



Florida's Warmest Welcome

**CITY OF POMPANO BEACH  
REQUEST FOR PROPOSALS  
T-11-14**

**HILLSBORO INLET MARINA OPERATING LEASE**

**RFP OPENING: NOVEMBER 25, 2013, 2:00 P.M.  
PURCHASING OFFICE  
1190 N.E. 3RD AVENUE, BUILDING C (Front)  
POMPANO BEACH, FLORIDA 33060**

November 8, 2013

CITY OF POMPANO BEACH, FLORIDA  
REQUEST FOR PROPOSALS  
T-11-14  
HILLSBORO INLET MARINA OPERATING LEASE

The City is seeking proposals from qualified firms to lease the City's Hillsboro Inlet Marina.

The City will receive sealed proposals until 2:00 p.m. (local), November 25, 2013, in the City's Purchasing Office, 1190 N.E. 3rd Avenue, Building C, Pompano Beach, Florida, 33060. E-mailed or faxed proposals will not be acceptable.



1. **Overview**

The City of Pompano Beach is offering a rare opportunity to lease a City-owned commercial sports fishing marina located at the entrance to the Hillsboro Inlet in Broward County, Florida.

The City of Pompano Beach is seeking an experienced marina operator to lease the City's Hillsboro Inlet Marina (Marina), which is at the entrance to the Hillsboro Inlet connecting the Intercoastal Waterway to the Atlantic Ocean. The nearest inlet connection to the North (Boca Raton Inlet) is approximately 6.02 miles from the Hillsboro Inlet while the nearest to the South (Port Everglades Inlet), is approximately 12.8 miles.

The marina is located just west of the Inlet Bridge and east of the intercoastal waterway.

**Figure 1: Aerial of Marina, Bridge, Inlet and Atlantic Ocean**



The marina's seawall totals approximately 365 total linear feet that extends along the northern and western boundaries of the property. The northern seawall is approximately 117 linear feet and, as illustrated in the figure below, there are 10 designated slips along the north seawall that provide for Mediterranean-style docking (stern to wall), with a maximum slip length estimated to be 60± linear feet. The dock along the western boundary is 248 linear feet and in accordance with the City's Marine Facility Operating License allows for up to 8 additional slips; however, according to the City's submerged land lease with the State, the seawall accommodates up to 6 additional slips. There are a total of 9 utility pedestals, each providing power for 2 individual slips, which include 100 amp metered power and water for each slip. Additionally, the marina has a 1,368 square foot administration building which also includes restrooms, office and ticket window. There are currently 53 parking spaces (50 standard and 3 handicap spaces) available for patrons and employees. All facilities in the marina have been well maintained and are in good working condition. There is no fuel on property, nor is there a marine waste pump-out station. The submerged land lease is included with this RFP as Exhibit A.

**Figure 2: Hillsborough Inlet Marina - Site Map**



The City currently leases the Marina to the Hillsboro Inlet Marina Captains Association, Inc., which had a 10 year lease to operate the marina. That lease is expiring on December 1, 2013. The lease agreement is included with this RFP as Exhibit B.

## **2. Requirement of Marina Operations**

According to City Ordinance, the marina must be used exclusively by commercial users/fleets and, therefore, recreational boat use is not permitted. Furthermore, there is no opportunity available to redevelop the site for other uses or add other uses or slips. Nor is there the ability to add fuel, or pump-out facility. However, lessees will have the option at their cost of reallocating/repositioning the pedestals as desired and per standard City design and permitting guidelines and can reconfigure the administration building based upon the needs of the lessee.

The City is offering to lease the marina for a period of five (5) years with a five (5) year option to renew under the same terms and conditions. However, the renewal will be subject to an acceptable negotiation of rent for the renewal period, the negotiation of which will commence towards the end of the initial five year term.

The marina operator will be required to provide the City with marina operating information including, but not limited to, operating income, occupancy and capital improvement plan on a periodic basis and the terms of which will be detailed in the Lease Agreement.

**3. Small Business Enterprise Program**

The Pompano Beach City Commission has established a voluntary Small Business Enterprise (SBE) Program to encourage and foster the participation of Small Business Enterprises in the central procurement activities of the City. The City of Pompano Beach is strongly committed to ensuring the participation of Small Business Enterprises (SBE's) as contractors and subcontractors for the procurement of goods and services. The definition of a SBE, for the purpose of the City's voluntary program, is taken from the State of Florida Statute 288.703(1).

As of the date of publication of this solicitation, a small business means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in Florida that has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

The City encourages all firms to undertake good faith efforts to identify appropriate Small Business Enterprise partners. Sources of information on certified Small Business Enterprises include the Broward County Small Business Development Division, the State of Florida Office of Supplier Diversity, South Florida Water Management District, and other agencies throughout the State. The City includes links to these organizations from the City's website [www.pompanobeachfl.gov](http://www.pompanobeachfl.gov). Please indicate in your response if your firm is a certified Small Business Enterprise.

**Please note that, while no voluntary goals have been established for this solicitation, the City encourages small business participation in *all* of its procurements.**

**4. Local Business Program**

On March 23, 2010, the City Commission approved a Resolution establishing a Local Business Program, a policy to increase the participation of City of Pompano Beach businesses in the City's procurement process.

You can view the list of City businesses that have a current Business Tax Receipt on the City's website, and locate local firms that are available to perform the work required by the bid specifications. The business information, sorted by business use classification, is posted on the webpage for the Business Tax Receipt Division: [http://pompanobeachfl.gov/pages/department\\_directory/development\\_services/business\\_tax\\_receipt\\_division/pdfs/FAQ\\_sheet\\_BTR.pdf](http://pompanobeachfl.gov/pages/department_directory/development_services/business_tax_receipt_division/pdfs/FAQ_sheet_BTR.pdf)

**Please note that, while no voluntary goals have been established for this solicitation, the City encourages Local Business participation in *all* of its procurements.**

## 5. Required Proposal Submittal

### Submission/Format Requirements

Submit one (1) original unbound and five (5) bound copies of the proposal. All copies will be on 8 ½" x 11" plain white paper, typed, and signed by an authorized representative who is able to contractually bind the Proposer. Failure to adhere to the submittal quantity criteria may result in the Proposal being considered non-responsive.

**Information to be included in the proposal:** In order to maintain comparability and expedite the review process, it is required that proposals be organized in the manner specified below, with tabs or dividers between the sections:

#### **Title page:**

Show the project name and number, the name of the Proposer's firm, address, telephone number, name of contact person and the date.

#### **Table of Contents:**

Include a clear identification of the material by section and by page.

#### **Letter of Transmittal:**

Briefly state the Proposer's understanding of the project and express a positive commitment to provide the services described herein. State the name(s) of the person(s) who will be authorized to make representations for the Proposer, their title(s), office and E-mail addresses and telephone numbers. Letter must include Company Name, State Incorporated, Web Site, Company Address and Main Phone Number. Please limit this section to two pages.

#### **Experience:**

- A Description of All Current and Past Ownership and Management Experience of Commercial and Pleasure Craft Marinas Over the Past 15 years with Information for Each Marina Including:
  - o Location and Address of Marina
  - o Indication of Whether the Role of the Proposer Associated With the Marina is Prior or Current
  - o Role of Proposer in Marina – Developer, Owner, Manager, or Combination Thereof;
  - o Number of Total Slips;
  - o Number of Fleet or Commercial Slips;
  - o 2012 Annual Occupancy broken down by pleasure and commercial (or for the last year the marina was managed if the proposer did not operate the marina in 2012);
  - o Description of negative events associated with involvement in marina including but not limited to environmental citations or fines, defaults, bankruptcies, foreclosures, and lawsuits filed against the marina which ended in awards or settlements in excess of \$10,000;
  - o Other information about each marina which the proposer believes to be pertinent to the selection process.

