

30287

**SOUTHERN CALIFORNIA MARINE
ASSOCIATION AGREEMENT**

(39th Annual International Sail
and Power Boat Show, 2007)

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1 AGREEMENT

2 (Southern California Marine Association)

3
4 THIS AGREEMENT ("Agreement") is entered into on August 27,
5 2007, pursuant to a minute order adopted by the City Council of the City of Long Beach
6 at its meeting of August 21, 2007, by and between the CITY OF LONG
7 BEACH, a 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 and Rainbow Harbor. This event has promoted and
14 accommodated commerce, navigation, fishing, and aquatic recreation and
15 provided the City of Long Beach with favorable publicity of its facilities,
16 attractions and resources. In conjunction with this show, the Association
17 intends to use the Rainbow Marina and the open space between the
18 marina and Shoreline Drive.

19 b. The City shall allow the Association to conduct its 39th
20 Annual Long Beach Boat Show ("Boat Show") further to this Agreement
21 under the provisions and conditions set forth below.

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

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1 The City acknowledges that the Boat Show is to be conducted in the
2 month of September during the term of this Agreement. The show will be open to the
3 public for four (4) days from September 20 - 23, 2007. The exact hours of operation
4 shall be approved in writing by the Director of Parks, Recreation and Marine
5 ("Director").

6 3. TERM: The term of this Agreement shall be from 6:00 a.m. on
7 September 10, 2007 and shall run to and including 10:00 p.m. on October 8, 2007.

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

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

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

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6. RENTS, FEES, COMPENSATION, REIMBURSEMENT AND

DONATION:

a. \$40,000 as a site use fee;

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

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

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

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

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

1 17th to the satisfaction of the Director. If any improvement or structures erected by
2 Association have not been removed or the boat show areas are not restored to an
3 acceptable condition as set forth above, the City shall have the right, but not the
4 obligation, to remove, demolish and dispose of any such improvement or structure and
5 to restore the boat show areas at Association's expense. Association shall pay to the
6 City upon demand all costs incurred by the City in accomplishing the removal of
7 improvements and restoration of boat show areas, together with interest thereon at the
8 maximum rate allowable by law until paid.

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

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

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

27 10. USE OF TEMPORARY DOCK: Prior to the Boat Show and after
28 the Boat Show during the term of this Agreement, the City shall have the right to use

1 the temporary dock structures and to assign the use thereof to visiting vessels. The
2 City shall retain all fees and charges collected by it for such use of the temporary dock
3 structures.

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

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

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

19 14. RIGHT OF ACCESS: The City's authorized representative(s) shall
20 have access to and across the boat show areas at any time and, in the event of an
21 emergency, at any time for inspection, repair of publicly owned utilities and structures,
22 and for fire and police purposes.

23 15. INDEMNITY: Association shall defend and indemnify the City of
24 Long Beach and its officers and employees while acting within the scope of their duties
25 from and against any and all actions, suits, proceedings, claims and demands, costs
26 (including attorneys' fees and court costs), expense and liability of any kind or nature
27 whatsoever ("claims") for injury to or death of persons or damage to property (including
28 property owned by or under the control of the City) which may be brought, made, filed

1 against, imposed upon or sustained by the City, its officers or employees based upon or
2 arising out of:

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

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

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

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

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

1 Upon the execution of this Agreement, Association shall deliver to City
2 certificates of insurance with original endorsements evidencing the coverage required
3 by this Agreement. The certificates and endorsements shall be signed by a person
4 authorized by the insurer to bind coverage on its behalf. City reserves the right to
5 require complete certified copies of all policies at any time.

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

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

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

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

14 17. POSSESSORY INTEREST AND TAXES: This Agreement may
15 create a possessory interest subject to property taxation, and Association may be liable
16 for the payment of property taxes levied on such possessory interest. Association shall
17 pay or cause to be paid, prior to delinquency, all taxes, assessments and governmental
18 and district charges that may be levied or assessed for building, improvements or
19 property located on the Boat Show areas and upon possessory interest created by this
20 Agreement. Satisfactory evidence of such payments shall be delivered by Association
21 upon demand therefor.

22 18. SECURITY DEPOSIT: Association agrees to provide the City with
23 a Two Thousand Dollar (\$2,000.00) security deposit for the performance by Association
24 of the provisions of this Agreement. If Association is in default, City can use the
25 security deposit, or any portion of it, to cure or compensate City for all damages
26 sustained by City resulting from Association's default. If Association is not in default of
27 the provisions of this Agreement, City shall return the security deposit to Association
28 within thirty (30) days after the end of the term of this Agreement provided Association

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1 has fully complied with the applicable provisions of this Agreement. City's obligation
2 with respect to the security deposit are those of a debtor and not a trustee. City can
3 commingle the security deposit with City's funds. City shall not be required to pay
4 Association any interest on the security deposit. The security deposit shall be delivered
5 to the City upon execution of the Agreement by the Association.

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

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

- 16 TO CITY: City Manager
333 West Ocean Boulevard
Long Beach, California 90802
- 18 WITH A COPY TO: Director, Parks, Recreation & Marine
2760 Studebaker Road
Long Beach, California 90815
- 20 TO ASSOCIATION: Southern California Marine Association
1006 East Chapman Avenue
Orange, California 92866-2111
22 Attn: David Geoffrey, Executive Director

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

26 21. NON-DISCRIMINATION: In the performance of this Agreement,
27 Association agrees not to discriminate against any employee or applicant for
28 employment or service on the basis of race, color, religion, ancestry, sex, sexual

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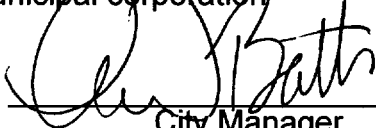
1 orientation, AIDS, AIDS related condition, national origin, age, marital status, disability,
2 handicap or veteran status.

