

LICENSE AGREEMENT

This License Agreement ("Agreement") dated as of January 1, 2016 ("Effective Date"), is made by and between the **Sacramento-Yolo Port District**, a public entity of the State of California formed under the River Port District Act ("Port"), and **Lake Washington Sailing Club (LWSC)** ("Licensee").

RECITALS

A. Port owns and operates the Port of West Sacramento, including the 150-acre North Terminal property in the City of West Sacramento;

B. Licensee desires to use a portion of the Port's North Terminal property labeled "Boat Clubs", and all adjacent waterways thereto, within the boundary shown on the map labeled as Lake Washington Sailing Club ("Map") attached as Exhibit "A" and made a part hereof, along with ingress and egress using Port approved routes to the nearest public right-of-way ("Property").

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein, Port and Licensee hereby agree as follows:

1. Definitions. As used herein, the following terms have the meanings set forth below:

1.1 Port. "Port" means the Port of West Sacramento and its officers, employees, agents, contractors, volunteers, franchisees or any other person acting on behalf of Port.

1.2 Property. "Property" means certain real property owned by Port as shown in Exhibit A.

1.3 Licensee. "Licensee" means Lake Washington Sailing Club, including club officers, members, and volunteers.

2. Grant of License and Consent to Enter. In exchange for value received, the Port hereby grants Licensee a non-exclusive temporary license on and across an area of the Port of West Sacramento shown in the attached map as the Property, and consents to the entry by the Licensee onto the Property, for Sailing Club Activities:

2.1 Sailing Club activities are defined as launching and removing boats at the boat dock depicted in Exhibit A, club meetings, and club events which may require a separate event permit from the City of West Sacramento.

2.2 Licensee shall have non-exclusive use and responsibility for the area and facilities as shown on Exhibit A.

2.3 Normal access to the Property shall be from 5:00 a.m. to 10:00 p.m.

2.4 Violations of any terms of this Agreement may result in termination of this license. Port shall provide Licensee with written notice of any such violation and reasonable time to cure, not to exceed ninety days.

2.5 Licensee agrees to follow the Boat Club Guidelines (Exhibit B) for its members and guests.

3. Exercise of Rights. Work undertaken by the Licensee pursuant to this Agreement shall be at Licensee's sole cost and expense. Licensee shall not permit any lien to be placed on the Property as a result of its work performed under this Agreement.

4. Term of License. This Agreement shall be effective upon the Effective Date and continue through December 31, 2017 ("Term"). By mutual written agreement, the parties may extend the term of this Agreement for a single, two-year period.

5. Fees. During the Term of this Agreement, Licensee shall pay to Port:

- A one-time administrative fee of \$1000.00;
- an annual license fee of \$500.00;
- a monthly water flat fee of \$50.00; and
- monthly electrical charges (metered).

5.1 Licensee agrees to provide sailing instruction to the City of West Sacramento Parks and Recreation Department.

6. Maintenance of Property. Licensee, at its sole cost and expense, shall keep and maintain the Premises, in good order and repair, shall not commit any waste, nor cause a nuisance on the Property, and shall conduct all activities on the Property in a proper manner. Licensee will not, nor permit any agent to use, generate, store or dispose any hazardous material in violation of any law or regulation or in excess of the amounts necessary to conduct its approved use of the Property.

7. Removal of Equipment. Upon termination of this Agreement, Licensee shall be entitled, and if requested by Port shall be obligated, to remove from the Property any Licensee equipment at Licensee's sole cost and expense.

8. Defense, Indemnification and Hold Harmless.

8.1 Licensee shall indemnify, protect and defend Port and the City of West Sacramento, and their officers, employees, agents and contractors (the "Indemnified Parties"), and hold the Indemnified Parties harmless, from any and all claims and liability for bodily injury, death and property damage caused by or resulting from the negligent and intentional acts or omissions of Licensee, its officers, members, employees, agents, independent contractors or guests and for any and all costs incurred by an Indemnified Party in defending against such claims, including but not limited to investigators', witness and attorneys' fees and court costs, related in any way to the rights granted under this Agreement, provided that Licensee shall not be obligated to indemnify, protect or defend the Indemnified Parties from claims or losses that arise from the sole negligence or willful misconduct of an Indemnified Party. This section shall survive the termination of this Agreement, irrespective of the reason for its termination.

8.2 Licensee shall indemnify, protect and defend the Indemnified Parties and hold them harmless from any and all claims and liability for Licensee's failure to comply with all federal and California laws pertaining to actions taken or rights granted under this Agreement. These laws include without limitation the Americans with Disabilities Act, Americans with Disabilities Accessibility Guidelines, civil rights laws, and unfair business practices laws. This section shall survive the termination of this Agreement.

9. Insurance. Licensee shall not commence activities pursuant to this Agreement before obtaining, and shall maintain in force at all times during the duration of this Agreement the policies of insurance specified in this Section.

9.1 Prior to commencement of any activities under this Agreement, the Licensee shall furnish the Port with original endorsements effecting coverage for all policies required by the Agreement. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The endorsements are to be on forms provided or approved by the Port. As an alternative, the Licensee's insurer may, subject to the approval of the Port, provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Section.

