

29536

**SOUTHERN CALIFORNIA MARINE
ASSOCIATION AGREEMENT**

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1 AGREEMENT

2 (Southern California Marine Association)

3 **29536**

4 THIS AGREEMENT ("Agreement") is entered into on September 22,
5 2005, pursuant to a minute order adopted by the City Council of the City of Long Beach
6 at its meeting of September 20, 2005, by and between the CITY OF LONG BEACH, a
7 municipal corporation ("City"), and the SOUTHERN CALIFORNIA MARINE
8 ASSOCIATION, a California corporation ("Association").

9 1. RECITALS: This Agreement is made with reference to the
10 following facts and objectives:

11 a. The Association has, in the past, held their annual Long
12 Beach Boat Show at the Long Beach Convention and Entertainment
13 Center. This event has promoted and accommodated commerce,
14 navigation, fishing, and aquatic recreation and provided the City of Long
15 Beach with favorable publicity of its facilities, attractions and resources. In
16 conjunction with this show, the Association intends to use the Rainbow
17 Marina and the open space between the marina and Shoreline Drive.

18 b. The City shall allow the Association to conduct its ~~36th~~ ^{37th} *GP*
19 Annual Long Beach Boat Show ("Boat Show") further to this Agreement
20 under the provisions and conditions set forth below.

21 2. EVENTS: The City authorizes and grants permission to the
22 Association to conduct Boat Show, and City shall use its best efforts to allow
23 Association to use and occupy the Rainbow Marina and open area between the marina
24 and Shoreline Drive. These areas are shown in Exhibit "A" attached hereto and
25 incorporated herein, highlighted in blue and labeled "Boat Show Areas" and shall be
26 used and occupied by the Association subject to the terms, conditions and limitations
27 contained within this Agreement.

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1 The City acknowledges that the Boat Show is to be conducted in the
2 month of October during the term of this Agreement. The show will be open to the
3 public for four (4) days from October 6 - 9, 2005. The exact hours of operation shall be
4 approved in writing by the Director of Parks, Recreation and Marine ("Director").

5 3. TERM: The term of this Agreement shall be from 6:00 a.m. on
6 October 1, 2005 and shall run to and including 10:00 p.m. on October 14, 2005.

7 4. RELATED BOAT SHOW ACTIVITIES: The Association and any of
8 its officers, employees, agents, concessionaires, licensees, or other persons, firms, or
9 entities acting under the permission and authority granted by this paragraph, shall
10 obtain a City business license and such other permits as may be required by
11 governmental agencies having jurisdiction. The governmental agency having
12 jurisdiction, including without limitation, any department of the City, shall not be required
13 to determine whether an applicant for a City business license or other permit shall first
14 have obtained Association's permission and consent prior to the issuance of a business
15 license or permit.

16 The Association will invite various exhibitors of boats and other marine
17 products to participate in the Boat Show to be held in Long Beach. The Association will
18 use its best efforts to require all exhibitors taking orders for boats and other marine
19 products to report those transactions to the State of California Board of Equalization,
20 declaring the City of Long Beach as the situs of those sales.

21 5. BOAT SHOW AREAS: The boat show areas and the
22 improvements thereon which are highlighted in blue and shown in Exhibit "A" shall be
23 used for the purpose of conducting a Boat Show and such other related activities as are
24 specifically agreed to herein and for no other purpose without the prior written consent
25 of the Director.

26 6. RENTS, FEES, COMPENSATION, REIMBURSEMENT AND
27 DONATION:

28 a. \$25,000 as a site use fee;

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1 b. Association shall be responsible for expenses attributable to
2 the direct cost to repair damage caused by their vessels, vehicles,
3 equipment, fencing, major electrical repairs, and other damage. In
4 addition, Association must reimburse the City's actual costs for providing
5 services for the event and \$10,000 for in-kind services;

6 c. Association shall pay the sums due the City under
7 subparagraphs (a) and (b) above, immediately upon receipt of invoice;

8 d. The City shall not become or be deemed a partner or joint
9 venturer with Association by reason of the provision of this Agreement;
10 and,

11 e. Association shall donate to the Department of Parks,
12 Recreation and Marine \$5,000 for the term of this Agreement in support of
13 recreational and cultural activities in Long Beach. Association makes this
14 donation in lieu of sales taxes. Association shall forward donation within
15 two weeks of the close of the event.

