

LEASE

THIS LEASE made and entered into in triplicate this \_\_\_\_\_ day of \_\_\_\_\_, 1949, by and between THE CITY OF SAN DIEGO, a municipal corporation, acting by and through the Harbor Commission of said City, hereinafter called the "Lessor", and AMERICAN TUNA BOAT ASSOCIATION, an unincorporated association, hereinafter called the "Lessee",  
WITNESSETH:

That the lessor, for the considerations hereinafter set forth, hereby leases to the lessee for the term and upon the conditions hereinafter set forth, those certain lands bordering and extending into the Bay of San Diego and being a portion of those lands conveyed to the City of San Diego by the State of California under the provisions of that certain Act of the Legislature of the State of California entitled, "An Act conveying certain tidelands and lands lying under inland navigable waters situate in the Bay of San Diego to the City of San Diego in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof", approved on the first day of May, 1911, and as subsequently amended, which said lands are more particularly described as follows, to-wit:

Commencing at Government Station No. 108 on the U. S. Bulkhead Line, as said Bulkhead Line is now established for the Bay of San Diego; thence south 0° 01' 40" west along said Line a distance of 573.60 feet; thence south 70° 00' 45" west a distance of 102.16 feet; thence south 58° 45' 30" west a distance of 542.97 feet; thence north 11° 53' 30" west a distance of 43.59 feet to the true point or place of beginning; thence south 78° 06' 30" west a distance of 75. feet; thence north 11° 53' 30" west a distance of 65. feet; thence north 78° 06' 30" east a distance of 75. feet; thence south 11° 53' 30" east a distance of 65. feet to the true point or place of beginning; containing 4,875. square feet of area, all as more particularly delineated on Drawing No. 274-B dated January 27, 1949, attached hereto marked Exhibit "A" and by this reference made a part hereof.



TO HAVE AND TO HOLD said leased premises for the term of this lease and upon the conditions as follows:

First. The term of this lease shall be for five (5) years, commencing on the \_\_\_\_ day of \_\_\_\_\_, 1949, and ending on the \_\_\_\_ day of \_\_\_\_\_, 1954, unless sooner terminated as herein provided; provided, however, that the lessee shall have the right and option to renew said term for an additional five (5) years to commence at the expiration of the term herein provided, and at the end of the first renewal term to again renew the same for another five (5) years, and at the end of the second renewal term to again renew said term for an additional five (5) years. Said first option to renew shall be exercised by lessee giving notice in writing to the Port Director of lessor at least sixty (60) days before the expiration of the term herein provided; said second option to renew shall be exercised by lessee giving notice in writing to the Port Director at least sixty (60) days before the expiration of the first renewal period, and said third option to renew shall be exercised by lessee giving notice in writing to the Port Director at least sixty (60) days before the expiration of the second renewal period herein provided. Upon exercise of such options this lease shall continue in full force and effect in accordance with all the terms and conditions hereof including the adjustment in rental as hereinafter provided.

Second. As and for the rental and for and in consideration of the leasing aforesaid, lessee agrees to pay to lessor the following sums:

- (1) For the first three years of said lease, the sum of Fifty Dollars (\$50) per month, payable in advance on or before the tenth day of each and every month.
- (2) For the fourth and fifth years of said lease, a sum to be agreed upon at or before the expiration of the third year of said lease, by the Harbor Commission and said lessee.



- (3) For the second five years of said lease, in the event the option given herein be exercised, a sum to be agreed upon at or before the expiration of the fifth year of said lease, by the Harbor Commission and said lessee.
- (4) For the third five years of said lease, in the event the option given herein be exercised, a sum to be agreed upon at or before the expiration of the tenth year of said lease, by the Harbor Commission and said lessee.
- (5) For the fourth five years of said lease, in the event the option given herein be exercised, a sum to be agreed upon at or before the expiration of the fifteenth year of said lease, by the Harbor Commission and said lessee.

In the event that an agreement cannot be reached at either of the times hereinabove mentioned, then the matter shall be determined by submission to a board of arbiters consisting of three members: one arbitrator shall be selected by the Harbor Commission and one by the lessee, and the two arbitrators so selected shall select a third. The decision of such board shall be final and both the City and the lessee shall be bound thereby.

