term or provisions, to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Permit shall be valid and enforceable to the fullest extent permitted by law.

23.5. Entire Agreement, Waivers and Amendments. This Permit constitutes the entire understanding and agreement of the parties. This Permit integrates all the terms and conditions mentioned herein or

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incidental hereto, and supersedes all negotiations between the parties with respect to all or any part of the subject matter hereof.

23.6. Waivers. All waivers of the provisions of this Permit must be in writing by the appropriate authorities of City or Permittee and all amendments hereto must be in writing by the appropriate authorities of City and Permittee.

23.7. Successors in Interest. The provisions of this Permit shall be binding upon and shall inure to the benefit of the heirs, executors, assigns and successors in interest of the parties hereto.

23.8. Nondiscrimination. In connection with performance of this Agreement and subject to applicable laws, rules and regulations, Consultant shall not discriminate in rendering services hereunder on the basis of race, color, religion, national origin, sex, sexual orientation, AIDS, HIV status, age, disability, handicap or veteran status.

23.9. No Joint Venture or Partnership. Nothing in this agreement shall be construed as creating either a partnership or joint venture between the parties hereto.

23.10. Jointly Drafted. This agreement is jointly drafted by the parties hereto and it is not to be construed against either party as the drafter.

23.11. Municipal Powers. Nothing contained herein shall be construed as a limitation upon powers of City as a chartered city of the State of California. This Permit is entered into by City in its proprietary capacity and nothing contained herein shall relieve Permittee from complying with all requirements, rules, regulations or ordinances of the City of Long Beach.

23.12. No Mineral Rights. This Permit creates no rights in Permittee to minerals, or proceeds from mineral production, which may lie

1 below the Permit Area including but not limited to any unitized oil.

2 23.13. No Relocation Benefits. Permittee shall have no rights
3 to relocation benefits mandated by the laws of the State of California as to
4 this Permit Area.

5 23.14 Americans with Disabilities Act. Permittee shall have
6 and be allocated the sole responsibility to comply with the Americans with
7 Disabilities Act ("ADA") as may be applicable with respect to Permittee's
8 operation and the Permittee shall indemnify and hold City harmless from
9 and against any claims of a violation of the ADA.

10 24. TAXES: This Permit may create a possessory interest subject to
11 property taxation and Permittee may be liable for the payment of property taxes levied on
12 such possessory interest. Permittee shall pay or cause to be paid, prior to delinquency,
13 all taxes, assessments and other governmental and district charges that may be levied or
14 assessed for buildings, improvements or property located on the Permit Area and upon
15 possessory interests created by this Permit. Satisfactory evidence of such payments shall
16 be delivered by Permittee upon demand therefor.

17 25. COASTAL DEVELOPMENT PERMIT: Permittee acknowledges that
18 the California Coastal Commission requires that any permit issued for operation within
19 the Rainbow Harbor area shall be subject to the terms and conditions of Coastal
20 Development Permit no. 5-96-124, including the Chemical Management Plan and
21 Coastal Development Permit no. 5-98-161. The conditions of Coastal Development
22 Permit no. 5-96-124, the Chemical Management Plan and Coastal Development Permit
23 no. 5-98-161 are incorporated herein and attached as exhibits A, B and C respectively:

24 Exhibit A - Coastal Development Permit no. 5-96-124

25 Exhibit B - Chemical Management Plan

26 Exhibit C - Coastal Development Permit no. 5-98-161

27 26. FOURTH OF JULY: Permittee recognizes that it is the responsibility
28 of the City to maintain a safe and secure environment for the public at all times. Annually,

1 the Rainbow Harbor area experiences exceptional visitor and activity levels related to the
2 4th of July. To mitigate the impact to public safety and security, the City may limit
3 Rainbow Harbor activity. Permittee agrees to be bound by reasonable restrictions on its
4 activities in or around the Permit Area on such day or day(s) of 4th of July activities each
5 year of the term of this Permit. Such restrictions may include limitations on the hours
6 businesses may operate including those of Permittee in the Permit Area. Permittee
7 waives any and all claim that it might ever have against City as a result of any adverse
8 impact on its operations or business as a result of City restrictions.

9 27. SPECIAL EVENTS: Permittee recognizes that the area of the City in
10 which Permittee will operate further to this Permit is annually impacted by Special Events,
11 including but not limited to the running of the Long Beach Grand Prix. Permittee waives
12 any and all claim that it might ever have against City or the operators of said Special
13 Events, including but not limited to the Grand Prix as a result of any adverse impact on its
14 operations or business as a result of said Special Events.

