

~~MANITOWOC~~

~~MARINA~~

~~LEASE~~

~~AGREEMENT~~

~~April 1, 2000~~

~~March 31, 2020~~

12/20/99

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Section 1. Marina Operations **5 Lease Agreement**

This Marina Lease Agreement is entered into by and between the City of Manitowoc, Wisconsin, a municipal corporation ("City") and Sailboats, Inc., a Minnesota corporation licensed to do business in the State of Wisconsin ("SI"), and the City of Manitowoc Board of Harbor Commissioners ("the Commission"). ("City") headquartered at 900 Quay Street, Manitowoc, WI 54220 and Manitowoc Marina, LLC ("Marina"), a Wisconsin corporation located at 425 Maritime Drive, PO Box 993, Manitowoc, WI 54221.

WHEREAS, the City and SI Marina are currently parties to a Marina Lease Agreement which is scheduled set to expire March 31, 2020; and

WHEREAS, that Agreement allows Marina to request a 10 year extension of the lease between April 1, 2017 and March 31, 2018 and Marina has requested such an extension; and

WHEREAS, the parties ~~desire to~~ Parties wish to extend the lease and renegotiate the lease; terms.

NOW, THEREFORE, the parties ~~hereto~~ agree as follows:

ARTICLE I

PREMISES LEASED

I. Section 1. Premises Leased.

A. Description. -The City ~~hereby~~ leases to SI Marina the property which is described on Exhibit "A", the map, which is attached hereto and made a part hereof, and which property is shown on a map which is attached hereto as Exhibit "B", which is also made a part hereof. and incorporated by reference. The rights granted in the ~~above described~~ property include all riparian rights to those portions of the ~~above-~~described real property which are submerged, and ~~includes~~ include all piers, slips, buildings, and other fixtures and improvements made to the ~~above described~~ real property.

B. ~~Section 2.~~ Facilities. -The facilities which have been constructed on the above-~~described~~ property include the following:

1. ~~(a)~~ ~~a~~ six (6) lane launch ramp and boarding piers;

2. ~~(b)~~ ~~five (5)~~ ~~Five~~ piers containing 234 slips ranging in size from 24 feet to ~~50~~60 feet in length;

3. ~~(c)~~ ~~a~~ Buildings to be used for administration and vessel repair;

A building or buildings to be used for ~~administration and vessel repair.~~

~~3.4.~~ ~~(d)~~ ~~a~~ building to be used for indoor heated storage and vessel repair.

The facilities described above (with the exception of the indoor storage building) are generally described in the Request for Proposals on which the original proposal of SI was based.

C. ~~Section 3.~~ City Access. -During any new construction or work performed on the facilities by the City, the City, as well as its and any contractors and their subcontractors shall have whatever access to the leased premises are as necessary to complete construction of the facilities or repairs. In addition, the City shall have access to the leased premises during the lease term as ~~is~~ necessary to meet its obligations under ~~this~~ the lease and to oversee the general condition of the premises.

D. ~~Section 4.~~ Facilities Furnished by Operator. ~~SI~~ Marina shall be responsible for furnishing the facilities provided by the City. ~~This obligation,~~ which shall include the furnishing of tools, furniture, fixtures, and operating equipment, ~~including~~ and a travel lift.

ARTICLE II

DURATION

II. ~~Section 1.~~ Duration

E.A. Lease Term. ~~This~~ The lease shall commence April ~~2000~~ September 1, 2000 ~~2017~~ and continue to March 31, ~~2020~~ 2030, unless otherwise terminated as ~~provided below~~ or extended as ~~per~~ Article II, Section 3. provided below. Upon termination of the lease, all docks, piers, fixtures,

buildings, or other permanent improvements made by ~~SI~~ Marina to the leased premises shall become the property of the City. The travel lift, tools, and furniture purchased by ~~SI~~ Marina shall not be considered a fixture and may be removed by ~~SI~~ Marina. All replacement parts or permanent improvements made by ~~SI~~ Marina to the leased premises shall also become the property of the City.

~~F.B.~~ ~~Section 2.~~ Premature Termination.