3 22. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT:

4 Association agrees that compliance with the Americans with Disabilities Act of 1990
5 ("ADA") shall be its sole responsibility and shall defend, indemnify and hold harmless
6 City for any liability arising from failure to comply therewith.

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

CITY OF LONG BEACH, a
municipal corporation

9
10
11 By 
12 City Manager

11 9/17, 2007

13 "City"

14
15 SOUTHERN CALIFORNIA MARINE
16 ASSOCIATION, a California
corporation

17 08/27, 2007

18 By 

19 8/27, 2007

19 By 

20 "Association"

21
22 Approved as to form this 6th day of September, 2007.

23 ROBERT E. SHANNON, City Attorney

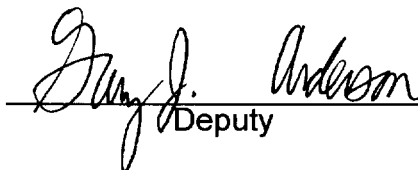
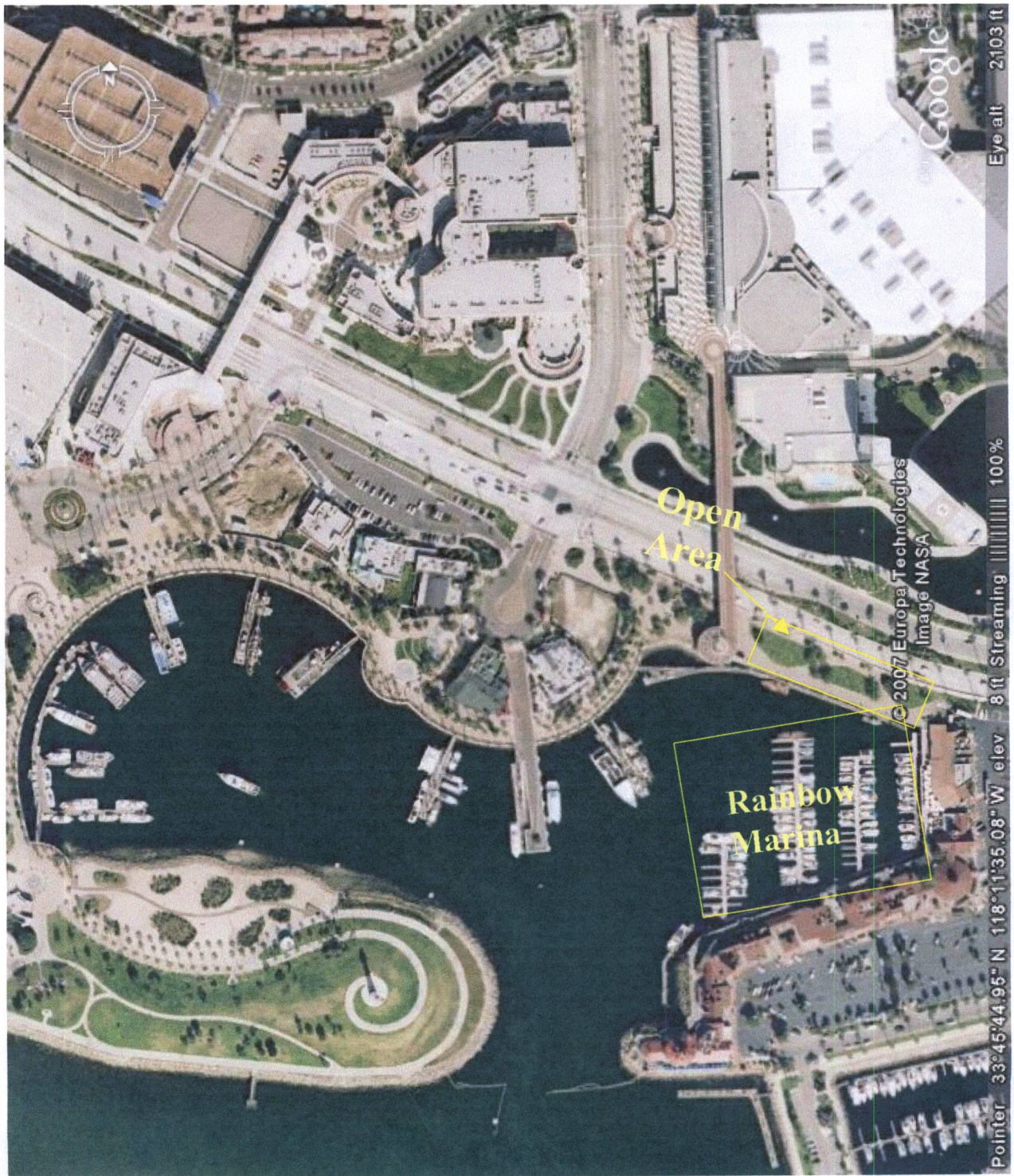
24
25 By 
26 Deputy

Exhibit A



SCMA Boat Show
Location