15 28. EMPLOYMENT COOPERATION: Permittee acknowledges that the
16 Queensway Bay Project, including Permittee's operations under this Permit, is subject to
17 the hiring requirements set forth in 24 C.F.R. Section 570.209. Such requirements
18 mandate that the Queensway Bay Project create 1,143 new jobs for low- or moderate-
19 income persons (as defined in 24 C.F.R. Section 570.3) (hereinafter 'low-income hires').
20 Accordingly, Permittee agrees that it shall use good faith efforts to create such low
21 income hires, and shall report to the City of Long Beach, on an annual basis, the name,
22 position, date of hire and income level for all low-income hires for its operations under
23 this Permit. Permittee further agrees that all permits, subpermits, concession agreements
24 and licenses entered into by Permittee regarding any portion of the permit area shall
25 require that all subpermittees, concessionaires and licensees comply with such
26 requirements. In furtherance of these requirements, Permittee agrees that it will
27 reasonably cooperate with the City of Long Beach, through its Training and Employment
28 Development Officer and staff with recruitment, screening and tracking. In implementing


OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4511

1 such efforts, the City of Long Beach, through its Training and Development Officer and
2 staff, will provide to Permittee and all Queensway Bay permittees, subpermittees,
3 concessionaires and licensees, staff assistance, at no cost, to pre-screen and qualify all
4 potential job applicants. Such services include assisting with community outreach to
5 recruit qualified job applicants and conducting pre-screening sessions to determine the
6 most qualified applicants for jobs. All qualification and hiring decisions will be made by
7 Permittee or its subpermittees, concessionaires or licensees. As part of its
8 implementation program, the City of Long Beach will also provide for up to 240 hours of
9 on-the-job training if the employee is determined to need such training and he/she meets
10 Federal Job Training Partnership Act (JTPA) program eligibility. The City of Long Beach
11 Training and Employment Development Officer is responsible for providing the staff
12 necessary for pre-employment assistance. The requirements set forth in this Section
13 shall terminate upon the City's written verification that 1,143 low-income hires have been
14 created for the Queensway Bay Project.

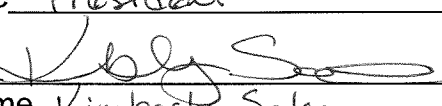
15 IN WITNESS WHEREOF, the parties have executed this Permit on the
16 respective dates set forth opposite their signatures.

17 HARBOR BREEZE, INC., a California
18 corporation

19 1/31, 2020

By 
20 Name Ralph Salas
21 Title President

22 1/31, 2020

By 
23 Name Kimberly Salas
24 Title Vice President

25 "Permittee"

26 CITY OF LONG BEACH, a municipal
27 corporation

28 February 25, 2020

By 
City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

"City"

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This Amended and Restated Permit No. 27276 is approved as to form on

FEB. 13, 2020.

CHARLES PARKIN, City Attorney

By  Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4511

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

Page 1 of 8
Date: 13 November 1996
Permit No. 5-96-124

COASTAL DEVELOPMENT PERMIT

On 12 September 1996, the California Coastal Commission granted to City of Long Beach this permit subject to the attached Standard and Special conditions, for development consisting of

Construct a downtown commercial harbor in Shoreline Park and Lagoon, reconstruct and improve Shoreline Park, demolish the Golden Shore public boat launch in order to create a 6.4 acre habitat mitigation area, transport approximately 109,000 cubic yards of excavated sand to 8th Place Beach area for beach replenishment, [and dispose of approximately 325,000 cubic yards of dredged materials at the LA-2 offshore disposal site (see Consistency Certification No. CC-98-96)].

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 200 W. Shoreline Drive (Shoreline Park), 199 S. Golden Shore (Golden Shore boat launch), and public beach between 1st Place and 15th Place (beach replenishment), City of Long Beach.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: 

Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date

Signature of Permittee

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. Regional Bicycle Route

Pursuant to the July 11, 1996 letter signed by Robert Paternoster, Director of the Queensway Bay Project, and addressed to Charles Posner, Coastal Program Analyst, the Commission's Long Beach office:

- a) During the construction phase of the proposed project, the City shall provide and maintain a temporary bicycle route connecting the existing Los Angeles River bicycle path to the existing beach bicycle path. The temporary bicycle route shall maintain regional bicycle circulation through the Downtown Shoreline area by generally following the route described in the July 11, 1996 letter.

COASTAL DEVELOPMENT PERMIT

Page 3 of 8
Permit No. 5-96-124

- b) Prior to the closing or demolition of any portion of the existing regional bicycle route, a replacement bicycle route shall be constructed and opened in order to maintain the connection between the Los Angeles River bicycle path and the beach bicycle path.
- c) Prior to the removal of the temporary bicycle route, the City shall construct, open and maintain the proposed permanent regional bicycle route which connects the Los Angeles River bicycle path to the beach bicycle path as shown on Exhibit #11 of this report.

2. Public Restrooms

The City shall provide public restroom facilities in Riverfront Park. Either temporary or permanent restroom facilities shall be available for public use when Riverfront Park officially opens, and thereafter. The City shall install permanent restroom facilities in Riverfront Park within one year of the official opening the park to the public, or within such additional time as may be granted by the Executive Director for good cause. The permanent restroom facilities will require a Coastal Development Permit or a permit amendment approved by the Commission.