Third. The lessee agrees that the leased premises shall be used only and exclusively for the maintenance of general offices of the lessee and for purposes incidental thereto, and for no other purpose whatsoever without the consent of the Harbor Commission, evidenced by resolution, first had and obtained.

Fourth. It is mutually agreed that the lessee may at its own expense, make any alterations or changes in the leased premises, or cause to be built, made or installed thereon any buildings, structures, machines, appliances, utilities, signs or other improvements necessary or desirable for its use of said premises, and may alter and repair any such buildings, structures, machines, appliances, utilities, signs and other improvements; provided, however, that such alterations and changes shall not be made and such buildings, structures, machines, appliances, utilities, signs and other improvements shall not be built or installed, and major repairs thereto shall not be made except in accordance with plans and specifications previously submitted to the Port Director of lessor and approved in writing by him. The lessee further agrees that it will at all times save the lessor free and harmless and indemnify it against all claims for labor or materials furnished for or in connection with any and all work, change or improvements in or upon the leased premises.



Fifth. It is mutually agreed that the lessee shall keep and maintain the leased premises and all improvements of any kind which may be erected, installed or made thereon by the lessee, in good and substantial repair and condition and shall make all necessary repairs and alterations thereto, and that the lessor shall not at any time be required to make any improvements or repairs whatsoever. The lessor shall at all times during business hours have the right to enter upon and inspect the said premises.

Sixth. It is mutually agreed that any installations or improvements of any kind placed on the leased premises by lessee shall be and remain the property of lessee and that upon the expiration of the term of this lease or the sooner termination thereof, lessee shall have the right to remove any such installations or improvements and that such removal shall be made on or before the expiration of sixty (60) days from the termination of this lease; provided, however, that if any such installations or improvements shall not be removed on or before the expiration of said sixty (60) days from the termination of this lease, the same shall thereupon become the property of the lessor.

Seventh. The lessee agrees to pay before delinquency all taxes and assessments assessed or levied upon the lessee or the leased premises by reason of any machines, appliances or other improvements of any nature whatsoever erected, installed or maintained by lessee or by reason of the business or other activities of lessee upon or in connection with the said leased premises and to pay any fees imposed by law for licenses or permits for any business or activities of the lessee upon the leased premises or under this lease, and to pay before delinquency any and all charges for utilities at or on the leased premises.

Eighth. The lessee agrees not to assign the whole or any part of this lease or any interest therein, nor to sublease the whole or any



part of the leased premises, nor to permit the occupancy of any part thereof by any other person, without the consent of the Harbor Commission, evidenced by resolution, first had and obtained. Lessee further agrees that no assignment, voluntary or involuntary, in whole or in part, of this lease or of any interest therein, and no sublease of the whole or any part of the leased premises, and no permission to any person to occupy the whole or any part of the leased premises, shall be valid or effective without the said consent of the Harbor Commission first had and obtained.

Ninth. It is mutually agreed that in the event the lessee is adjudicated bankrupt or insolvent or makes any assignment for the benefit of creditors, or in the event of any judicial sale of the lessee's interest under this lease, this lease shall at the option of the lessor immediately terminate and all rights of the lessee hereunder shall immediately cease and terminate unless the cause of said bankruptcy, insolvency or assignment or judicial sale be removed within thirty (30) days from the date thereof.

Tenth. The lessee agrees that the lessor, its agents, officers and employees shall not be nor be held liable for any damage to the goods, properties or effects of the lessee or any of the lessee's representatives, agents, employees, guests, licensees, invitees, or of any other person whatsoever, nor for personal injuries to or deaths of them, or any of them, whether caused by or resulting from any act or omission of any person or from any defect in any part of the leased premises or any property adjacent thereto or from any other cause or reason whatsoever. The lessee further agrees to indemnify and save free and harmless the lessor and its authorized agents, officers and employees against any of the foregoing liabilities and any costs and expenses incurred by the lessor on account of any claim or claims therefor.



Eleventh. The lessee agrees to take out public liability insurance with an insurance carrier satisfactory to lessor to protect against loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of the lessee or any person acting for it or under its control or direction, or any person authorized by it to use the leased premises, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from the acts or activities of the lessee or any person, or any person acting for it or under its control or direction, or any person authorized by it to use the leased premises.

Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this lease in amounts of not less than \$                      for one person injured in one accident and not less than \$                      for more than one person injured in one accident, and in the amount of not less than \$                      with respect to any property damage aforesaid.

Copies of each of the foregoing policies shall be filed with the lessor and shall be satisfactory in form to the lessor. Said policies shall have a non-cancellation-without-notice clause and shall provide that copies of all cancellation notices shall be sent to lessor.

Provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which the lessee may be held responsible for the payment of damages to persons or property resulting from its activities or the activities of any person or persons for which it is otherwise responsible.

Twelfth. It is mutually agreed that if at any time during the term of this lease, or any extension thereof, the tenancy hereunder shall



interfere with the use of any of the tidelands of San Diego Bay lying bayward of the bulkhead line as now established for navigation, commerce and fisheries, or in any manner become inconsistent with the trust under which the said tidelands are held from the State of California, the City shall have the right to terminate this lease upon one year's notice and the payment to the lessee of reasonable compensation, which shall be based upon and limited to compensation for the cost to lessee of removing such buildings and other improvements as may have been placed on the leased premises by the lessee under the permission given by the terms of this lease.

Thirteenth. It is mutually agreed that said City reserves the right to make such improvements for the development of the facilities of the Bay of San Diego for the purposes of navigation and commerce and the fisheries, at such time and in such manner as may be provided in any general plan of harbor improvement adopted by the Council of said City, or by the Harbor Commission of said City, and that the lessee will remove any structures or buildings placed or erected on said leased premises by the said lessee as shall interfere with carrying out the adopted harbor plan in any way whatsoever, at its own cost and expense, and without any claim or right to damages or compensation therefor; provided, only, that said lessee shall not be disturbed in the possession and use of said premises to any greater degree than is necessary in the carrying out and completion of said general plan of improvement.

Fourteenth. It is mutually understood and agreed that if any default be made in the payment of the rental herein provided, or in the performance of the covenants, conditions or agreements hereof, and such default shall not be cured within ten (10) days after written notice thereof, the lessor shall have the option to immediately terminate this lease; and that in event of such termination the lessee shall have no further rights hereunder and the lessee shall thereupon forthwith remove from



said premises and shall have no further right or claim thereto, and the said lessor shall immediately thereupon without recourse to the courts have the right to re-enter and take the possession of the leased premises.

Fifteenth. The lessee agrees that upon the termination of this lease by the expiration thereof or the earlier termination as by the terms of this lease provided, the lessee will peaceably yield up and surrender the leased premises and the whole thereof in as good condition, subject to normal and ordinary change and alteration resulting from the use of such premises as herein provided, as the same may be at the time the lessee takes possession thereof and to allow the lessor to take peaceable possession thereof.

Sixteenth. It is mutually agreed that if the lessee shall hold over after the expiration of this lease for any cause, such holding over shall be deemed a tenancy from month to month only, at the same rental per month and upon the same terms, conditions and provisions of this lease as may be in effect during the last renewal term provided for herein, unless other terms, conditions and provisions be agreed upon in writing by the lessor and the lessee. Such holding-over shall include any time employed by the lessee to remove machines, appliances and other improvements during the sixty-day period hereinabove mentioned for such removal.

Seventeenth. It is mutually agreed that any waiver by the lessor of any breach of any one or more of the covenants, conditions or agreements of this lease shall not be construed to be a waiver of any subsequent or other breach of the same or any other covenant, condition or agreement of this lease, nor shall any failure on the part of the lessor to require or exact full and complete compliance with any of the covenants, conditions or agreements of this lease be construed as in any manner changing the terms hereof or to estop the lessor from enforcing the full provisions hereof, nor shall the terms of this lease be changed or altered in any manner whatsoever other than by written agreement of the lessor and the lessee.



Eighteenth. The lessee agrees that in all activities on or in connection with the leased premises and in all uses thereof, including the making of any alterations or changes and the installation of any machines and other improvements, it will abide by and conform to all rules and regulations prescribed by the City Charter of the City of San Diego, any ordinances of said City, including the Building Code thereof, and any general rules of the Harbor Commission and the Fire Department of the said City, and any applicable laws of the State of California, as any of the same may now exist or be hereafter promulgated or amended.