1. ~~(a) Severe Damage.~~ Premises Unusable. In the event the leased premises and facilities described above are rendered substantially unusable due to storm, flood, fire, ice, low lake levels, or other ~~cause,~~ causes either party may terminate this agreement by giving 30 days written notice to the other. Nothing in this agreement shall require the City to rebuild the damaged property. If, however, within two ~~(2)~~ years of such severe damage the City elects to rebuild the damaged property, the remaining period of the lease shall apply from the time such rebuilding is completed. In the event that low lake water levels (~~low is defined as any one monthly report by the Army Corps of Engineers of the elevation dropping below the 1964 low water reading~~) were to impact ~~SI's~~ Marina's ability to market indoor winter storage business between the dates of December 1st and April 1st immediately following the report ~~(SI must demonstrate,~~ demonstrated by a twenty percent (20%) loss of indoor heated indoor storage revenue due to the low water levels), the City agrees to adopt an alternative payment schedule with respect to the indoor storage facility. The City agrees to a substitute a payment plan as follows: SI will pay of the ordinary normal lease amount times the percent percentage of occupancy as of on January 1st of that period 1.

2. ~~(b) Default.~~ In the event ~~SI~~ Marina fails to operate a marina business on the above property, discontinues its marina business, or goes bankrupt, this lease shall, at the City's City's option, be immediately terminated. In the event ~~SI~~ that Marina shall violate any material term or condition of this lease, this lease may be terminated by the City unless ~~SI~~ Marina corrects the violation within ~~thirty (30)~~ days upon written notice of the breach from the City. If a second similar violation occurs within one ~~(1)~~ year after of this written notice, this City may terminate the agreement ~~may be terminated~~ immediately by the City upon the giving of written notice to ~~SI~~ Marina. This provision is intended to be in addition to an additional remedy and not in lieu of any other damages which may be suffered by the City as a result of any breach or default of this agreement by ~~SI~~ an exclusive remedy.

3. Option to Renew. Marina shall have the Option to Renew the Marina Lease Agreement for an additional five (5) year term on the same terms and conditions of this Marina Lease Agreement. In order to exercise the Option to Renew, Marina shall provide written notice to City no less than eighteen (18) months prior to the expiration date of this Marina Lease Agreement.

~~Rent~~ ~~Section 3.~~ Lease Extension Provision. The parties agree that if SI provides the City with notice of its intention to exercise its rights under this Section between April 1, 2017 and March 31, 2018, the City

will meet with SI for the purpose of considering the negotiation of a ten year extension to this Lease. This provision shall not obligate the City to grant such an extension, but only to meet for the purpose of negotiating such an extension, with or without other modifications to this Lease. Negotiations for any such ten year extension shall be completed on or before March 31, 2019.

ARTICLE III

RENT

III. ~~Section 1.~~

G.A. Rental Amounts.- The amount of rent due shall be computed annually for the period from April 1 through March 31 of each lease year and shall include the following:-

1. (a) The annual rent shall be equal to ~~twenty seven and one half percent (27½%)~~ 5% of the gross revenues collected during the lease year for seasonal dockage, transient dockage, outdoor winter storage fees, and launch ramp fees, computed on the first ~~\$250,000 (the threshold figure)~~ \$350,000 of such revenue, (~~\$275,000 beginning in 2005-2009; \$300,000 in 2010-2014; \$325,000 in 2015; and in like kind thereafter for the threshold figure~~) \$400,000 in 2015; and in like kind thereafter for the threshold figure 2030 plus forty percent ~~(40%)~~ 40% of such revenues for each such lease year in excess of the threshold figure. Computation of Rental Amounts, and the threshold, does not include any rental above-listed amount in revenue.

1.2. Indoor storage facility. Commencing on the date of this Marina Lease Agreement and continuing until February 29, 2020, Marina shall pay City an annual fee of \$55,036.00 for the use of the indoor storage facility and the fee shall be paid in equal quarterly installments. Said annual fee is based upon a 20 year amortization of the capital expenditure of the construction costs for the indoor storage facility. The final payment shall be prorated for the period through February 29, 2020. Beginning on March 1, 2020, Marina shall pay 27.5% of the revenues generated by at the Indoor Storage Facility. indoor storage facility.

~~(b) SI will pay the City principal and interest (based upon a 20 year amortization) not to exceed 5% per annum on the cost of the Indoor Storage Facility.~~

~~(c) SI~~ Retail Service Labor. Marina shall pay five percent ~~(5%)~~ 5% of the gross Retail Service Labor revenues generated by the marina service department ~~(currently \$330,000) of SI Manitowoc for~~ for all retail service provided-

3. _____ Section on the first \$1,000,000 of retail service labor and 2. 5% of the gross Retail Service Labor which exceeds \$1,000,000.

Payment of Rent. ~~SI Marina~~ shall make rental payments to ~~the City~~ on a quarterly basis. Rent consists of ~~those~~the items detailed in Section 1A, 1B and 1C above. in the section immediately preceding this one.