3. Parking Meters

Any parking meters installed on public parking spaces in Riverfront Park shall allow ninety minutes of parking when the maximum amount of coins are deposited. In addition, the users of such public parking spaces shall be permitted to use the metered parking spaces for at least four hours (if the required amount of coins are added) before being required to vacate the parking space.

4. Public Access

The City shall provide and maintain unobstructed public access to and along the Pine Avenue Pier, the Queensway Bay Harbor esplanade, and the plaza areas in front of and adjacent to the aquarium structure free of charge for the life of the development approved herein. Public access to the Pine Avenue Pier may only be interrupted for special events with a duration of six hours or less, or by special events permitted by a subsequent Coastal Development Permit. Public access may also be interrupted subject to those temporary safety limitations necessitated by unsafe conditions resulting from waves, extreme weather or required maintenance activities.

5. Public Boat Docks

The City shall provide and maintain a minimum of 200 linear feet of docking area within the Queensway Bay Harbor which shall be reserved for short-term public docking which shall be available for free or at rates comparable to automobile parking. Short-term shall be defined as any term between one hour and six hours. This public docking area shall not be leased or reserved by any individual, business or organization. Additional short-term and/or long-term public docking areas over and

above this minimum requirement may be provided. All public docking areas shall be identified with signage which clearly communicates the availability and limitations of the public docking facilities.

6. Future Uses and Improvements

This approval is limited to the uses and development specifically described in the project description and related findings contained in Coastal Development Permit 5-96-124. Any additional development, including intensification of use such as the lease of docks areas, esplanade areas, park areas, or the commercial use of docks by party boats or cruise ships, will require an amendment to the permit or a new Coastal Development Permit.

7. Leases to Private Operators

The lease of any area subject to the terms and conditions of Coastal Development Permit 5-96-124 to private operators shall explicitly incorporate the terms and conditions of Coastal Development Permit 5-96-124. In addition, such leases shall incorporate provisions for use, public access and public recreation consistent with all terms and conditions contained herein.

8. Chemical Management Plan

Prior to the issuance of the Coastal Development Permit, the City shall submit a Chemical Management Plan for the review and approval of the Executive Director. The purpose of the Chemical Management Plan shall be to address how the City will construct and operate the Queensway Bay Harbor in a manner that protects water quality from pollutants, typically associated with commercial harbors, such as boat cleaning chemicals, pesticides, fuels and oil. The Chemical Management Plan shall identify the equipment and structures that will be installed at the harbor to assist users in preventing any discharge of pollutants into the harbor. The Chemical Management Plan shall be in compliance with the standards and regulations of the California Regional Water Quality Control Board, the United States Environmental Protection Agency (EPA), and all other applicable local, state and federal regulations. The Executive Director will approve the Chemical Management Plan if it contains the following minimum elements:

- a. Harbor users shall be prohibited from discharging pollutants, including pesticides, varnishes, paints, sewage, cleaners, fuel, etc. into the harbor.
- b. The City will install the equipment necessary to prevent or reduce any discharge of pollutants into the harbor, including the equipment for the proper disposal of pollutants in compliance with all local, state and federal regulations.

The approved Chemical Management Plan shall be prominently posted near all docks and shall be explicitly incorporated into all leases to private

COASTAL DEVELOPMENT PERMIT

Page 5 of 8
Permit No. 5-96-124

operators within the harbor. The Queensway Bay Harbor shall be constructed and operated consistent with the plan approved by the Executive Director. Should the City need to revise the plan, the proposed revisions shall be submitted to the Executive Director in order to determine if the proposed changes shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

9. Public Boat Launch

Within two years of the demolition of the Golden Shore public boat launch, the City shall construct and open to the public a new boat launch of not less than two launching lanes and 60 parking spaces for autos with boat trailers within the Queensway Bay area.

10. Golden Shore Public Parking

The City shall retain a minimum of thirteen (13) existing public metered parking spaces in the existing public parking lot located near the entrance of the recreational vehicle park and the Golden Shore public boat launch (See Exhibit #15).

11. Habitat Mitigation Project

- a) The City shall construct, monitor and maintain the proposed habitat mitigation project consistent with the standards contained in the "Planting Plan, August 1996" and the "Monitoring Plan, August 1996" prepared for Moffatt & Nichol Engineers by Wetlands Research Associates, Inc.
- b) The implementation of the grading and planting plans (Exhibit #15) for the proposed habitat mitigation project shall commence prior to or simultaneous with the commencement of the proposed dredging of Shoreline Lagoon. Once the grading has commenced for the habitat mitigation project, the construction and planting of the habitat mitigation site shall proceed continuously until it is completed in conformance with the approved plan.
- c) The five-year monitoring period proposed by the "Monitoring Plan, August 1996," prepared for Moffatt & Nichol Engineers by Wetlands Research Associates, Inc., shall commence upon completion of the first planting of the project site. The City shall notify the Executive Director upon completion of the first planting of the project site.
- d) Upon completion of the first year of the monitoring period, and annually thereafter, the City shall submit to the Executive Director a report which documents the implementation of the planting and monitoring plans and which documents the status of the habitat mitigation project in relation to the performance standards contained in those plans.