16 7. TEMPORARY IMPROVEMENTS: Association, at its cost, shall
17 have the right to install and erect improvements and structures on the boat show areas
18 commencing four (4) days prior to the show opening to the public. Upon termination of
19 the annual Boat Show, Association, at its costs and expense, shall remove all such
20 improvements and structures placed by it on the boat show areas and restore the boat
21 show areas to a condition acceptable to the City Manager or his designee. Such
22 removal and restoration following the Boat Show under the terms of this Agreement
23 shall be made and accomplished within forty-eight (48) hours after the close of the Boat
24 Show and as to the temporary dock structures on or before October 14th to the

25 satisfaction of the Director of the Department of Parks, Recreation and Marine.

1 boat show areas at Association's expense. Association shall pay to the City upon
2 demand all costs incurred by the City in accomplishing the removal of improvements
3 and restoration of boat show areas, together with interest thereon at the maximum rate
4 allowable by law until paid.

5 The City, at its election, may waive the requirement that Association
6 remove all or a portion of its improvements and structures placed on the boat show
7 areas and the Association restore the same, in which event title to all such structures
8 and improvements, which are to remain in the boat show areas, shall vest in the City of
9 Long Beach without the payment of any compensation therefore.

10 8. NO CITY DUTY TO REPAIR OR CONSTRUCT: The City shall
11 have no duty to make any improvements or repair to the boat show areas or the
12 improvements thereon. Association's sole and exclusive remedy by reason of any
13 condition of the boat show areas (whether such condition now or hereafter exists) shall
14 be the termination of this Agreement and vacation of the boat show areas. Any and all
15 uses of the boat show areas by Association, its agents, contractors, and their
16 employees, shall be at their sole risk, cost and expense. Association, at its cost, shall
17 keep and maintain the boat show areas and all improvements thereon during its use
18 and occupancy thereof, in good order, condition and repair, free and clear of all rubbish,
19 debris and litter.

20 9. UTILITY SERVICES: Association, at its cost, shall provide all utility
21 services and installations to the boat show areas being used by it and promptly pay all
22 utility fees, costs and charges resulting from such use.

23 10. USE OF TEMPORARY DOCK: Prior to the Boat Show and after
24 the Boat Show during the term of this Agreement, the City shall have the right to use
25 the temporary dock structures and to assign the use thereof to visiting vessels. The
26 City shall retain all fees and charges collected by it for such use of the temporary dock
27 structures.

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1 11. SECURITY: Association, at its cost, shall provide all security,
2 fencing and barriers required by it for the conduct of the Boat Show; provided, however,
3 the placement of fencing and barriers for the Boat Show shall be subject to the prior
4 approval of the Director.

5 12. COMPLIANCE WITH LAWS: Association shall, during its use and
6 occupancy of the boat show areas, at all times comply with all laws, ordinances, rules
7 and regulations of and obtain permits from all federal, state and local government
8 authorities having jurisdiction over the boat show areas and Association's activities
9 thereon.

10 13. ASSIGNMENT: Association shall not assign this Agreement or any
11 interest thereon or allow the transfer thereof. Any attempted transfer or assignment
12 shall be void and confer no rights whatsoever upon the transferee or assignee. If
13 Association shall be adjudicated a bankrupt or become insolvent or any interest in this
14 Agreement be taken by virtue of attachment, execution, or receivership, the City may
15 terminate this Agreement upon one (1) day written notice to Association.

16 14. RIGHT OF ACCESS: The City's authorized representative(s) shall
17 have access to and across the boat show areas at any time and, in the event of an
18

1 a. An act or omission of Association, its officers, agents,
2 employees, contractors, licensees or invitees or of any other person
3 entering upon the boat show areas with the express or implied invitation of
4 Association;

5 b. A violation by Association, its officer, agents, employees,
6 contractors, licensees or invitees or of any other person entering upon the
7 boat show areas with the express or implied invitation of Association of
8 any law, ordinance or governmental order of any kind;

9 c. The use or occupancy of the boat show areas by
10 Association, its officers, agents, employees, contractors, licensees or
11 invitees or of any other person entering upon the boat show areas with the
12 express or implied invitation of Association.