**Financial Information:**

- Two years of financial statements or tax returns for the proposing company or if the company is a single purpose entity, the name, state incorporated (as applicable), address, phone number and financial statements or tax returns of the company or individual which would guarantee the payment of the lease.

**Rent Proposal:**

- Rent proposal for the initial 5 year term expressed as monthly base rent with adjustments every subsequent 12 month period in the format outlined below. The rent proposed is "triple net" in the sense that the lessee will be responsible for all costs of utilities, insurance, maintenance, operations, and all other aspects of property management.

Year 1 Base Rent (Monthly) \$ \_\_\_\_\_  
 Year 2 Rent (Monthly) \$ \_\_\_\_\_ or as a \_\_\_\_\_% increase over Year 1;  
 Year 3 Rent (Monthly) \$ \_\_\_\_\_ or as a \_\_\_\_\_% increase over Year 2;  
 Year 4 Rent (Monthly) \$ \_\_\_\_\_ or as a \_\_\_\_\_% increase over Year 3;  
 Year 5 Rent (Monthly) \$ \_\_\_\_\_ or as a \_\_\_\_\_% increase over Year 4.

Rent for the renewal term will be negotiated within 180 days of the end of the initial 5 year lease term while all other terms and conditions of the lease will remain the same.

**City Forms:**

The RFP Proposal Signature Page must be completed, signed and returned. Proposer should return all RFP pages, initialed where indicated.

**6. Insurance**

The insurance described herein reflects the insurance requirements deemed necessary for this contract by the City. It is not necessary to have this level of insurance in effect at the time of submittal, but certificates indicating that the insurance is currently carried or a letter from the Carrier indicating upgrade ability will speed the review process to determine the most qualified Proposer.

The successful Proposer(s) shall not commence operations until certification or proof of insurance, detailing terms and provisions of coverage, has been received and approved by the City of Pompano Beach Risk Manager.

The following insurance coverage shall be required.

- a. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees). The Contractor further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

b. Liability Insurance

- 1) Naming the City of Pompano Beach as an additional insured, on General Liability Insurance only, in connection with work being done under this contract.
- 2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

**LIMITS OF LIABILITY**

Type of Insurance	each occurrence	aggregate
<b>GENERAL LIABILITY: <i>MINIMUM \$1,000,000 per OCCURRENCE and AGGREGATE</i></b>		
* Policy to be written on a claims incurred basis		
XX comprehensive form		
XX premises - operations	bodily injury	
— explosion & collapse hazard	property damage	
— underground hazard		
XX products/completed operations hazard	bodily injury and property damage	
XX contractual insurance	combined	
XX broad form property damage		
XX independent contractors		
XX personal injury	personal injury	

**AUTOMOBILE LIABILITY: *MINIMUM \$1,000,000 per OCCURRENCE and AGGREGATE***

	bodily injury (each person)	
	bodily injury (each accident)	
XX comprehensive form	property damage	
XX owned	bodily injury and property damage	
XX hired	combined	
XX non-owned		

The certification or proof of insurance must contain a provision for notification to the City thirty (30) days in advance of any material change in coverage or cancellation.

The successful Proposer shall furnish to the City the certification or proof of insurance required by the provisions set forth above, within ten (10) days after notification of award of contract.

**7. Selection/Evaluation Process**

A Selection/Evaluation Committee will be appointed to select the most qualified firm(s). The Selection/Evaluation Committee will present their findings to the City Commission.

Proposals will be evaluated using the following criteria.

	<u>Criteria</u>	<u>Point Range</u>
1.	Successful experience owning and operating marinas with significant commercial sport fishing fleet. The City will judge successful experience to include both depth of experience and the limitation of negative environmental, financial, or legal events.	0-35
2.	Financial strength of the Respondent or Guarantor of the Lease.	0-35
3.	Rent proposal.	0-30
	<b>Total</b>	<b>0-100</b>

The Committee has the option to use the above criteria for the initial ranking to short-list Proposers and to use an ordinal ranking system to score short-listed Proposers following presentations (if deemed necessary) with a score of "1" assigned to the short-listed Proposer deemed most qualified by the Committee.

Each firm should submit documentation that evidences the firm's capability to provide the services required for the Committee's review for short listing purposes. After an initial review of the Proposals, the City may invite Proposers for an interview to discuss the proposal and meet firm representatives, particularly key personnel who would be assigned to the project. Should interviews be deemed necessary, it is understood that the City shall incur no costs as a result of this interview, nor bear any obligation in further consideration of the submittal.

When more than three responses are received, the committee shall furnish the City Commission (for their approval) a listing, in ranked order, of no fewer than three firms deemed to be the most highly qualified to perform the service. If three or less firms respond to the RFP, the list will contain the ranking of all responses.

The City Commission has the authority to (including, but not limited to); approve the recommendation; reject the recommendation and direct staff to re-advertise the solicitation; or, review the responses themselves and/or request oral presentations and determine a ranking order that may be the same or different from what was originally presented to the City Commission.

**8. Hold Harmless and Indemnification**

Proposer covenants and agrees that it will indemnify and hold harmless the City and all of its officers, agents, and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission by the Proposer, whether direct or indirect, or whether to any person or property to which the City or said parties may be subject, except that neither the Proposer nor any of its subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused by or resulting from the sole negligence of the City or any of its officers, agents or employees.

**9. Retention of Records and Right to Access**

The selected firm shall maintain during the term of the contract all books of account, receipt invoices, reports and records in accordance with generally accepted accounting practices and standards. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. Recommendation for changes, additions, or deletions by the City's Internal Auditor must be complied with by the selected firm. The City's Internal Auditor must be permitted during normal business hours to audit and examine the books of account, reports, and records relating to this contract. The selected firm shall maintain and make available such records and files for the duration of the contract and retain them until the expiration of three years after final payment under the contract.

**10. Communications**

No negotiations, decisions, or actions shall be initiated or executed by the firm as a result of any discussions with any City employee. Only those communications, which are in writing from the City, may be considered as a duly authorized expression on behalf of the City. In addition, only communications from firms that are signed and in writing will be recognized by the City as duly authorized expressions on behalf of firms.

**11. No Discrimination**

There shall be no discrimination as to race, sex, color, age, religion, or national origin in the operations conducted under any contract with the City.

**12. Independent Contractor**

The selected firm will conduct business as an independent contractor under the terms of this contract. Personnel services provided by the firm shall be by employees of the firm and subject to supervision by the firm, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this agreement shall be those of the firm.

**13. Staff Assignment**

The City of Pompano Beach reserves the right to approve or reject, for any reasons, Proposer's staff assigned to this project at any time. Background checks may be required.

**14. Contract Terms**

The contract resulting from this RFP shall include, but not be limited to the following terms:

The contract shall include as a minimum, the entirety of this RFP document, together with the successful Proposer's proposal. Contract shall be prepared by the City of Pompano Beach City Attorney.