- e) Any additional work or modifications to the habitat mitigation project which are necessary to meet the performance standards contained in the planting and monitoring plans shall be submitted to the Executive Director. Any change in the approved habitat mitigation project shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- f) The City shall be responsible for the ongoing maintenance of the habitat mitigation project and site. The required maintenance shall include regular cleaning and trash pick-up.

12. Siltation Control

Prior to the issuance of the Coastal Development Permit, the City shall submit, for the review and approval of the Executive Director, an erosion control and siltation prevention plan which controls erosion from the upland portions of the construction sites, and prevents silt from the upland portions of the construction sites from entering coastal waters during the construction of the proposed harbor and habitat mitigation project. The plan shall conform to the standards of the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers. The approved plan shall be implemented during construction of the proposed project.

13. Turbidity Control

The City shall minimize negative impacts on the marine environment by using silt curtains, sand bags, or other forms of barriers during construction of the proposed harbor and habitat mitigation project to confine turbid water to the immediate areas of all dredging, excavation and deposition.

14. Suitability of Materials for Beach Replenishment

Prior to the issuance of the Coastal Development Permit, the City shall submit a written agreement, subject to the review and approval of the Executive Director, to provide a qualified expert at the sand source site to inspect and monitor all material proposed to be deposited at the approved deposition site. The inspector shall determine the geotechnical suitability of all such material using the sediment compatibility criteria contained in the Dredged Material and Sand Testing Program - Queensway Bay Downtown Harbor Facilities, City of Long Beach, by Kinnetic Laboratories, Inc. & ToxScan, Inc., June 19, 1996. Only material deemed "compatible" by the qualified expert pursuant to the criteria contained in the above-stated document may be deposited at the approved deposition site. All contracts involving the subject project shall include the above stated condition of approval.

15. Beach and Recreational Facility Closures

During the proposed beach replenishment project, all beach areas and recreation facilities shall remain open and available for public use during the normal operating hours on weekends. On weekdays, beach area closures shall be minimized and limited to areas immediately involved in transportation and deposition. On all days, except for the portions of the beach where transportation and deposition is occurring, all beach areas and recreation facilities shall remain open and available for public use during the normal operating hours. On all days, the beach bicycle path shall remain open and available for public use during the normal operating hours.

16. Timing of Beach Replenishment Project

In order to reduce impacts on the grunion and the California least tern during the grunion breeding runs and the least terns' nesting and foraging season, no beach replenishment shall occur during the period commencing March 15 and ending September 1. However, limited beach replenishment activities may occur between March 15 and May 16 if the City submits, for the review and approval of the Executive Director, a mitigation program approved by the California Department of Fish and Game which insures that no adverse impacts will occur during grunion breeding or to least tern foraging areas.

17. Conformance with the Requirements of the Resource Agencies

The City shall comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project which are required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

18. Foundation Design

Prior to the issuance of the Coastal Development Permit, the City shall submit for review and approval by the Executive Director, final plans for the proposed harbor and habitat mitigation site which have been reviewed and approved for structural soundness and safety by a qualified engineer. The submitted plans must be in substantial conformance with the plans approved by the Commission and must contain the foundation design recommendations contained in the Geotechnical Investigation Report for Queensway Bay Downtown Harbor by Advanced Earth Sciences, Inc., June 28, 1996. Any changes in the design of the proposed project which was approved by the Commission which may be required by the engineer shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. The proposed harbor and habitat mitigation site shall be constructed in a manner consistent with the final approved plans.

COASTAL DEVELOPMENT PERMIT

Page 8 of 8
Permit No. 5-96-124

19. Assumption of Risk

By acceptance of this Coastal Development Permit, the City agrees that: (a) the site may be subject to extraordinary hazard from storms, waves and erosion; and (b) the City hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards.