13 This indemnity shall not include claims based upon or arising out of the
14 sole negligence, gross negligence, or willful misconduct of the City, its officers and
15 employees. Further, this indemnity shall not require payment of a claim by the City or
16 its officers or employees as a condition precedent to the recovery under the same.

17 16. INSURANCE: Concurrent with the execution of this Agreement
18 and in partial performance of Association's obligations hereunder, Association shall
19 procure and maintain, at its cost, during the term of this Agreement from an insurer
20 admitted in California or having a minimum rating of or equivalent to A:VIII in Best's
21 Insurance Guide comprehensive general liability insurance including products,
22 watercraft, fire and legal liability with a combined single limit of at least Two Million
23 Dollars (\$2,000,000.00). City, its officials, employees and agents, shall be covered as
24 additional insureds with respect to liability arising from activities performed by or on
25 behalf of Association. Said insurance shall be primary insurance with respect to City
26 and shall include cross-liability protection.

27 Upon the execution of this Agreement, Association shall deliver to City
28 certificates of insurance with original endorsements evidencing the coverage required

1 by this Agreement. The certificates and endorsements shall be signed by a person
2 authorized by the insurer to bind coverage on its behalf. City reserves the right to
3 require complete certified copies of all policies at any time.

4 Said insurance shall contain an endorsement requiring thirty (30) days'
5 prior written notice from insurers to City before cancellation or change of coverage.

6 Said insurance may provide for such deductibles as may be acceptable to
7 the City Manager or his designee.

8 Any modifications or waiver of the insurance requirements herein shall
9 only be made with the written approval of the City Risk Manager or designee.

10 The procuring of such policy of insurance shall not be construed to be a
11 limitation in any respect upon Association's obligation of indemnity hereunder.

12 17. POSSESSORY INTEREST AND TAXES: This Agreement may
13 create a possessory interest subject to property taxation, and Association may be liable

each
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1 commingle the security deposit with City's funds. City shall not be required to pay
2 Association any interest on the security deposit. The security deposit shall be delivered
3 to the City upon execution of the Agreement by the Association.

4 19. DEFAULT: Association shall be in default of this Agreement if it
5 fails or refuses to perform any provision hereof that it is obligated to perform. Except as
6 otherwise expressly provided in this Agreement, if the failure to perform is not cured
7 within thirty (30) days after notice of default has been given by the City to Association,
8 this Agreement shall terminate and be of no further force or effect as of the expiration of
9 said thirty (30) day period.

10 20. NOTICE: Any notice, demand, request, consent, or communication
11 that either party desires or is required to give to the other party or any other person
12 shall be in writing and either served personally or sent by prepaid, first-class mail
13 addressed as follows:

14 TO CITY: City Manager
333 West Ocean Boulevard
15 Long Beach, California 90802

16 WITH A COPY TO: Director, Parks, Recreation & Marine
2760 Studebaker Road
17 Long Beach, California 90815

18 TO ASSOCIATION: Southern California Marine Association
1006 East Chapman Avenue
19 Orange, California 92866-2111
20 Attn: David Geoffrey, Executive Director

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

24 21. NON-DISCRIMINATION: In the performance of this Agreement,
25 Association agrees not to discriminate against any employee or applicant for
26 employment or service on the basis of race, color, religion, ancestry, sex, sexual
27 orientation, AIDS, AIDS related condition, national origin, age, marital status, disability,
28 handicap or veteran status.

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22. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT: Association agrees that compliance with the Americans with Disabilities Act of 1990 ("ADA") shall be its sole responsibility and shall defend, indemnify and hold harmless City for any liability arising from failure to comply therewith.

CITY AND ASSOCIATION have executed this Agreement with all the formalities required by law.

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PLEASE INSERT EXHIBIT "A"

(ATTACHED)

Department Of

EXHIBIT "A"

FUTURE RETAIL/
ENTERTAINMENT

RAINBOW
ROCKET