If the City of Pompano Beach defends any claim, demand, cause of action, or lawsuit arising out of any act, action, negligent acts or negligent omissions, or willful misconduct of the contractor, its employees, agents or servants during the performance of the contract, whether directly or indirectly, contractor agrees to reimburse the City of Pompano Beach for all expenses, attorney's fees, and court costs incurred in defending such claim, cause of action or lawsuit.

**15. Waiver**

It is agreed that no waiver or modification of the contract resulting from this RFP, or of any covenant, condition or limitation contained in it shall be valid unless it is in writing and duly executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this contract, or the right or obligations of any party under it, unless such waiver or modification is in writing, duly executed as above. The parties agree that the provisions of this paragraph may not be waived except by a duly executed writing.

**16. Survivorship Rights**

This contract resulting from this RFP shall be binding on and inure to the benefit of the respective parties and their executors, administrators, heirs, personal representative, successors and assigns.

**17. Termination**

The contract resulting from this RFP may be terminated by the City of Pompano Beach without cause upon providing contractor with a least sixty (60) days prior written notice.

Should either party fail to perform any of its obligations under the contract resulting from this RFP for a period of thirty (30) days after receipt of written notice of such failure, the non-defaulting part will have the right to terminate the contract immediately upon delivery of written notice to the defaulting part of its election to do so. The foregoing rights of termination are in addition to any other rights and remedies that such party may have.

**18. Manner of Performance**

Proposer agrees to perform its duties and obligations under the contract resulting from this RFP in a professional manner and in accordance with all applicable local, federal and state laws, rules and regulations.

Proposer agrees that the services provided under the contract resulting from this RFP shall be provided by employees that are educated, trained and experienced, certified and licensed in all areas encompassed within their designated duties. Proposer agrees to furnish the City of Pompano Beach with all documentation, certification, authorization, license, permit, or registration currently required by applicable laws or rules and regulations. Proposer further certifies that it and its employees are now in and will maintain good standing with such governmental agencies and that it and its employees will keep all license, permits, registration, authorization or certification required by applicable laws or regulations in full force and effect during the term of this contract. Failure of Proposer to comply with this paragraph shall constitute a material breach of contract.

**19. Acceptance Period**

Proposals submitted in response to this RFP must be valid for a period no less than ninety (90) days from the closing date of this solicitation.

**20. RFP Conditions and Provisions**

The completed and signed proposal (together with all required attachments) must be returned to City on or before the time and date stated herein. All Proposers, by submission of a proposal, shall agree to comply with all of the conditions, requirements and instructions of this RFP as stated or implied herein. All proposals and supporting materials submitted will become the property of the City.

Any alteration, erasure, or interlineations by the Proposer in this RFP shall constitute cause for rejection. Exceptions or deviations to this proposal may not be added after the submittal date.

All Proposers are required to provide all information requested in this RFP. Failure to do so may result in disqualification of the proposal.

The City reserves the right to postpone or cancel this RFP, or reject all proposals, if in its sole discretion it deems it to be in the best interest of the City to do so.

The City reserves the right to waive any technical or formal errors or omissions and to reject all proposals, or to award contract for the items herein, in part or whole, if it is determined to be in the best interests of the City to do so.

The City shall not be liable for any costs incurred by the Proposer in the preparation of proposals or for any work performed in connection therein.

**21. Standard Provisions**

a. Governing Law

Any agreement resulting from this RFP shall be governed by the laws of the State of Florida, and the venue for any legal action relating to such agreement will be in Broward County, Florida.

b. Conflict Of Interest

For purposes of determining any possible conflict of interest, each Proposer must disclose if any City employee is also an owner, corporate officer, or an employee of the firm. If any City employee is an owner, corporate officer, or an employee, the Proposer must file a statement with the Broward County Supervisor of Elections pursuant to § 112.313, Florida Statutes.

c. Drug Free Workplace

The selected firm(s) will be required to verify they will operate a “Drug Free Workplace” as set forth in Florida Statute, 287.087.

d. Public Entity Crimes

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statute, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

e. Patent Fees, Royalties, And Licenses

If the selected Proposer requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the selected Proposer and his surety shall indemnify and hold harmless the City from any and all claims for infringement by reason of the use of any such patented design, device, trademark, copyright, material or process in connection with the work agreed to be performed and shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during or after completion of the work.

f. Permits

The selected Proposer shall be responsible for obtaining all permits, licenses, certifications, etc., required by federal, state, county, and municipal laws, regulations, codes, and ordinances for the performance of the work required in these specifications and to conform to the requirements of said legislation.

g. Familiarity With Laws

It is assumed the selected firm(s) will be familiar with all federal, state and local laws, ordinances, rules and regulations that may affect its services pursuant to this RFP. Ignorance on the part of the firm will in no way relieve the firm from responsibility.

h. Withdrawal Of Proposals

A firm may withdraw its proposal without prejudice no later than the advertised deadline for submission of proposals by written communication to the General Services Department, 1190 N.E. 3<sup>rd</sup> Avenue, Building C, Pompano Beach, Florida 33060.

i. Composition Of Project Team

Firms are required to commit that the principals and personnel named in the proposal will perform the services throughout the contractual term unless otherwise provided for by way of a negotiated contract or written amendment to same executed by both parties. No diversion or substitution of principals or personnel will be allowed unless a written request that sets forth the qualifications and experience of the proposed replacement(s) is submitted to and approved by the City in writing.

j. Variances

While the City allows Proposers to take variances to the RFP terms, conditions, and specifications, the material nature, number, and extent of variances taken will be considered in determining proposal responsiveness and in allocating proposal evaluation points.

k. Invoicing/Payment

All invoices should be sent to City of Pompano Beach, Accounts Payable, P.O. Drawer 1300, Pompano Beach, Florida, 33061. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of a proper invoice.

I. Public Records

1. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
  - a. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;
  - b. Provide the public with access to such public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed that provided in chapter 119, Fla. Stat., or as otherwise provided by law;
  - c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
  - d. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the agency.
2. The failure of Contractor to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement and the City shall enforce the Default in accordance with the provisions set forth herein.

**22. Questions and Communication**

All questions regarding the RFP are to be submitted in writing to the Purchasing Office, 1190 N.E. 3rd Avenue, Building C (Front), Pompano Beach, Florida 33060, fax (954) 786-4168, or email [purchasing@copbfl.com](mailto:purchasing@copbfl.com). All questions must include the inquiring firm's name, address, telephone number and RFP name and number. Questions must be received at least seven (7) calendar days before the scheduled solicitation opening. Oral and other interpretations or clarifications will be without legal effect. Any addendum necessary to answer questions will be posted to the City's website, and it is the Proposer's responsibility to obtain all addenda before submitting a response to the solicitation.

**23. Addenda**

The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this solicitation the City will attempt to notify all known prospective Proposers, however, it shall be the responsibility of each Proposer, prior to submitting their response, to contact the City Purchasing Office at (954) 786-4098 to determine if addenda were issued and to make such addenda a part of their proposal.

**PROPOSAL SIGNATURE PAGE**  
**RFP T-11-14, HILLSBORO INLET MARINA OPERATING LEASE**

To: The City of Pompano Beach, Florida

The below signed hereby agrees to furnish the proposed services under the terms stated subject to all instructions, terms, conditions, specifications, addenda, legal advertisement, and conditions contained in the RFP. I have read the RFP and all attachments, including the specifications, and fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this proposal.