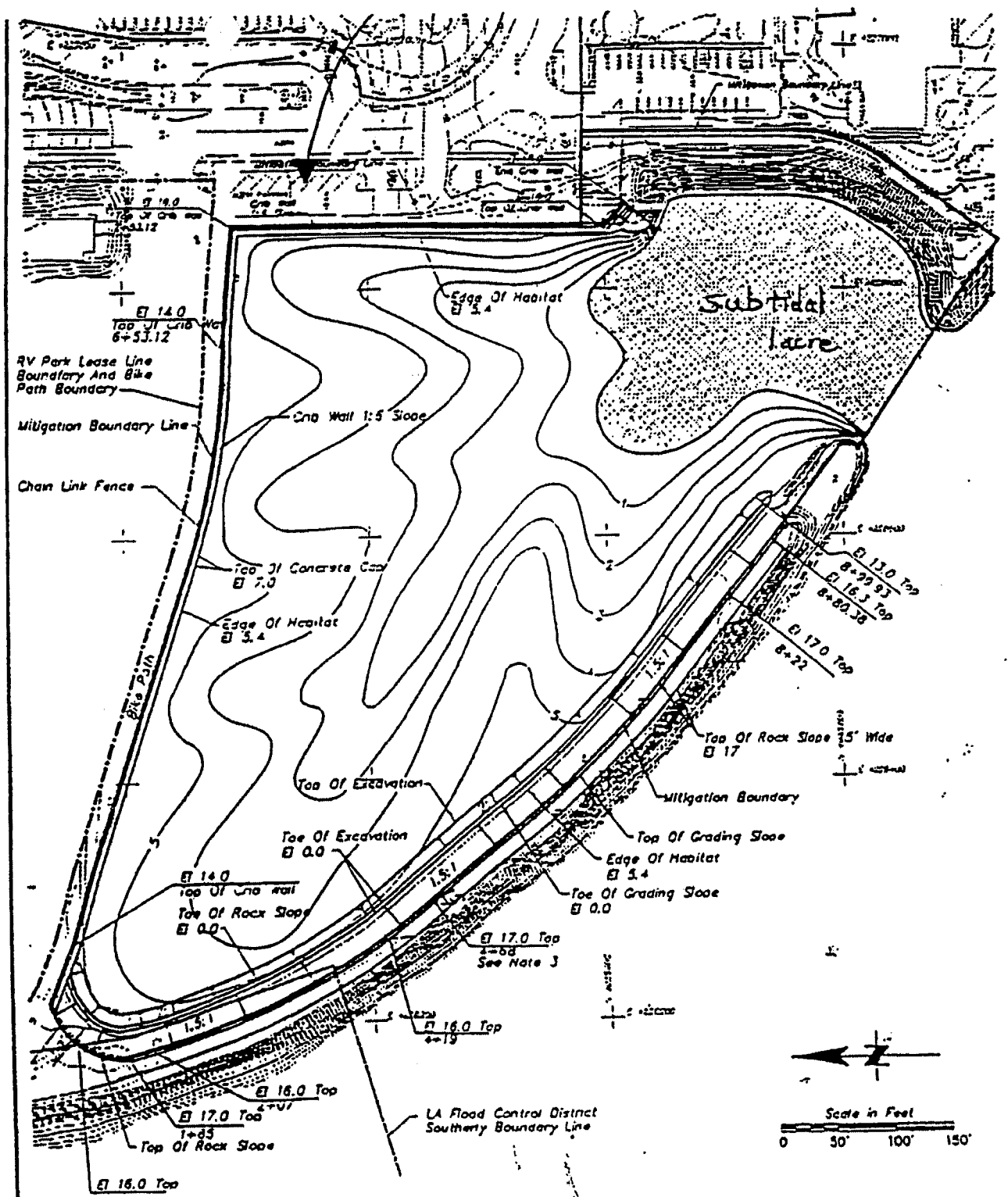
20. City Acceptance of Conditions

Prior to the issuance of the Coastal Development Permit, the City Council shall adopt and submit a resolution, subject to the review and approval of the Executive Director, agreeing to abide by all terms and conditions of Coastal Development Permit 5-96-124. The City and its representatives shall abide by all terms and conditions of Coastal Development Permit 5-96-124.