Nineteenth. It is mutually agreed that any notice or notices provided for by this lease or by law to be given or served upon the lessee may be given or served by letter addressed to the lessee at Fisherman's Wharf, foot of "G" Street, San Diego, California, deposited in the United States mail, or may be served personally upon the said lessee or any person hereafter authorized by it in writing to receive such notice; and that any notice or notices provided by this lease or by law to be served upon the lessor may be given or served by letter addressed to the Port director of the lessor at 1040 West Broadway, San Diego, 1, California, deposited in the United States mail, or may be served personally upon said Port Director or his duly authorized representative, and that any notice or notices given or served as provided herein shall be effectual and binding for all purposes upon the parties so served.

Twentieth. It is mutually agreed that time is of the essence of each and all of the terms and provisions of this lease and that this lease shall inure to the benefit of and be binding upon the parties hereto and any successors of the lessee as fully and to the same extent as though specifically mentioned in each instance, and that all covenants stipulations and agreements in this lease shall extend to and bind any assigns or sublessees of the lessee.



IN WITNESS WHEREOF, the City has executed the foregoing Lease by and through the Harbor Commission of said City and the lessee has caused this Lease to be executed the day and year first hereinabove written.

THE CITY OF SAN DIEGO

By \_\_\_\_\_

\_\_\_\_\_  
Members of the Harbor Commission of  
The City of San Diego

AMERICAN TUNABOAT ASSOCIATION, Lessee

By \_\_\_\_\_  
President

\_\_\_\_\_  
Secretary.

I HEREBY APPROVE the form and legality of the foregoing Lease this  
\_\_\_\_ day of \_\_\_\_\_, 1949.