Proposal submitted by:

Name (printed) \_\_\_\_\_ Title \_\_\_\_\_

Company (Legal Registered) \_\_\_\_\_

Federal Tax Identification Number \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Addendum Acknowledgment - Proposer acknowledges that the following addenda have been received and are included in his/her proposal:

Addendum No. \_\_\_\_\_ Date Issued \_\_\_\_\_

**ORDINANCE NO. 2013- 66**

**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SOVEREIGNTY SUBMERGED LANDS LEASE RENEWAL BY AND BETWEEN THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA AND THE CITY OF POMPANO BEACH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a Sovereignty Submerged Lands Lease Renewal between the City of Pompano Beach and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, a copy of which is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Agreement.

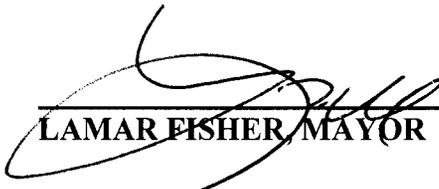
**SECTION 3.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

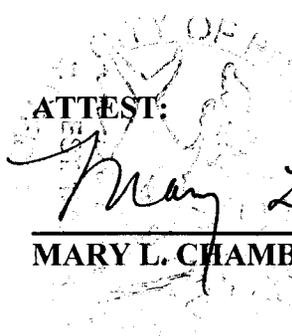
this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 4.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 28th day of                      May                     , 2013.

**PASSED SECOND READING** this 11th day of                      June                     , 2013.

  
\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

  
**ATTEST:**  
  
\_\_\_\_\_  
**MARY L. CHAMBERS, CITY CLERK**

GBL/jrm  
5/9/13  
l:ord/2013-286

**PLEASE RETURN TO:**  
Mary L. Chambers, MMC  
City Clerk  
P.O. Drawer 1300, Suite 253  
Pompano Beach, FL 33061

**EXHIBIT A -- RFP T-11-14**

INSTR # 111653989  
OR BK 49962 Pages 1112 - 1130  
RECORDED 07/09/13 08:40:14 AM  
BROWARD COUNTY COMMISSION  
DEPUTY CLERK 1926  
#1, 19 Pages

This Instrument Prepared By:  
Mary K. Thurmond  
Bureau of Public Land Administration  
3900 Commonwealth Boulevard  
Mail Station No. 125  
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS LEASE RENEWAL

BOT FILE NO. 060005606  
PA NO. \_\_\_\_\_

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of payment of the annual lease fees hereinafter provided and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to the City of Pompano Beach, Florida, hereinafter referred to as the Lessee, the sovereignty lands described as follows:

A parcel of sovereignty submerged land in Section 20 & 29, Township 48 South, Range 43 East, in the Hillsboro Inlet, Broward County, containing 26, 111 square feet, more or less, as is more particularly described and shown on Attachment A, dated June 13, 2000.

TO HAVE THE USE OF the hereinabove described premises from November 2, 2012, the effective date of this lease renewal, through November 2, 2017, the expiration date of this lease renewal. The terms and conditions on and for which this lease renewal is granted are as follows:

1. **USE OF PROPERTY:** The Lessee is hereby authorized to operate an existing 16-slip commercial docking facility to be used exclusively for the mooring of charter boats and recreational vessels in conjunction with an upland bait and tackle shop and city parking lot, without fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction, and without liveboards as defined in paragraph 26 as shown and conditioned in Attachment A, and the South Florida Water Management District Environmental Resource Standard General Permit No. 06-03017-P, dated June 21, 2000, and Modified Permit No. 07-0924-5, dated October 23, 2007, incorporated herein and made a part of this lease by reference. All of the foregoing subject to the remaining conditions of this lease.

2. **LEASE FEES:** The Lessee hereby agrees to pay to the Lessor an annual lease fee of \$ 4,182.83 plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, within 30 days of the date of receipt of the invoice. The annual fee for the remaining years of this lease shall be adjusted pursuant to provisions of Rule 18-21.011, Florida Administrative Code. The State of Florida Department of Environmental Protection, Division of State Lands (the "Division") will notify the Lessee in writing of the amount and the due date of each subsequent annual lease payment during the remaining term of this lease. All lease fees due hereunder shall be remitted to the Division as agent for the Lessor.

[01/02]

3. **WET SLIP RENTAL CERTIFICATION/SUPPLEMENTAL PAYMENT:** (A) The Lessee shall provide upon request by the Lessor any and all information in a certified form needed to calculate the lease fee specified in paragraph two (2) above, including the income, as defined in subsection 18-21.003(31), Florida Administrative Code, derived directly or indirectly from the use of sovereignty submerged lands on an annual basis. When six percent (6%) of said annual income exceeds the base fee or minimum annual fee established pursuant to Rule 18-21.011, Florida Administrative Code, for any lease year during the term of this lease, the Lessor shall send the Lessee a supplemental invoice for the difference in the amounts for that lease year. (B) The instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the docking facility to a third party shall include a provision that clearly notifies the wet slip renter/user/holder that if the wet slip renter/user/holder subsequently transfers his right to use said wet slip to another party, the instrument or agreement used to transfer said wet slip shall contain a provision that requires six percent (6%) of the annual gross income derived from said instrument or agreement for the use of said wet slip be paid to the Lessee who, upon receipt, shall report and transmit said amount to the Lessor. The instrument or agreement used by the Lessee to transfer a wet slip shall also include a provision that clearly notifies the wet slip renter/user/holder that no interest in said wet slip may be further transferred unless a substantially similar provision to the one contained in the preceding sentence is placed in each succeeding instrument or agreement used to transfer said wet slip to each new wet slip renter/user/holder. (C) The Lessee shall submit to the Lessor each instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the docking facility to a third party annually at the same time the Lessee submits the required Annual Wet Slip Revenue Report to the Lessor.

4. **LATE FEE ASSESSMENTS:** The Lessee shall pay a late payment assessment for lease fees or other charges due under this lease which are not paid within 30 days after the due date. This assessment shall be computed at the rate of twelve percent (12%) per annum, calculated on a daily basis for every day the payment is late.

5. **EXAMINATION OF LESSEE'S RECORDS:** For purposes of this lease renewal, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease renewal including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

6. **MAINTENANCE OF LESSEE'S RECORDS:** The Lessee shall maintain separate accounting records for: (i) gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian upland property. The Lessee shall secure, maintain and keep all records for the entire term of this lease renewal plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

7. **AGREEMENT TO EXTENT OF USE:** This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein and as conditioned by the South Florida Water Management District Environmental Resource Standard General Permit and Modified Permit. The Lessee shall not (i) change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.); (ii) change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit; or (iii) change the type of use of the riparian uplands or as permitted by the Lessee's interest in the riparian upland property that is more particularly described in Attachment B without first obtaining a regulatory permit/modified permit, if applicable, the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease.

8. **PROPERTY RIGHTS:** The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

9. **INTEREST IN RIPARIAN UPLAND PROPERTY:** During the term of this lease renewal, the Lessee shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code, in the riparian upland property that is more particularly described in Attachment B and by reference made a part hereof together with the riparian rights appurtenant thereto. If such interest is terminated or the Lessor determines that such interest did not exist on the effective date of this lease, this lease may be terminated at the option of the Lessor. If the Lessor terminates this lease, the Lessee agrees not to assert a claim or defense against the Lessor arising out of this lease. Prior to sale and/or termination of the Lessee's interest in the riparian upland property, the Lessee shall inform any potential buyer or transferee of the Lessee's interest in the riparian upland property and the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

10. ASSIGNMENT OF LEASE RENEWAL: This lease renewal shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of this lease, current management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

11. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature arising out of this lease at its expense, and shall indemnify, defend and save and hold harmless the Lessor and the State of Florida from all claims, actions, lawsuits and demands arising out of this lease renewal.

12. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein set forth, and the Lessee fails or refuses to comply with any of said provisions or conditions within twenty (20) days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to the Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

City of Pompano Beach, Florida  
Public Works Director  
1201 NE 5<sup>th</sup> Avenue  
Pompano Beach, Florida 33061

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

13. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease renewal.

14. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

15. MAINTENANCE OF FACILITY /RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

16. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease renewal or upon lands adjacent to and used as an adjunct of the leased area. During the lease term, the Lessee shall post and maintain the placard furnished to the Lessee by the Lessor in a prominent and visible location on the leased premises or adjacent business office of the Lessee. It shall be the responsibility of the Lessee to post the placard in a manner which will provide protection from the elements, and, in the event that said placard becomes illegible at any time during the term of this lease renewal (including any extensions thereof), to notify the Lessor in writing, so that a replacement may be provided.

17. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

18. PERMISSION GRANTED: Upon expiration or cancellation of this lease renewal all permission granted hereunder shall cease and terminate.

19. RENEWAL PROVISIONS: Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that the Lessee is in full compliance with the terms of this lease, the Lessor will begin the renewal process. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. In the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease renewal shall constitute an affirmative covenant upon the Lessee's interest in the riparian upland property more particularly described in Attachment B, which shall run with the title to the Lessee's interest in said riparian upland property and shall be binding upon the Lessee and the Lessee's successors in title or successors in interest.

20. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease renewal, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 12 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

21. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Subject to the noticing provisions of Paragraph 20 of this lease, any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the Lessee's interest in the riparian upland property that is more particularly described in Attachment B. This lien on the Lessee's interest in the riparian upland property shall be enforceable in summary proceedings as provided by law.

22. RIPARIAN RIGHTS/FINAL ADJUDICATION: In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease renewal agreement and shall be grounds for immediate termination of this lease renewal agreement at the option of the Lessor.

23. AMENDMENTS/MODIFICATIONS: This lease renewal is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease renewal must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the docking facility.

24. ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL ACTIVITIES/MINOR STRUCTURAL REPAIRS: No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this agreement.

25. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

26. LIVEBOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

27. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.

29. SPECIAL LEASE CONDITION(S):

A. Waterborne craft moored at the docking facility, on either a temporary or permanent basis, shall be limited to vessels with drafts that provide clearance of at least one (1) foot above the submerged bottom at all times while mooring at the docking facility. Boat moorings at the docking facility shall be limited to no more than a total of fifteen (15) vessels. Mooring shall be limited to the boat slip locations shown on Attachment A.

B. Within 60 days after the Lessor's execution of this lease, Lessee shall install and display permanent manatee educational signs that provide information on the mannerisms of manatees and the potential threat to this endangered species from boat operation. Lessee shall maintain these signs during the term of this lease and all subsequent renewal terms and shall be required to replace the signs in the event they become faded, damaged or outdated. Lessee shall ensure that the view of the signs is not obstructed by vegetation or structures. The number, type, and procedure for installation of these signs shall be in accordance with the handout, "Manatee Educational Signs," which can be obtained from the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 S. Meridian Street – 6A, Tallahassee, Florida 32399-1600 (Phone 850/922-4330).

C. Lessee shall comply with the manatee protection conditions as contained in the South Florida Water Management District Environmental Resource Standard General Permit No. 06-03017-P, dated June 21, 2000.

D. Lessee agrees to distribute copies of the "Broward County Manatee Protection Zone" booklet to users of the docking facility. The booklets are available free of charge from the Florida Inland Navigation District (561-627-3386).

E. The Lessee shall install and maintain, during the term of this lease and all subsequent renewal terms, reflective markers and lighted aids to navigation at the ends of each finger pier adjacent to the Hillsboro Inlet and shall operate the lights at night or in conditions of reduced visibility. The lighted aides are required to be on at night and during limited visibility conditions.

WITNESSES:

Mark Thurmond  
Original Signature

Mark Thurmond  
Print/Type Name of Witness

Kathy C Griffin  
Original Signature

Kathy C. Griffin  
Print/Type Name of Witness

BOARD OF TRUSTEES OF THE INTERNAL  
IMPROVEMENT TRUST FUND OF THE STATE  
OF FLORIDA

(SEAL)

BY: Cheryl C McCall

Cheryl C. McCall, Chief, Bureau of Public Land Administration,  
Division of State Lands, State of Florida Department of  
Environmental Protection, as agent for and on behalf of the  
Board of Trustees of the Internal Improvement Trust Fund of the  
State of Florida

"LESSOR"

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of June, 2013, by  
Cheryl C. McCall, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of  
Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State  
of Florida. He is personally known to me.

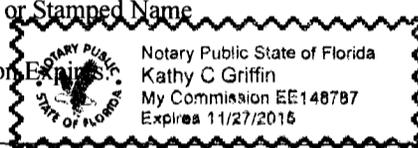
APPROVED SUBJECT TO PROPER EXECUTION:

[Signature]  
Date 4/25/13

[Signature]  
Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires:



Commission/Serial No.

WITNESSES:

Betty J. Manes  
Original Signature

Betty J. MANES  
Typed/Printed Name of Witness

Shelley R. Bartholomew  
Original Signature

Shelley R. Bartholomew  
Typed/Printed Name of Witness

City of Pompano Beach, Florida (SEAL)

BY: [Signature]  
Original Signature of Executing Authority

Lamar Fisher  
Typed/Printed Name of Executing Authority

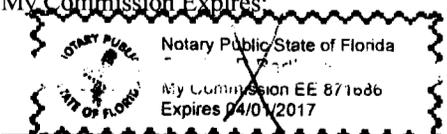
Mayor  
Title of Executing Authority

"LESSEE"

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of JUNE, 2013, by  
Lamar Fisher as Mayor, for and on behalf of the City of Pompano Beach, Florida. He is personally known to me or who has  
produced \_\_\_\_\_, as identification.

My Commission Expires:

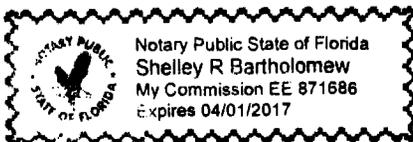


Commission/Serial No. EE 871686

Shelley R. Bartholomew  
Signature of Notary Public

Notary Public, State of FLORIDA

Shelley R. Bartholomew  
Printed, Typed or Stamped Name



"CITY":

Witnesses:

CITY OF POMPANO BEACH

Betty J. Mones

By: [Signature]  
LAMAR FISHER, MAYOR

Shelby R. Bartholomew

By: [Signature]  
DENNIS W. BEACH  
CITY MANAGER

Attest:

[Signature]  
MARY L. CHAMBERS  
CITY CLERK

(SEAL)

Approved As To Form:

[Signature]  
GORDON B. LINN  
CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of June, 2013 by **LAMAR FISHER**, as Mayor, **DENNIS W. BEACH** as City Manager and **MARY L. CHAMBERS**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

[Signature]  
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron  
(Name of Acknowledger Typed, Printed or Stamped)



KRYSTAL AARON  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE874865  
Expires 2/14/2017