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Attach Exhibit Nos. 11 & 15

7727F



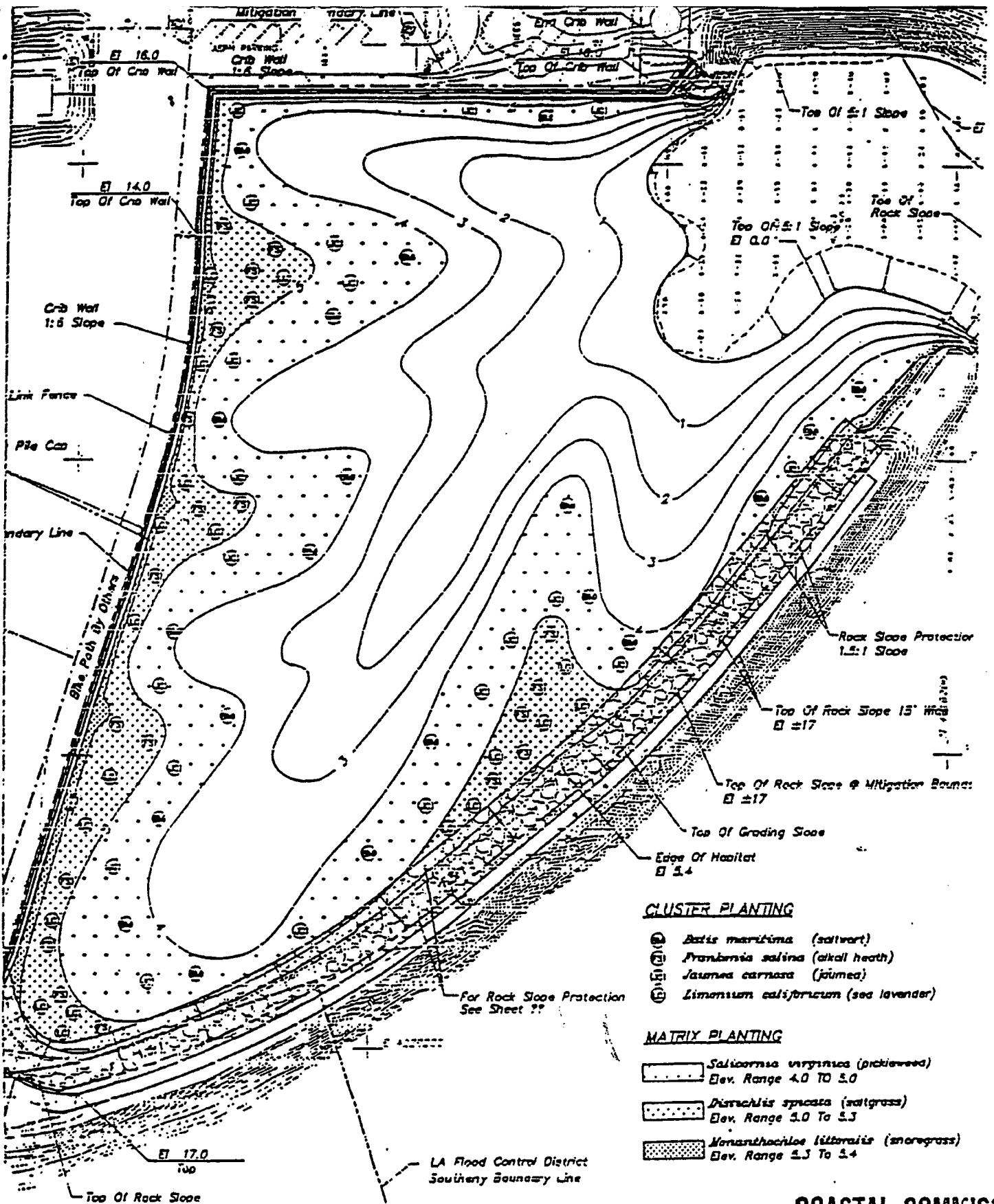
COASTAL COMMISSION

LEGEND

- Wetland Water Inundation At El. 0.0 MLLW
- Datum MLLW = 0.0

EXHIBIT # 15
 PAGE 2 OF 3

FIGURE 1. PLAN VIEW OF PROPOSED GRADING PLAN FOR QUEENSWAY BAY MITIGATION SITE, LONG BEACH, CALIFORNIA



COASTAL COMMISSION

EXHIBIT # 15
PAGE 3 OF 3

RESOLUTION NO. C- 26100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH ACCEPTING ALL TERMS AND CONDITIONS OF CALIFORNIA COASTAL COMMISSION COASTAL DEVELOPMENT PERMIT 5-96-124 ISSUED IN CONNECTION WITH THE QUEENSWAY BAY PROJECT

WHEREAS, on September 12, 1996, the California Coastal Commission granted to the City of Long Beach a Coastal Development Permit to: construct a downtown commercial harbor in Shoreline Park and Lagoon; to reconstruct and improve Shoreline Park; to demolish the Golden Shore public boat launch in order to create a 6.4 acre habitat mitigation area; to transport approximately 109,000 cubic yards of excavated sand to the 8th Place Beach area for beach replenishment; and to dispose of approximately 325,000 cubic yards of dredged materials at the LA-2 offshore disposal site; and

WHEREAS, the aforementioned Coastal Development Permit is subject to certain standard and special conditions for development, which conditions are fully set forth in the Notice of Intent to Issue Permit, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, it is the City's intent to abide by all terms and conditions of Coastal Development Permit 5-96-124;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

Section 1. That the City agrees to accept all terms and conditions of Coastal Development Permit 5-96-124.

John R. Calhoun
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
(310) 570-2200

John R. Calhoun
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
(310) 570-2200

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Sec. 2^(b) That the City Manager is hereby authorized and directed to execute an acknowledgment and acceptance of the terms and conditions contained in California Coastal Development Permit No. 5-96-124.

Sec. 3. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify to the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting October 8, 1996, by the following vote:

Ayes:	Councilmembers:	<u>Oropeza, Lowenthal, Drummond,</u> <u>Roosevelt, Topsy-Elvord,</u> <u>Donelon, Kellogg, Shultz.</u>
Noes:	Councilmembers:	<u>None.</u>
Absent:	Councilmembers:	<u>Robbins.</u>


City Clerk

MJM:vmh
10/2/96
s:\mais\cc-reso\Queens.per

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



IMMATERIAL AMENDMENT TO COASTAL DEVELOPMENT PERMIT

July 26, 1997

Permit Number 5-96-124 issued to City of Long Beach for:

construct a downtown commercial harbor (Rainbow Harbor) in Shoreline Park and Lagoon reconstruct and improve Shoreline Park, demolish the Golden Shore public boat launch in order to create a 6.4 acre habitat mitigation area, transport approximately 109,000 cubic yards of excavated sand to 8th Place Beach area for beach replenishment, and dispose of approximately 325,000 cubic yards of dredged materials at the LA-2 offshore disposal site.