In addition to the principal and interest payment of the ~~indoor~~ storage facility, the first three quarters of each lease year, the amount of the rental payment shall be equal to ~~twenty-five percent (25%)~~25% of the total rental payment of the previous lease year. -A financial statement prepared by ~~SI Marina~~ showing how the rent payment was computed shall accompany each payment. ~~This payment shall~~ and be due no later than 15 days following the end of the quarter. Thus, the rental payment due dates shall be as follows:

<u>Lease Term Quarter</u>	<u>Payment Due Date</u>
April - June	<u>on July 15</u>
July - September	<u>October 15</u>
October - December	<u>January 15</u>
January - March	<u>, or April 15</u>

~~H.B. _____~~ ~~SI Marina~~ shall furnish a financial statement with the final lease year payment due on April 15 showing the total lease payment due for the lease year. ~~This,~~ with the final quarterly payment ~~shall be~~ being the amount, ~~which,~~ that, when added to the first three quarterly payments, equals the total lease payment due for ~~each~~ the particular lease year.

~~I.C. _____~~ ~~Section 3~~ Accounting. -In addition to the quarterly financial statements furnished with rent payments, ~~SI Marina~~ shall furnish to ~~the City~~ an annual report prepared by a certified public accountant not later than ~~60~~90 days after the end of ~~SI's~~ Marina's fiscal year. The report shall include an ~~income statement for the fiscal year, a balance sheet~~ and detail the revenues collected by Marina to allow City to verify the required payments to City for seasonal dockage, transient dockage, winter storage, launch ramp fees, and a ~~detailed statement of assets for SI's Manitowoc operation.~~ service labor. The report shall be

detailed in such a manner as to disclose gross revenues received for seasonal dockage, transient dockage, winter storage fees, and launch ramp fees, and service labor, along with other detail.

~~J.D. Section 4. Rental Adjustments.~~ -The parties agree that in the event the City installs any additional slips to the leased premises ~~leased hereunder~~, or expands the current ~~administration or vessel repair building~~ buildings, during the term of the lease, the parties will meet for the ~~purpose~~ purposes of determining whether any adjustment in either of the above rental methods is warranted.

ARTICLE IV

BUSINESS OPERATIONS

IV. Section 1. Business Operations

~~K.A. Marina Operations.~~ SI Marina agrees generally to operate the leased premises as a marina in a responsible and professional manner. -Services of this operation include slip rental, winter boat storage, boat haul outs, boat put ins, ~~ship's~~ ship's store, fuel sales, sanitary pump outs, boat maintenance, full maintenance of all leased facilities as required by this agreement, and any other services ~~incident~~ incidental to the normal ~~operation~~ operations of a marina. SI Marina may also operate charter services, bait sales, boat sales, and boat rentals. ~~Other~~, and other marina-related business. Non-marina business may be conducted by ~~SI~~ the Marina on the leased premises only with the prior approval of the City.

~~Section 2. Hours of Operation.~~ ~~SI shall set the hours and levels of operation provided, however, that they shall be subject to prior approval by the Harbor Commission. The parties understand that experience may dictate that these hours may be changed occasionally. SI agrees to notify the Harbor Commission at least 30 days before instituting any reduction in the hours or levels of operations. If the Harbor Commission does not request, within the 30 day period, a meeting to discuss the matter, the reduction may be effectuated by SI. If the Harbor Commission requests a meeting, the parties shall meet and the reduction shall be subject to prior Harbor Commission approval.~~

B. Section 3. Hours of Operation. Marina shall set hours and levels of operation provided and give annual notice of hours of operation, or notice of any permanent change in hours to the City's Director of Public Infrastructure and Harbor Master.

~~L.C.~~ Equal Treatment. ~~SI~~ Marina shall establish operating parameters and shall train and supervise all employees so as to assure equal and unbiased treatment for all types and classes of boats whose owners desire to use the marina facilities.

~~M.D.~~ ~~Section 4.~~ Security. ~~SI~~ Marina shall provide all reasonably necessary security for boats, piers, buildings, equipment, vehicles or other property on the leased premises. ~~SI~~ agrees to have at least one employee on, including maintenance of the premises during the open hours of operation. ~~SI~~ agrees to install and maintain surveillance cameras sufficient to observe the two (2) Maritime Drive entrances to the property and all of the pier entrance, on or before April 1, 2000 provided by City and installed by Marina.

~~Section 5.~~ Staffing. ~~SI~~ plans to Marina shall provide the following a minimum staff for its operation on the leased premises:

<u>Position</u>	<u>Time of Employment</u>
1 F.T.E. Marina Manager	12 months a year
1 F.T.E. Operations/Service Mgr.	12 months a year
1 F.T.E. Office Manager	12 months a year
1 F.T.E. Clerk/Bookkeeper	12 months a year
3 F.T.E. Mechanics/Technicians	12 months a year
4 F.T.E. Dock Personnel	4-6 months a year

~~N.E.~~ 2 F.T.E. of a full time marina manager, service manager, office manager, three technicians, four seasonal dock personnel, and two seasonal store clerks 4-6 months a year.