9.2 In addition to any other remedy the Port may have, if Licensee fails to maintain the insurance coverage as required in this Section, the Port may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and Licensee shall promptly reimburse the Port for any costs incurred in providing such insurance.

9.3 Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, terminated by either party, or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Port.

9.4 No substantial reductions in scope of coverage which may affect Port's protection are allowed without Port's prior written consent. The requirement as to types and limits of insurance coverage to be maintained by Licensee are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Licensee under the Agreement.

9.5 The Licensee shall, at its expense, maintain in effect at all times during the term of this Agreement not less than the following coverage and limits of insurance. The maintenance by Licensee and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Agreement.

9.4.1 Comprehensive General and Automobile Liability Insurance. The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of the insured, or by its employees, students, volunteers, or agents, or by anyone on the Property at the invitation of the insured. The amount of insurance coverage shall not be less than **\$1,000,000.00** per occurrence. The comprehensive general liability insurance and the automobile liability insurance coverages shall also include, or be endorsed to include, the following:

9.4.1.1 Provision or endorsement naming the Sacramento-Yolo Port District and City of West Sacramento and each of its officers, employees, and agents, as additional insureds in regards to: liability arising out of the performance of any work under the Agreement; liability arising out of activities performed by or on behalf of the Licensee; premises owned,

occupied or used by the Licensee; or automobiles owned, leased, hired or borrowed by the Licensee. The coverage shall contain no special limitations on the scope of protection afforded to the Port and City of West Sacramento, its officers, officials, employees or volunteers.

9.4.1.2 To the extent that the Licensee has an obligation to protect, defend and hold Indemnified Parties harmless pursuant to Sections 8.1 or 8.2, such indemnification obligation shall be the primary obligation as respects the Indemnified Parties. Any insurance or self insurance maintained by the Indemnified Parties shall be in excess of the Licensee's indemnification obligation and shall not contribute with it.

9.4.1.3 Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the Port or City, or their officers, officials, employees, or volunteers.

9.4.1.4 Provision or endorsement stating that the Licensee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

10. Integration. This Agreement is an integrated agreement. It supersedes all prior negotiations, representations, or agreements, either written or oral. Each Party has read and is familiar with the terms of this Agreement and all work shall be performed in strict compliance with its terms.

11. Modification or Termination. This Agreement may be amended or terminated only by a written instrument signed by the Parties.

12. Assignment. Licensee cannot assign this Agreement or any rights under this Agreement without prior written approval of Port, which shall not be unreasonably withheld.

13. Use of Property. Port may allow Licensee to make such improvements to use the Premises and Property for purposes consistent with this Agreement, subject to Section 3 of this Agreement. Licensee shall obtain Port's written approval prior to commencement of any work.

14. Attorneys' Fees. The prevailing party in any action or proceeding to enforce this Agreement or any provision thereof shall be entitled to recover from the other party all of the costs and expenses, including but not limited to reasonable attorneys' fees and experts' fees.

15. City Ordinances. Unless specifically limited by this Agreement, all City ordinances, including but not limited to any special events ordinances or sign ordinances, shall apply to the Licensee during its use of the Property.

16. Dispute. The Parties shall attempt in good faith to promptly resolve all disputes arising out of or relating to this Agreement; provided, however, that nothing in this Section limits the Port's right to terminate this Agreement as otherwise provided herein.

17. No Recording. No document giving notice of the existence of this License shall be recorded in the official records of the county where the licensed Property is located.

18. Law and Venue. This License shall be governed by the laws of the State of California. Venue for all actions under this Agreement shall be in Yolo County Superior Court.

19. Revocable License. Licensee agrees that notwithstanding any other provision of this Agreement, or any improvements made by Licensee to the Property or sums expended by Licensee in furtherance of this License, the license granted herein is revocable at any time by the Port. Except in the event of termination resulting from a violation of this Agreement (see Section 2.4), Port shall provide Licensee with at least six (6) months written notice prior to termination.

20. Notices. Any notice required hereunder shall be in writing and shall be addressed as follows:

To Port: Port of West Sacramento
1110 West Capitol Ave, 3rd Floor
West Sacramento, CA 95691
Attn: Port Business Manager

To Licensee: Lake Washington Sailing Club
P.O. 980546
West Sacramento, CA 95691
Attn: Commodore

or to such other address as a party may indicate in a written notice to the other. All notices and communications given under this Agreement shall be deemed to have been duly given and received: (i) upon personal delivery, or (ii) as of the third business day after mailing by United States certified mail, return receipt requested, postage prepaid, addressed as set forth above, or (iii) the immediately succeeding business day after deposit (for next day delivery) with Federal Express or other similar overnight courier system, or (iv) 24 hours after facsimile transmittal with confirmation of receipt and followed by personal delivery, United States mail, or overnight delivery as specified in this Paragraph.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate by their respective officers hereunto duly authorized as of the day and year first herein written.

PORT:

Sacramento-Yolo Port District

Martin Tuttle
Port CEO

LICENSEE:

Lake Washington Sailing Club

David Potter
Commodore

Exhibit A

Map Showing Property and Premises

Exhibit B

Boat Club Guidelines