at: 200 W. Shoreline Drive and 199 S. Golden Shore (and public beach between 1st Place and 15th Place, Long Beach, Los Angeles County has been amended to include the following change: 1. revise the method for dewatering the lagoon during construction of the bulkhead foundation and wall for Rainbow Harbor: Instead of using 36" culverts under the temporary dam at the harbor entrance to drain the lagoon, the contractor is using pumps and hoses to dewater the habitat mitigation site; and 2. revise the use of the 109,000 cubic yards of upland soil excavated from the Golden shore mitigation site: Instead of using the material for beach replenishment, it will be used as fill within the Queensway Bay construction and other projects. The material was determined to be incompatible with the approved deposition site.

This amendment was determined by the Executive Director to be immaterial, was duly noticed, and no objections were received. Please note that the original permit condition unaffected by this amendment are still effect.

PETER M. DOUGLAS
Executive Director

By: Charles Posner
Title: Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above permit and agree to be bound by the conditions as amended of Coastal Development Permit 5-96-124.

Date: _____

Signature _____

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CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Ocean Gate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**AMENDMENT TO COASTAL DEVELOPMENT PERMIT****5-96-124-A2****page 1 of 2****August 20, 1997**

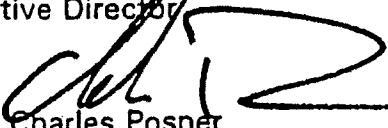
Permit Number 5-96-124 issued to City of Long Beach for:

construct a downtown commercial harbor (Rainbow Harbor) in Shoreline Park and Lagoon, reconstruct and improve Shoreline Park, demolish the Golden Shore public boat launch to create a 6.4 acre habitat mitigation area.

at: 200 W. Shoreline Drive, (Shoreline Park & Rainbow Harbor), City of Long Beach, Los Angeles County has been amended to include the following change: amend previously approved Rainbow Harbor and Shoreline Park project to include minor revisions to the previously approved plans and construction of two public restrooms, concession building, three tensile structures, lighthouse, water feature, informational signs, and light standards.

This amendment will become effective upon return of a signed copy of this form to the Commission office. Please note that the original permit condition unaffected by this amendment are still effect.

PETER M. DOUGLAS
Executive Director

By: 
Charles Posner
Title: Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above permit and agree to be bound by the conditions as amended of Coastal Development Permit 5-96-124.

Date: _____

Signature _____

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

5-96-124-A2

Page: 2

SPECIAL CONDITIONS:

No new special conditions are added to the permit by this amendment. However, the original special conditions of Coastal Development Permit 5-96-124 remain in full force and effect.

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96-124-A2

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QUEENSWAY BAY HARBOR CHEMICAL MANAGEMENT PLAN

The Chemical Management Plan for the Queensway Bay Harbor involves three facets: the overriding law, the related harbor rules, and the plan for facility/equipment installation. This Plan will be incorporated into all Queensway Bay Harbor operating leases.

LAW: CITY OF LONG BEACH MUNICIPAL CODE

The City of Long Beach Municipal Code, Section 16.08.420, states, "No person shall throw, discharge, dump, place, deposit, or leave any refuse, rubbish, sewage, waste matter, dead animals, fish, shellfish, bait, putrefying matter, oil, spirits, flammable liquid, coal tar, residuary product of coal, petroleum, asphalt, bitumen, carbonaceous material or other offensive matter of any kind into the waters of or upon a bank, sidewalk, seawall, wharf, wharf road, street leading to a wharf, float, pier, harbor structure, or beach within the marinas and shall be civilly liable to the City for all actual damages in addition to the reasonable costs actually incurred in the cleaning or abating activities."

RULES: HARBOR ENVIRONMENTAL RULES

1. All self-employed boat workers and independent contractors must register with and receive approval from the Marine Bureau Manager.
2. Owners may undertake boat projects as needed to maintain their vessel's safety, appearance, and utility. New or substantial exterior work encompassing more than 10 percent of the hull's surface must be reviewed by the Marine Bureau Manager.
3. No material from vessel maintenance or operation can be allowed into the surrounding water or on the dock.

Marina Management encourages all vessel owners to adhere to the following Best Management Practices:

ENGINES AND BILGES

- Use absorbent bilge pads to soak up oil and fuel in bilge.
- Recycle oil and diesel properly.
- Dispose of gasoline properly.
- Dispose of filters properly.
- Do not discharge bilge water if there is a sheen to it.
- Do not dispose of paint or solvents in the harbor's dumpsters.
- Contact Harbormaster for nearest disposal location.

PAINTING AND VARNISHING

- Limit the amount of open solvents or paints on the docks to one gallon.
- Always mix paints and epoxy over a tarp.
- Always use a drip pan or drop cloth.
- Spray painting is not allowed within the harbor.
- Use up remaining bits of paint by spreading on an old board.
- Do not dispose of paint or solvents in the harbor's dumpsters.
- Contact Harbormaster for nearest disposal locations.