~~SI~~ may add additional staff and may schedule the above minimum staff hours as business needs dictate. Hours reductions below the amounts herein are permitted only upon express approval of the Commission.

~~O.F. Section 6. Food and Beverage. SI Marina shall be permitted to serve prepackaged foods and limited groceries for off premises consumption. SI may also, with the proper licenses, operate vending machines for the sale of cigarettes, candy, and soft drinks. No food and alcohol, except for packaged fermented malt beverages and wine (sold with the whether carry-out or consumable on premises, so long as all appropriate licensure), may be sold on the leased premises, unless approved by the Common Council permits and licenses are obtained.~~

~~P.G. Section 7. Fish Cleaning Stations. The City does provide provides a fish cleaning station and RV pump out on the leased premises on locations determined by the City. SI Marina shall be responsible for maintaining such facilities, excluding repairs, and assuring that all persons using the marina, including charter operators, use only clean fish at these facilities only. Fish cleaning shall not be permitted at any other location on the leased premises. stations.~~

~~Q.H. Section 8. River Dock Spaces. At the option of the City, SI will also intends to have Marina be placed in charge of leasing dock space on the Manitowoc River outside of the leased premises. In the event the City exercises this option, SI shall receive a commission of 10% for any such dock space which it leases. The rates and rules for leasing of these spaces shall be as provided by the City as delineated in Exhibit A. Marina shall collect the fees and account for the fees as part of the normal dockage rental revenue under Section III A. 1.~~

~~R.I. Section 9. Rules Slip Leases. Marina shall adopt written rules and regulations for the leased premises and provide a copy to the City's Director of Public Infrastructure and Regulations; Slip Leases. SI shall adopt written Rules and Regulations for the marina which shall be subject to prior City approval. Harbor Master. Leases for slip rentals shall be in writing and shall be on a form or forms approved by the City.~~

~~Section 10. Boat Repair by Other Dealers. SI agrees to develop procedures whereby other boat dealers shall be permitted to service boats sold by them in the marina slips only. Where the type of service provided by such other boat dealer is also available from SI, such boat dealer shall pay to SI a charge equal to 10% of the bill to the boat owner for the work performed at the slip. Neither SI nor the City shall be entitled to any commission where the type of service provided is one not available from SI, or where the work performed is warranty work for which the boat owner is not charged.~~

~~S.J. Section 11. Boat Storage. In addition to normal winter storage, SI Marina shall provide dry storage for light sailboats. Rates charged for this service shall be subject to other rate approval requirements. set by Marina in accordance with the market. During the boating season, winter storage cradles, boat stands, and bunking materials shall be stored in the Indoor Storage Facility, to the extent space permits. At least 33 and 1/3% of the total gross floor space shall always be dedicated to the storage of such items (June 15th through September 15th) unless~~

the requirement is waived by the Public Works Director premised. Any boat storage materials shall be stored outdoors in a neat and orderly fashion as close to the Indoor Storage Facility as practicable.

~~T.K. Section 12. Public Access.~~ ~~SI Marina~~ may restrict public access to the piers, private customer restrooms and lounge areas lounges, storage area, areas, and the Indoor Storage Facility and maintenance facilities. All other areas of the leased premises shall be open to the public, except as limited by mutual consent of the City and SI. ~~SI agreement.~~ Marina shall allow public tours of the ~~entire~~ leased premises, provided that ~~such~~ these tours are conducted at reasonable times.

V. Maintenance of Marina Facilities.

General Responsibilities.

ARTICLE V

MAINTENANCE OF MARINA FACILITIES

~~U.A. Section 1. General Responsibilities.~~ ~~SI Marina~~ shall maintain the leased premises, ~~including~~ included all improvements and equipment ~~thereon, through,~~ throughout the term of the lease and return ~~the same to the City upon the termination of such~~ the lease in as good of condition as when received, ordinary wear and tear excepted. ~~To the extent required to enable SI to live up to its responsibilities hereunder,~~ City agrees to assign to ~~SI Marina~~ all warranties, causes of action, ~~warranties and other rights against any contractor, materials supplier, architect, or engineer concerning the construction, sale or manufacturer of the leased premises after any~~ upon acceptance of the improvement or piece of equipment ~~has been accepted by the City.~~ In the case of improvements to the leased premises ~~which are constructed by the City after execution of this~~ during the lease, ~~the City shall have responsibility~~ bear responsibility for such improvements ~~until the City has accepted the improvements from the applicable contractor as complete.~~ during construction.