Commission Number



Sections	20/29
Twn	48S
Rge	43E



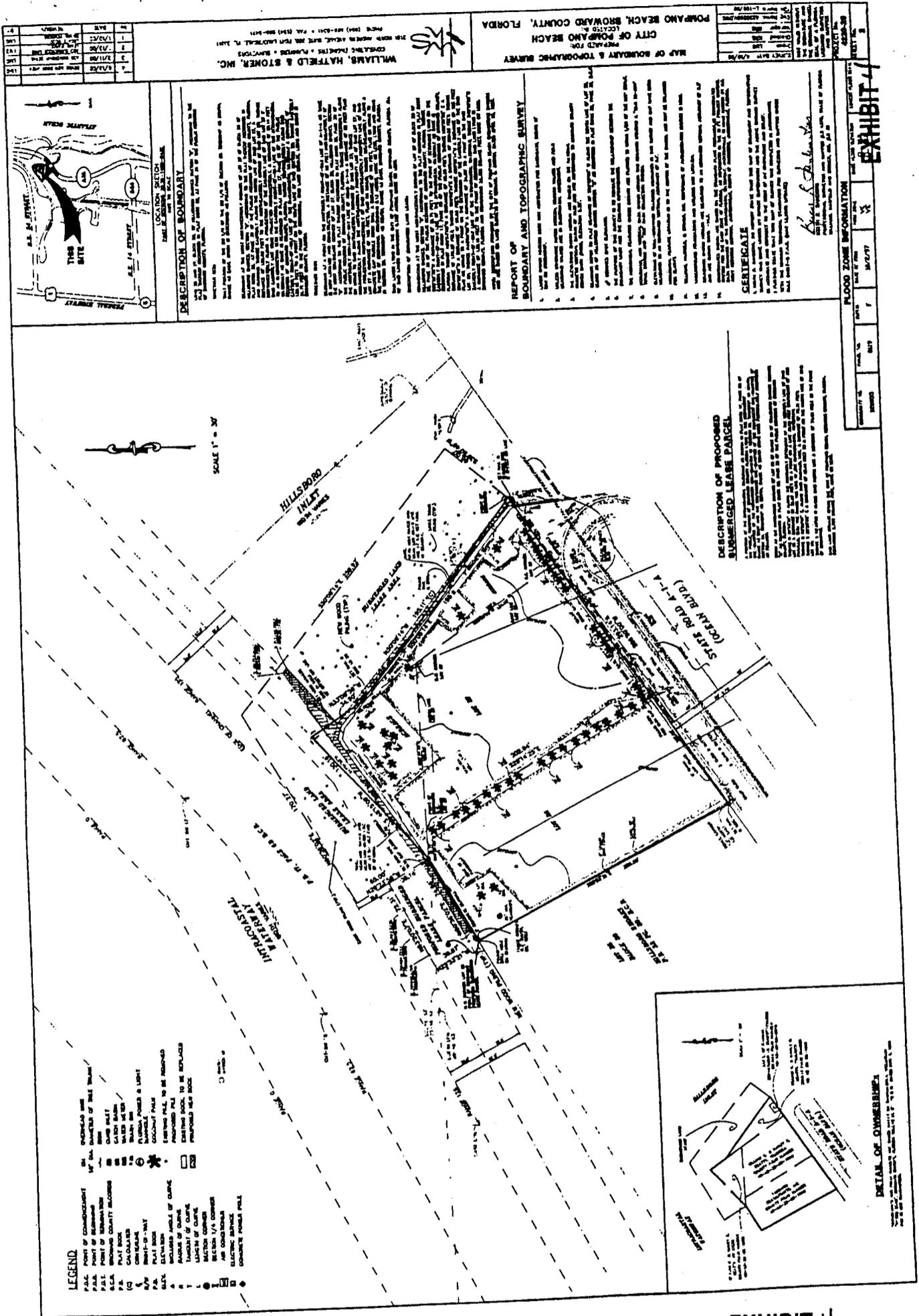


EXHIBIT 4

## **DESCRIPTION OF PROPOSED SUBMERGED LEASE PARCEL**

A PORTION OF THE INTRACOASTAL WATERWAY AS SHOWN IN PLAT BOOK 17, PAGE 5B OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA LYING IN THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 29, TOWNSHIP 48 SOUTH, RANGE 43 EAST AND THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 20. TOWNSHIP 48 SOUTH, RANGE 43 SOUTH BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF LOT 26 OF BLOCK 20 OF HILLSBORO SHORES SECTION "B" AS RECORDED IN PLAT BOOK 22, PAGE 39 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

THENCE N 25°53'21" W ALONG THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF SAID LOT 26 A DISTANCE OF 39.67 FEET TO A POINT ON A LINE 30.00 FEET SOUTHEAST OF AND PARALLEL WITH THE RANGE 125 LINE OF THE INTRACOASTAL WATERWAY;

THENCE N 63°20'07" E, ALONG SAID PARALLEL LINE, A DISTANCE OF 72.31 FEET;

THENCE S 29°23'58" E A DISTANCE OF 36.14 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 26;

THENCE S 60°36'02" W ALONG SAID NORTH LINE A DISTANCE OF 74.66 FEET TO THE POINT OF BEGINNING.

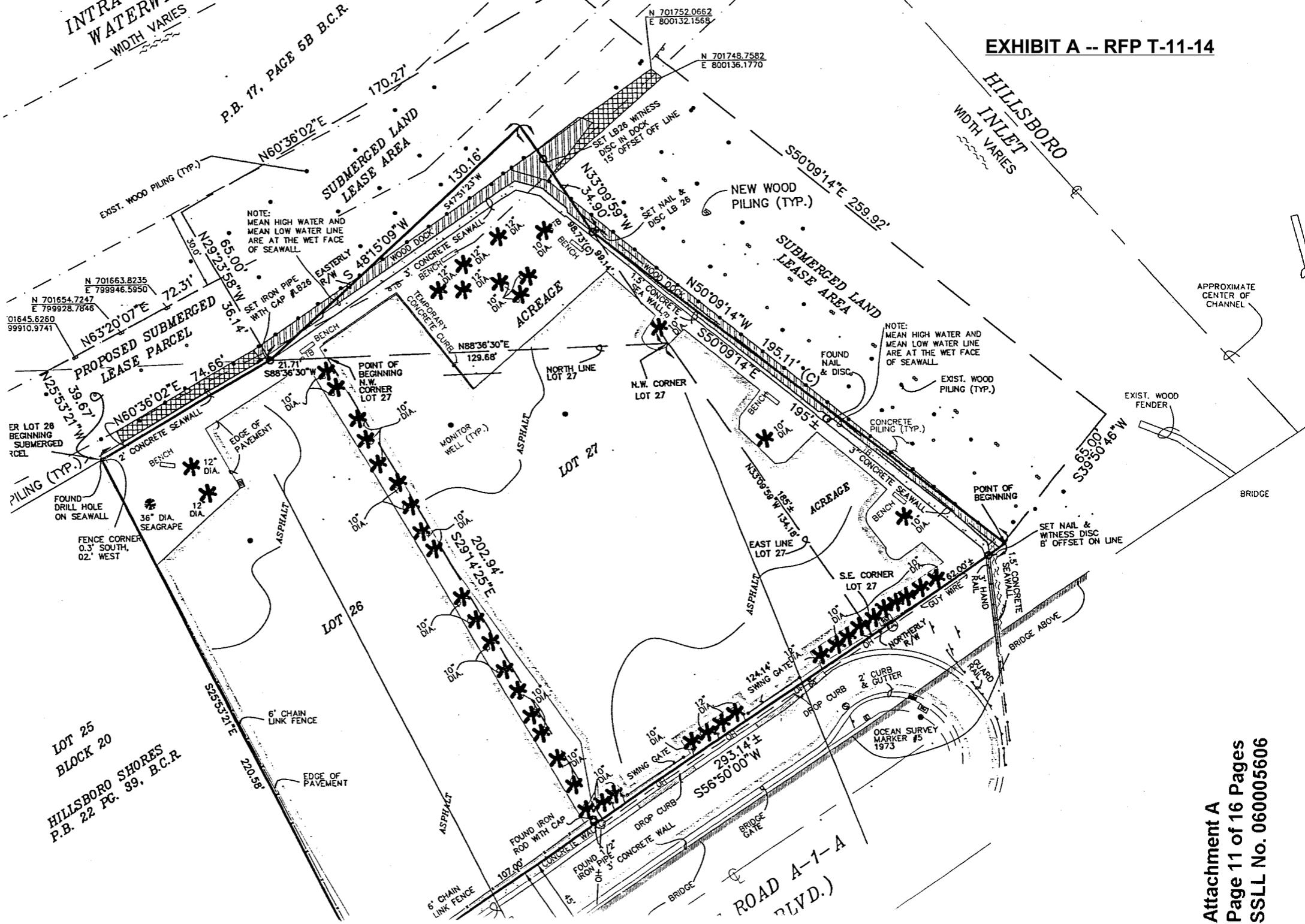
SAID LAND SITUATE WITHIN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA, CONTAINING 2,783 SQUARE FEET, MORE OR LESS.