J. F. DuPAUL, City Attorney

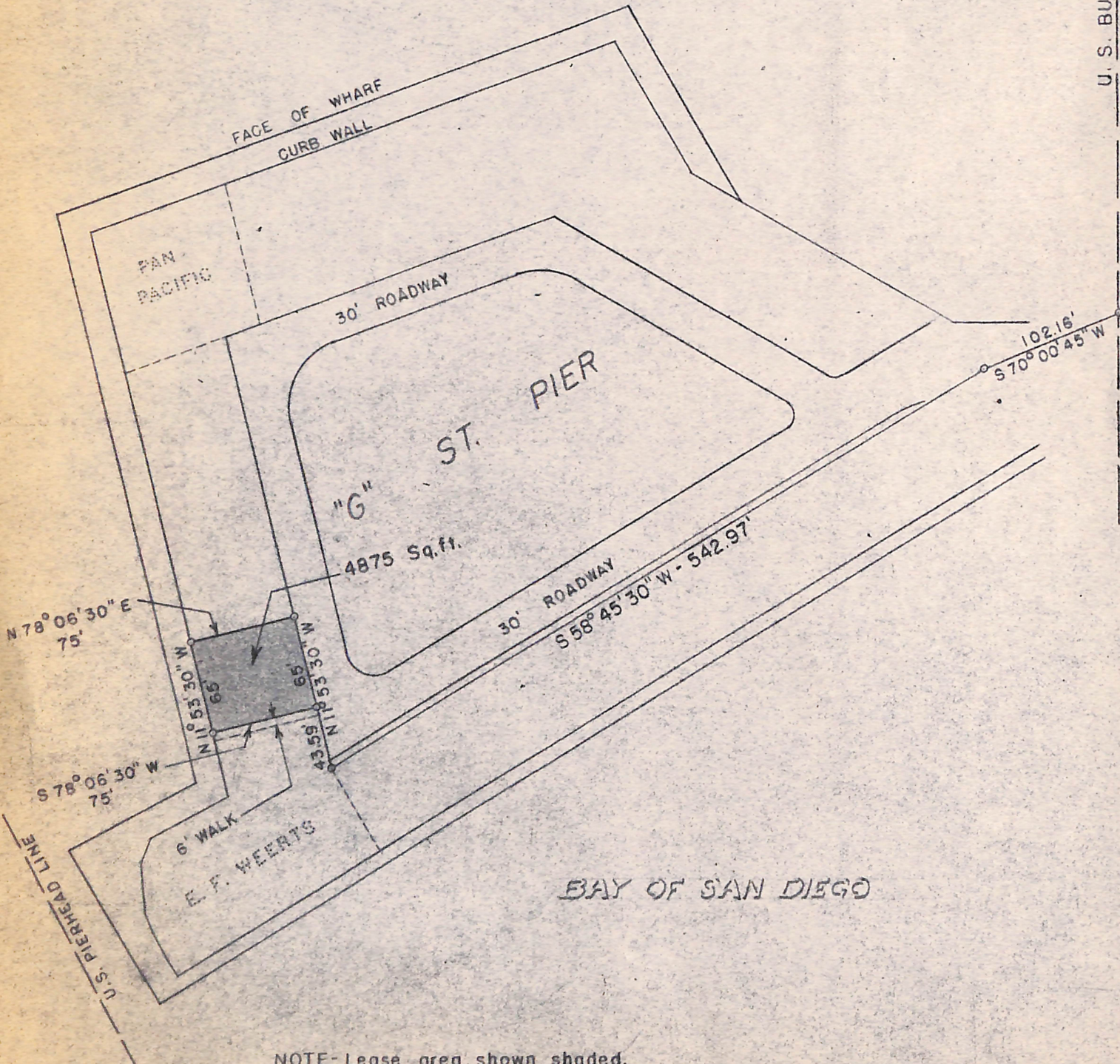
By \_\_\_\_\_  
Deputy City Attorney



atellh

STA. 108

BAY OF SAN DIEGO



U. S. BULKHEAD LINE  
S 0° 01' 40" W 573.60'

BAY OF SAN DIEGO

NOTE- Lease area shown shaded.

<p>DRAWN BY L.M.P. TRACED BY H.R.S. CHECKED BY J.H.A. APPROVED <i>J. J. Kellman</i> HARBOR ENGINEER</p>	<p>HARBOR DEPARTMENT - CITY OF SAN DIEGO MUNICIPAL TIDELAND LEASE AMERICAN TUNABOAT ASSOCIATION</p>	<p>DATE - JAN. 27, 1949 SCALE - 1" = 100' DRAWING NO. 274-B</p>
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RESOLUTION NO. 93041

WHEREAS, the Harbor Commission of The City of San Diego, pursuant to the powers vested in said Commission by Section 54 of the Charter of said City, is about to enter into a Lease of certain tidelands with American Tunaboat Association, an unincorporated association, for a period of five years with three five-year options, upon the terms and conditions contained in the form of Lease, a copy of which is on file in the Office of the City Clerk of said City under Document No. 399548;  
NOW, THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego as follows:

That said Lease, a copy of which is on file in the office of the City Clerk of said City as Document No. 399548, between the City of San Diego acting by and through the Harbor Commission of said City, as lessor, and American Tunaboat Association, as lessee, be and the same is hereby in all respects ratified, confirmed and approved.

BE IT FURTHER RESOLVED, that the City Clerk be and he is hereby directed to cause certified copies of this resolution to be attached to the original and duplicate original of said Lease.

Presented by \_\_\_\_\_

Approved as  
to form by J. F. DuPAUL, City Attorney

By \_\_\_\_\_ and  
Deputy City Attorney



Passed and adopted by the said Council of the said City of  
San Diego, California, this 15th day of March, 1949,  
by the following vote, to-wit:

YEAS---Councilmen: Crary, Winsote, Blase, Dorman, Dail,

Godfrey, Mayor Knox

NAYS---Council men: None

ABSENT-Council men None

HARLEY B. KNOX

Mayor of the City of San Diego, California

FRED W. SICK

City Clerk of the City of San Diego, California

By HELEN M. WILLIG Deputy

I HEREBY CERTIFY that the above and foregoing resolution was  
passed by the Council of the said City of San Diego, at the time  
and by the vote, above stated.

FRED W. SICK

City Clerk of the City of San Diego, California

(SEAL)

By HELEN M. WILLIG Deputy

I HEREBY CERTIFY that the above and  
foregoing is a full, true and correct  
copy of RESOLUTION No. 93041  
of the City of San Diego, California,  
passed and adopted by the Council of said  
City MAR 15 1949

FRED W. SICK, City Clerk

By Helen M. Willig  
Deputy



DOCUMENT NO. **399548**

FILED **MAR 15 1949**  
OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

*Form of Tidelands Lease  
American Turnboat Assn*

**93041**

**MAR 15 1949**