~~V.B. Section 2. Maintenance and Repairs.~~ ~~SI Marina~~ shall be financially responsible for performing recurring maintenance items, such as placement of the log boom, winterizing, recommissioning the docks, parking lot lighting bulb replacements, and ~~for purchasing any new equipment or fixtures which~~ ~~SI Marina~~ desires to add to the leased premises. ~~The City will be financially responsible for all other maintenance and~~ In the event of repairs that are not considered recurring, including grounds keeping (lawn care, tree trimming, etc.) and snow removal, ~~limited,~~ Marina will use its own staff whenever practicable. When necessary to single access plowing from both the north and south entrances ~~(any additional plowing will be performed by SI).~~ purchase outside materials or hire outside contractors, the Marina shall notify the Director of Public Infrastructure before performing any non-urgent repair in excess of \$1500.

~~— In the event repairs are required to any improvements on the leased premises, SI will endeavor to perform such repairs with its own staff whenever practicable. Where it is necessary to purchase materials or hire outside contractors to perform repairs, the City shall be solely responsible for the out of pocket expenses SI shall obtain the prior approval of the Director of Public Works (assuming the nature of the repair is not urgent) before performing any repair which results in a cost to the City. The Director of Public Works may set limits of notification through policy in order to streamline daily operations. (eg. \$500 minimum)~~

C. _____ Section 3. City Responsibilities. City shall be financially responsible for all non-recurring maintenance or repairs and groundskeeping. In the event of snow, City shall plow one lane from the north and south entrances.

~~W.D. Winterization. SI Marina shall make all necessary preparations for winter, including, but not limited to, installation of installing the log boom, draining of water lines, and disconnecting of piers or pulling of pier studs, as required. In the event SI Marina fails to perform proper winter maintenance, it shall be do so, Marina is responsible for any and all damage arising from such failure without limitation. The City will, upon request, shall have the right to inspect the leased premises for proper winter maintenance.~~

X.E. _____ Section 4. Parking Areas. — The City shall, as it deems necessary, be responsible for seal coating, resurfacing, and striping the parking lot, as it deems necessary. Snow plowing and other routine parking maintenance of the parking areas shall be the responsibility of SI, except as otherwise provided in this agreement. SI Marina. Marina understands the City may permit that the YMCA and the WI Maritime Museum to may utilize a portion portions of the parking facilities at no charge.

Y.F. _____ Section 5. Refuse. Collection Marina shall be responsible for collection and disposal of refuse on the leased premises shall be SI's responsibility. SI in accordance with state and local laws. Marina shall provide sufficient trash receptacles throughout the leased premises to keep the area neat and clean. SI shall also perform appropriate grounds keeping activities to accomplish this purpose. SI will also maintain the improvements on the leased premises in a clean and orderly condition.

Z.G. _____ Section 6. Safety. SI Marina shall provide appropriate safety equipment and shall maintain such equipment. SI Marina shall specifically establish procedures and schedules for fire fighting firefighting and prevention. Classes or, including classes and drills for all personnel. Marina shall properly service all fire extinguishers and hoses in accordance with the National Fire Prevention Association guidelines and shall be attended subject to the inspection by all marina personnel, including office personnel. Fire extinguishers and fire hoses shall be activated and placed in service according to a schedule such that each fire extinguisher is discharged and recharged at least once a year, and such that each fire hose is uncoiled and

pressurized, and the nozzle activated, at the beginning of each season and at least once during the season City's Fire Rescue Department.

AA.H. ~~Section 7.~~ Dredging. The City shall be responsible for any dredging of the marina facilities ~~when such dredging is necessary for the safe and effective operation of the marina under present specifications and when such dredging is approved by the applicable governmental agencies.~~ When this dredging is necessary, the City shall seek such approval and bear the cost of obtaining such approval and subsequent dredging premises. City shall bear costs and give notice to Marina when this is to occur.

BB.I. ~~Section 8.~~ Junked or Abandoned Vessels. Derelict, sunk, damaged, abandoned, and junked vessels on the leased premises shall be immediately removed by ~~SI.~~ Marina. Marina shall take responsible measures to insure that all vessels renting slips or stored are kept in a good state of repair.

CC.J. ~~Section 9.~~ Restrooms. ~~SI~~ Marina shall maintain ~~separate~~ restroom facilities for slip renters rentals and the general public. ~~SI~~ Marina shall ~~assure~~ provide that at all times restrooms are clean, warm, brightly lit, and properly stocked with towels, toilet paper, etc. Personnel from ~~the~~ City shall make frequent and unannounced inspections to insure compliance with this provision.