INTRA WATERWAY  
WIDTH VARIES

P.B. 17, PAGE 5B B.C.R.

EXHIBIT A -- RFP T-11-14

HILLSBORO INLET  
WIDTH VARIES



NOTE:  
MEAN HIGH WATER AND  
MEAN LOW WATER LINE  
ARE AT THE WET FACE  
OF SEAWALL.

NOTE:  
MEAN HIGH WATER AND  
MEAN LOW WATER LINE  
ARE AT THE WET FACE  
OF SEAWALL.

LOT 25  
BLOCK 20  
HILLSBORO SHORES  
P.B. 22 PG. 99, B.C.R.

ROAD A-1-A  
(BLVD.)

ADD/REVISED SUBMITTAL

OCT 05 1999

STATE OF FLORIDA  
COUNTY OF BROWARD

89403680

20,625.00  
In Broward County for Documentary  
State Tax as required by law.  
Mike Senola County

SPECIAL WARRANTY DEED

WILL CALL 11/12/99  
CHICAGO FIDELITY INSURANCE CO.  
800 W. CYPRUS CREEK ROAD  
SUITE 110  
FORT LAUDERDALE, FL 33309

THIS SPECIAL WARRANTY DEED is made the 4 day of October, 1989 by the FEDERAL DEPOSIT INSURANCE CORPORATION, AS MANAGER OF THE FSLIC RESOLUTION FUND, AS RECEIVER FOR SUNRISE SAVINGS AND LOAN ASSOCIATION, having its principal place of business located at 285 Peachtree Center Avenue, Suite 300, Atlanta, Georgia 30303 (hereinafter referred to as "Grantor") to CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, having a mailing address of 2700 West Atlantic Boulevard, Pompano Beach, Florida 33069 (hereinafter referred to as "Grantee"). Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

Oct 6 3 22 PM '89

W I T N E S S E T H:

THAT, Grantor for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash in hand paid and other valuable considerations, the receipt of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto Grantee all of its leasehold interest in Parcels 1, 2 and 3 (the "Leasehold Property") and all of its fee simple interest in Parcels 4 and 5 (the "Fee Simple Property") in and to that certain real property lying and being in Broward County, Florida, together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, and being more particularly described on Exhibit "A" and "A-1" attached hereto and made a part hereof by reference (collectively, the "Property").

TO HAVE AND TO HOLD the Fee Simple Property in fee simple forever.

AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of said Property in leasehold and fee simple as specified above, that Grantor has good right and lawful authority to sell and convey said Property, and hereby warrants the title to said Property and will defend the same against the lawful claims of all persons claiming by, through or under Grantor; except, however, that this conveyance is made subject to those matters contained and shown on Exhibit "B" which is attached hereto and made a part hereof by reference.

IN WITNESS WHEREOF, Grantor has hereunto caused this instrument to be executed the day and year first above written.

Signed, sealed and delivered GRANTOR:  
in the presence of:

Robert A. Barnes  
Witness  
Robert A. Barnes  
Witness

FEDERAL DEPOSIT INSURANCE CORPORATION, AS MANAGER OF THE FSLIC RESOLUTION FUND, AS RECEIVER FOR SUNRISE SAVINGS AND LOAN ASSOCIATION

By: Joe DeJesus  
Title: Regional Director

This instrument prepared by:

Robert A. Barnes, Esq.  
Federal Asset Disposition Association  
285 Peachtree Center Avenue, Suite 600  
Atlanta, Georgia 30303  
13@c-yardarm

SHEET 1 OF 5  
ok

BK 6825 PG 7 13

STATE OF GEORGIA  
COUNTY OF FULTON

I hereby certify that on this day before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Joe Ferguson, Regional Director of the Federal Deposit Insurance Corporation, as Manager of the FSLIC Resolution Fund, as Receiver for Sunrise Savings and Loan Association, to me well known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporate instrumentality.

Given under my hand and seal of office this 4<sup>th</sup> day of October, 1989.

[Signature]  
Notary Public

My Commission Expires:  
Notary Public, Gwinnett County, Georgia  
My Commission Expires Feb. 16, 1993

[Notary Seal]

DK96825P01714

130c-yardarm

SHEET 2 OF 5

Exhibit A  
LEASEHOLD PROPERTY

Parcel 1:

Lot 27, Block 20 of HILLSBORO SHORES SECTION "B", according to the Plat thereof, as recorded in Plat Book 22, Page 39, of the Public Records of Broward County, Florida.

Parcel 2:

That portion of the SW 1/4 of the SW 1/4 of Section 20, Township 48 South, Range 43 East, which is described as follows:  
Beginning at the most Northwesterly corner of Lot 27, of Block 20 of HILLSBORO SHORES SECTION "B", according to the Plat thereof, recorded in Plat Book 22, Page 39, of the Public Records of Broward County, Florida, and running thence Easterly along the North line of said Lot 27, a distance of 129.68 feet to the northeasterly corner of said Lot 27; thence Northwesterly along a projection of the Easterly line of said Lot 27 if said Easterly line were projected Northwesterly, a distance of 99.14 feet to an intersection with the Easterly right-of-way line of the Intracoastal Waterway as same is recorded in Plat Book 17, at Page 5B, of the Public Records of Broward County, Florida; thence Southwesterly along said Easterly right-of-way line of the Intracoastal Waterway a distance of 130.16 feet to a point on the South line of said Section 20; thence Easterly 21.71 feet to the Point of Beginning; said lands situate, lying and being in Broward County, Florida.