SURFACE PREPARATION

- Use biodegradable cleaner and teak cleaner.
- Liberally use tarps to capture all scraping, debris and drips.
- Stretch tarps between side of boat and dock when working over the water.
- Vacuum dust and debris every time you move the tarp or every hour.
- Reverse the boat on the dock to work on the far side.

SEWAGE

- Untreated sewage should never be discharged directly overboard.
- Store sewage in holding tanks and dispose of properly at pumpout stations.
- Ensure MSD Type 1 systems work properly and discharge only when underway.
- Do not discharge Type 1 while moored in harbor.
- Use shore-side facilities as often as possible.

SOLID WASTE DISPOSAL

- Utilize the solid waste receptacles provided on each dock.

CHEMICAL STORAGE

- Purchase only the amount of chemicals/paints you need for the project.
- Properly dispose of old or unnecessary products

EQUIPMENT/FACILITY INSTALLATION

The following equipment/facilities will be installed as part of the Chemical Management Plan:

Fuel Dock

Fueling will be done at the existing fueling facilities, which are located outside the Queensway Harbor.

Oil Disposal

An oil dump will be installed on the fishing/dive landing. It is anticipated that large vessels (85 feet and over) will use oil dumping facilities at the fuel dock or at a maintenance facility. Smaller vessels not docked on the fishing/dive landing will use the oil dump in the Downtown Marina.

Solid Waste

The plan will include solid waste retrieval from each dock.

Sewage Pumpout

Each individual dock will include sewage pumpout capability.

Spill Containment

On-side boom containment materials will be provided to immediately contain contaminant spills, and an emergency contract will be in place to cleanup spills.

Signage

The Harbor Environmental Rules will be included on signs at each dock.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Page: 1 of 4
Date: July 22, 1998
Permit No: 5-98-161



COASTAL DEVELOPMENT PERMIT

On 10 June 1998, the California Coastal Commission granted to City of Long Beach Coastal Development Permit 5-98-161, subject to the attached Standard and Special Conditions, for development consisting of: establishment of on-the-water commercial concessions to be provided by approximately forty vessels operating out of Rainbow Harbor. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at Rainbow Harbor, Downtown Shoreline, City of Long Beach.

Issued on behalf of the California Coastal Commission on July 22, 1998.

PETER DOUGLAS
Executive Director

By: [Signature]
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

Date

Signature of Permittee

Please sign and return one copy of this form to the Commission office at the above address.

COASTAL DEVELOPMENT PERMIT

No. 5-98-161

Page 2 of 4

STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Public Boat Docks**

Prior to the issuance of the Coastal Development Permit, the City shall submit a plan which identifies at least 200 linear feet of docking area within Rainbow Harbor which is reserved for short-term public docking as required by Coastal Development Permit 5-96-124. The public docking area shall not be leased or reserved by any individual, business or organization. The vessels which provide the commercial uses permitted by this permit (Coastal

COASTAL DEVELOPMENT PERMIT

No. 5-98-161

Page 3 of 4

Development Permit 5-98-161) shall not be permitted to use the public docking areas. All public docking areas shall be identified with signage which clearly communicates the availability, cost and time limits of the public docking facilities.

2. Public Parking

All parking spaces within the Shoreline Park parking lot shall be reserved for the use of the general public and shall be available for use on a first-come, first-served basis. There shall be no reserved parking spaces or exclusive use of the parking spaces within the Shoreline Park public parking lot by any person or group other than the general public (handicapped spaces excluded).

3. Temporary Trailer

A 440 square foot trailer may be placed in the Shoreline Park public parking lot on a temporary basis for the administration of fishing and diving boat expeditions operating at Pierpoint Landing in Rainbow Harbor. The trailer must be removed from the Downtown Shoreline area prior to September 15, 1998. The Executive Director may grant an extension to the September 15, 1998 deadline for good cause.

4. Shoreline Park and Rainbow Esplanade

The commercial uses and associated activities permitted by this permit (Coastal Development Permit 5-98-161) shall not interfere with public use or access to Shoreline Park and the Rainbow Esplanade. The park and esplanade areas shall be kept free of any barriers which could impede public access through the area, or impede public use of the area.

5. Leases to Private Operators

The lease of any dock area in Rainbow Harbor to private operators shall explicitly incorporate the terms and conditions of Coastal Development Permits 5-96-124 and 5-98-161. Such leases shall incorporate provisions for use, public access and public recreation consistent with all terms and conditions contained in Coastal Development Permits 5-96-124 and 5-98-161.

6. Assumption of Risk

By acceptance of this Coastal Development Permit, the City agrees that:
(a) the site may be subject to extraordinary hazard from storms, waves, floods, and earthquake induced liquefaction; and (b) the City hereby waives

COASTAL DEVELOPMENT PERMIT

No. 5-98-161

Page 4 of 4

any future claims of liability against the Commission its successors in interest for damage from such hazards.

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EXHIBIT D