~~Section 10.~~ Oil Spills. ~~SI~~ Marina shall install and ~~have~~ maintain available oil spill containment means to surround the fuel pier and ~~to close off the mouth of the marina.~~ docking area. Upon detection of a fuel or oil spill, ~~as evidenced by a significant visible film,~~ SI Marina shall activate the appropriate containment means, attempt to find the ~~specific~~ source of the spill, ~~and contain it,~~ notify the Manitowoc Fire Rescue Department, ~~US Coast Guard and~~ the Wisconsin DNR, and the US Coast Guard. Marina shall, if necessary, stop all boat movement ~~within the marina.~~

ARTICLE VI

FEES AND CHARGES

DD.K. ~~Section 1.~~ Initial Rate Schedule. The initial fees and charges of SI for in the first year of the lease are set forth in Exhibit C" of this Agreement (Fall Rate Sheet). area.

~~Section 2.~~ Changes in Rates. Effective April 1, 2001, SI may increase its rates for items described in Exhibit "C" annually without prior City approval, provided that the percentage increase for any individual rate item from the previous year's rate does not exceed the average percentage rate increase for 30

foot slips as applicable, at the marinas listed below during the preceding season. The 1999 base rates, excluding tax, to be used for purposes of making this computation are as follows:

<u>Stormwater Prevention Plan.</u> Marina	Length of Slip	1999 Rate
1. Port Washington Marina	30 ft.	\$1,099
2. Kewaunee Marina	30 ft.	\$1,000
3. Quarter Deck Marina	30 ft.	\$1,650
— Sturgeon Bay		
<hr/>		
4. Sturgeon Bay Yacht Harbor	30 ft.	\$1,440
5. Reef Point Marina-Racine	30 ft.	\$1,565
6. Harbor Centre Sheboygan	30 ft.	\$1,155

As an example, when the 2000 rates for 30 foot slips, as applicable, are known for the above marinas, the average percentage increase from the rates listed above to the 2000 rates will determine the permissible percentage increase in 2001 rates by SI.

EE-L. Section 3. Additional Pay Increases. Should SI desire to assess rates higher than those provided for in Section 2, SI must first apply to the City for prior approval of the proposed rates. Any application by SI for a rate change will be filed in duplicate shall file a stormwater prevention plan with the City Clerk and the Secretary of the Harbor Commission. Following receipt of the application, the Common Council shall, following public notice, hold a public

hearing for the purpose of receiving follow all relevant information regarding the request and rate changes. SI may present such information as it desires and shall present any relevant information requested by the Common Council. The Common Council shall also consider any recommendation of the Harbor Commission in acting upon any request hereunder. Following receipt of this information, Council shall approve the rate changes requested, approve a different schedule of rate changes, or refuse to grant any rate changes. In the event the rate schedule is not approved as requested, the Common Council shall set forth in writing its reasons for denying the request. The Common Council shall endeavor to announce its decision within 90 days following receipt of SI's application. In the event the Common Council does not approve the rate change as requested and approves a different rate change, SI shall still be permitted to assess any rate increases provided in Section 2 without prior Common Council approval requirements of plan.

— In acting upon any application for a rate schedule change, the Common Council shall consider the following factors:

- (a) ~~The ability of SI to render services and derive a reasonable profit therefrom under the existing rate schedule and under the proposed rate schedule;~~
- (b) ~~The revenues and profits derived under the existing rate schedule;~~
- (c) ~~The efficiency of SI;~~
- (d) ~~The quality of the service offered by SI;~~
- (e) ~~The capital investment which SI has made into its operation;~~
- (f) ~~The extent to which SI had adhered to the terms of this lease;~~
- (g) ~~The fairness to City taxpayers and users of the facility;~~
- (h) ~~Such other factors which the Common Council may deem relevant.~~

VI. ~~Section 4.~~ Fees and Charges

Initial Rate Schedule and Fuel Prices. In order to maintain competitive fuel prices Marina shall provide the City with surrounding comparable marinas, the parties agree that the price charged by SI for

gasoline and diesel fuels shall not exceed the average price charged for these items by the following surrounding marinas:

_____ Harbor Centre Sheboygan

_____ Quarterdeck Marina (Sturgeon Bay)

_____ Sturgeon Bay Yacht Harbor

_____ Reef Point Marina Racine

FF.A. _____ In order to administer this section, SI agrees to conduct a survey of the above four marinas on not less than a monthly basis from May through September of each lease year and to record the price charged by each marina for a gallon of diesel fuel and a gallon of gasoline. A copy of each monthly survey shall be provided an annual notice of rates and Fuel Prices, with copies to the Director of Public Works Infrastructure and Harbor Master. The average fuel price charged for diesel and gasoline as a result of each survey shall establish the highest price which can be charged by SI for these products until the next survey is conducted A current rate schedule is attached as Exhibit B.

_____ ARTICLE VII

_____ USER COMPLAINT PROCEDURE

_____ All the disputes between SI and any individual concerning operation of the marina will be submitted to a Maniwoc Marina Review Committee for decision. The review committee may also hear complaints from members of the public regarding operation of the marina. The review committee shall consist of one representative of SI, the Mayor, a designated member of the Harbor Commission, a member of the Common Council, and one citizen of the City of Manitowoc be selected by the Mayor. No dispute will be brought before the review committee before SI has had an opportunity to settle the dispute.

~~— In the event that the Manitowoc Marina Review Committee determines that SI is not meeting the terms of this contract or not performing in a business like manner or causes waste to the facility, the City will notify SI. If SI does not rectify the deficiencies within 90 days, the City Common Council will review the action. If they find merit, the Common Council will notify SI of their determination and will issue a notice of noncompliance allowing 120 days for SI to rectify the deficiency. If the deficiency is not addressed to the Council's satisfaction, this contract will become null and void. Neither the Manitowoc Marina Review Committee nor the Common Council shall act in an arbitrary or capricious manner in implementing this article.~~

ARTICLE VIII

INSURANCE

~~B. _____~~ Section 1. Changes in Rates and Fuel Prices. Marina may adopt such rate increases as the market will bear, and shall provide annual notice of the City's Director of Public Infrastructure and Harbor Master of the rates. Marina agrees to review the rates for other Lake Michigan marinas when establishing rates. Marina shall charge competitive rates for fuel based upon the rates charged by similar sized marinas in the area.

VII. User Complaints. All complaints by users of the Marina shall be directed to the Marina Operator with copies to the City's Director of Public Infrastructure and Harbor Master.

VIII. Insurance.

~~GG.A. Liability Insurance. SI~~ insurance. Marina will provide liability insurance to protect against claims for bodily injury or property damage arising out of its operations in an amount of not less than \$1,000,000.00 per occurrence. ~~The~~ City shall be named as an additional insured in such policy. The policy shall contain broad form contractual coverage, and be subject to approval by the City.

~~HH.B. _____~~ Section 2. Property Insurance. The City shall provide fire and extended coverage property insurance on its improvements to the leased ~~lease~~ premises. ~~SI~~ Marina shall be responsible for maintaining property insurance on insuring its own personal property and provide the City with a certificate of insurance naming the City as a certificate holder or additionally insured.

~~_____~~ Section 3. Indemnification. SI Marina shall indemnify and hold the City harmless for any claim for

personal injury or property damage, including claims for environmental damage or remediation, filed against the City by any persons occurring on any portion of the leased premises unless said injuries are determined by a court jurisdiction to have actually been caused by the City's negligence.

~~II.C.~~ ~~_____~~ ~~SI~~ Marina shall either require the owner of stored property to provide proof of insurance on the stored property or provide their own insurance on the stored property (whichever ~~SI~~ Marina prefers) and shall provide the City with documentation establishing such coverages.

ARTICLE IX

UTILITIES AND TAXES

~~IX.~~ ~~_____~~ ~~Section 1. Utilities.~~ ~~SI~~ and Taxes

~~II.A.~~ Utilities. Marina shall pay all utility costs, including, but not limited to, sewer, water, and electrical costs for all improvements to the leased premises. ~~SI,~~ and shall be required to pay bear the costs of any repair or replacement costs of any such utilities, ~~subject to Article V, Section 2.~~

~~KK.B.~~ ~~_____~~ ~~Section 2. Taxes.~~ ~~SI~~ Marina shall pay any and all taxes arising out of its use of the leased premises, including, but not necessarily limited to, personal property taxes and sales tax. The parties understand that no real estate taxes will be levied on the leased premises for any improvements on the leased premises.

ARTICLE X

NONDISCRIMINATION

~~II.X.~~ ~~_____~~ ~~SI~~ Non-discrimination. Marina agrees that it will comply with Title VI of the Civil Rights of 1964 as amended as well as all other applicable civil rights laws, and specifically agrees that no person shall be denied employment or use of the facilities on the grounds of race, color or national origin.

ARTICLE XI

ADMINISTRATION

~~III.XI.~~ Administration. The City Director of Manitowoc Board of Public Infrastructure and Harbor Commissioners Master shall act on behalf of the City of Manitowoc to oversee day to day compliance of with the requirement requirements of this lease agreement by SI. Representatives of SI shall be Marina. Marina will make representatives available for meetings with the Board of Harbor Commissioners to discuss any problems which may arise. SI also, and agrees to make available any required books and or records which may be necessary to assure compliance with the terms of this agreement.

ARTICLE XII

PARTIES

~~IV.XII.~~ Parties. This agreement shall be binding upon and inure to the benefit of the parties hereto, as well as their respective successors and assigns. -This lease agreement may not be assigned by SI Marina without the prior consent of the City. SI may not sublease any portion of its rights under this agreement without the prior consent of the City. This restriction shall not apply to City, with the exception of normal items of marina operation, Marina's operations such as the rental of boat slips, etc slip leases.

Dated this _____ day of _____, 1999 August, 2017.

CITY OF MANITOWOC

SAILBOATS, INC.

By: _____

—Kevin City of Manitowoc

Manitowoc Marina, LLC

Justin M. Crawford Nickels, Mayor

J. R. Culley, CEO

Rich Larsen, Manager

Attest:

Jennifer Hudon

Deborah Neuser, City Clerk

John K. Culley, President

Steve Wanek, Member

CITY OF MANITOWOC

BOARD OF HARBOR COMMISSIONERS

By: _____

—Robert A. Becker, President

Attest:

William Handlos, Harbor Master,
Director of Public Works
And City Engineer

STATE OF WISCONSIN)

_____) ss.

MANITOWOC COUNTY)

_____ Personally came before me, this _____ day of _____, _____, Kevin M. Crawford,
Mayor and Jennifer Hudon, City Clerk, to me known to be the persons who executed the foregoing
instrument and to me known to be such Mayor and City Clerk of the City of Manitowoc and
acknowledged that they executed the foregoing instrument as Officers of said City, by its authority. _____

_____ James A. Wyss

_____ Notary Public

_____ Manitowoc County, Wisconsin

_____ My commission is permanent.

STATE OF WISCONSIN)

_____) ss.

MANITOWOC COUNTY)

My comm. expires _____

STATE OF WISCONSIN)

_____) ss.

MANITOWOC COUNTY)

_____ Personally came before me this _____ day of _____, _____, John K. Culley, President of Sailboats, Inc. to me known to be the person who executed the foregoing instrument, and to me known to be such President of said corporation, and acknowledged that they executed the foregoing instrument as such officers of such corporation, by its authority.

Notary Public

Manitowoc County, Wisconsin

My comm. expires _____

This instrument was drafted by

James A. Wyss Kathleen M. McDaniel, City Attorney

DESCRIPTION

BOUNDARY OF PRIVATE MANAGEMENT

MANITOWOC MARINA

— A parcel of land located in the South ½ of Section 20, Township 19 North, Range 24 East, and the North ½ of Section 29, Township 19 North, Range 24 East in the City of Manitowoc, Manitowoc County, Wisconsin and more particularly described as follows:

Commencing at the Southeast Corner of Block 163 of the Original Plat and Southeast Corner of Tract 2 of a Certified Survey recorded in Volume 9, Page 341 at the Manitowoc County Register of Deeds Office; thence east a distance of 66 feet more or less to the east line of North 5th Street and a point located 40 feet north of the centerline of vacated York Street; thence north along the east right-of-way line of North 5th Street a distance of 150.78 feet more or less to the centerline of North Lakeview Drive; thence North 34° 54' 30" East a distance of 404.69 feet; thence northerly along a curve to the left (R = 572.96, D = 10°, I = 24.05', LC = 239.07') a distance of 123 feet more or less to the intersection of the centerline of the old north government breakwater extended; thence continue north a distance of 10 feet; thence in a southeasterly direction along a line that is 10 feet from and parallel to the centerline of the old north government breakwater (South 80° 37' 01" East) extended a distance of 40 feet more or less to the East right-of-way line of North Lakeview Drive and point of beginning; thence Southeasterly along a line that is parallel to and 10 feet north from the centerline of the old north government breakwater a distance of 1230 feet more or less to the point that is located 10 feet West of centerline of the west wall of the Confined Disposal Facility; thence in a northerly direction along a line that is parallel to and 10 feet from the centerline of the west wall of the (CDF) a distance of 1,580 feet more or less to a line that is parallel to and South of the centerline of the new north breakwater; thence in a northwesterly direction along a line that is parallel and 10 feet south of the centerline of the new north breakwater a distance of 880 feet more or less to the east right of way line of North Lakeview Drive; thence in a southerly direction along the east ROW of North Lakeview Drive a distance of 1,880 feet more or less to the point of beginning. All according to the attached Map labeled Exhibit "B"(1).

EXHIBIT "A"

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