Parcel 3:

Beginning at a point on the Northerly right-of-way line of A-1-A as same is now located and constructed, a distance of 62 feet Northeasterly of the most Southeast corner of Lot 27, Block 20, HILLSBORO SHORES, SECTION "B", according to the Plat thereof, as recorded in Plat Book 22, at Page 39, of the Public Records of Broward County, Florida; thence Southwesterly along the Northerly right-of-way line of said A-1-A, a distance of 62 feet plus or minus to said Southeasterly corner of said Lot 27; thence Northwesterly along the Northeasterly property line of Lot 27, and the projection Northwesterly of said Northeasterly property line of Lot 27, a distance of 185 feet plus or minus; thence Southeasterly along a concrete cap rubble rock wall a distance of 195 feet plus or minus to the Point of Beginning. Said lands lying and being in Section 29, Township 48 South, Range 43 East, Broward County, Florida, and in Section 20, Township 48 South, Range 43 East, Broward County, Florida.

MEMO: Legibility of writing.  
Typing or printing unsatisfactory in  
this document when microfilmed

3K46825PG1715

EXHIBIT A-1

FEE SIMPLE PROPERTY

Parcel 4:

Lot 26, Block 20, of HILLSBORO SHORES SECTION "B", according to the Plat thereof, as recorded in Plat Book 22, at Page 39, of the Public Records of Broward County, Florida.

Parcel 5:

Lots 31, 32, and 33, Block 10, of HILLSBORO SHORES, SECTION "A", according to the plat thereof, recorded in Plat Book 21, page 14, Public Records of Broward County, Florida, together with that certain portion of Bay Drive and/or State Road 14A (No. 140) lying North and West of Lots 31 and 32, Block 10, HILLSBORO SHORES, SECTION "A", according to the plat thereof, recorded in Plat Book 21, page 14, Public Records of Broward County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Lot 30, of said Block 10 of HILLSBORO SHORES, SECTION "A", thence Northerly along a line parallel with and 50 feet East of the Westerly right-of-way of said Bay Drive, a distance of 136.10 feet to the Point of Beginning; thence continue Northerly along the prolongation of the last above described course, a distance of 49.42 feet; thence Northwesterly along a tangent curve concave to the Southeast, having a radius of 50.00 feet, an arc distance of 50.79 feet; thence tangent to said curve, a distance of 154.20 feet to the Northwesterly boundary of said Block 10, and point of cusp (said point of cusp being 34.06 feet Southwesterly from the Northerly most corner of said Lot 32 as measured along the Northwesterly boundary of said Lot 32; thence Southwesterly along the Northwesterly boundary of said Block 10, said boundary being a circular curve concave to the Southeast, having a radius of 386.44 feet, an arc distance of 227.66 feet to the Southwest corner of said Lot 31; thence Northwesterly along the Northwesterly prolongation of the Southerly boundary of said Lot 31, a distance of 23.26 feet to the Point of Beginning. Said lands situate, lying and being in Broward County, Florida; LESS the property described in County Deed recorded June 10, 1965, in Official Record Book 3029, page 482, Broward County, Florida; LESS the property described in Special Warranty Deed recorded December 28, 1968, in Official Record Book 3346, page 51, Public Records of Broward County, Florida; LESS the property described in Special Warranty Deed recorded December 28, 1968, in Official Record Book 3346, page 53, Public Records of Broward County, Florida.

3K116825PG1716

SHEET 4 OF 5

EXHIBIT "B"

1. Taxes and assessments for the year 1989 and subsequent years.
2. Matters appearing on the Plat of Hillsboro Shores Section "A", as recorded in Plat Book 21, at Page 14. (as to Parcel 5)
3. Matters appearing on the Plat of Hillsboro Shores Section "B", as recorded in Plat Book 22, at Page 39. (as to Parcels 1 and 4)
4. Riparian and littoral rights are neither guaranteed nor insured.
5. Easement granted to the United States of America by instrument dated April 10, 1931 and filed April 17, 1931 in Deed Book 223, at Page 403.
6. Easement granted to the United States of America by instrument dated January 30, 1931 and filed May 26, 1931 in Deed Book 225, at Page 1.
7. The property herein described on Exhibit "A" attached hereto being artificially filled land in what was formerly navigable waters, it is subject to any and all rights of the United States Government arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
8. The rights, if any, of the public to use as a public beach or recreation area any part of the land lying or formerly lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high water line or other apparent boundary line separating the publicly use area from the upland private area, or such upland private area as it may have existed prior to construction, if any, of seawall or bulkhead thereon.
9. Reservations in favor of The Trustees of the Internal Improvement Fund of the State of Florida as contained in Deed dated July 25, 1955 and filed August 4, 1955 in Official Records Book 430, at Page 376 as corrected by Deed dated September 1, 1955 and filed September 29, 1955 in Official Records Book 458, at Page 504. (as to Parcel 3)
10. Terms and provisions of the Lease between William K. Beatty and Nancy C. Beatty, his wife, as Lessor and Daniel L. Garnsey, as Lessee dated May 1, 1974 as evidenced by that Memorandum of Lease dated May 7, 1974 and filed in Official Records Book 5756, at Page 984, as assigned by instrument filed February 13, 1981 in Official Records Book 9413, at Page 350 and further assigned by instrument filed May 6, 1982 in Official Records Book 10173, at Page 52, as affected by Agreement dated March 15, 1984 and filed April 18, 1984 in Official Records Book 11634, at Page 219, and affected by instrument filed December 15, 1987 in Official Records Book 15037, at Page 624. (as to Parcels 1, 2 and 3)
11. Tenancy rights of parties now in possession.
12. Existing unrecorded leases and all rights thereunder of the lessees and of any person claiming by, through or under the lessees.
13. Any and all matters that would be revealed and disclosed by an accurate survey and inspection of the premises.

NOTE: All of the recording information contained herein refers to the Public Records of Broward County, Florida otherwise indicated.

159c-yardarm

RECORDED IN THE OFFICIAL RECORDS OF BROWARD COUNTY, FLORIDA  
L. A. HESTER  
COUNTY ADMINISTRATOR

SHEET 5 OF 6

DK16825PG1717

**EXHIBIT B -- RFP T-11-14**ORDINANCE NO. 2003- 67**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND HILLSBORO INLET MARINA CAPTAINS' ASSOCIATION, INC.; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1:** That a Lease Agreement between the City of Pompano Beach, Florida and Hillsboro Inlet Marina Captains' Association, Inc., a copy of which Agreement is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

**SECTION 2:** That the proper City officials are hereby authorized to execute said Agreement.

**SECTION 3:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

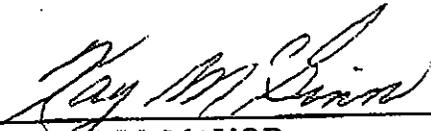
**EXHIBIT B -- RFP T-11-14**

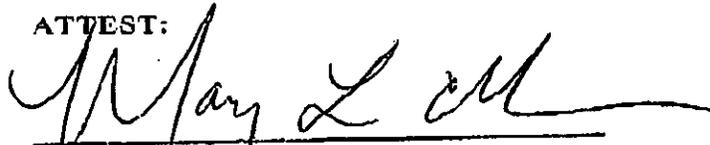
this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 4:** This Ordinance shall become effective upon passage.

PASSED FIRST READING this 9th day of September, 2003.

PASSED SECOND READING this 23rd day of September, 2003.

  
\_\_\_\_\_  
KAY MCGINN, MAYOR

ATTEST:  
  
\_\_\_\_\_  
MARY L. CHAMBERS, CITY CLERK

/jrm  
6/12/03  
L:ord/2003-251

**EXHIBIT B -- RFP T-11-14*****LEASE AGREEMENT***

***THIS IS A LEASE AGREEMENT*** entered into on September 23, 2003 by and between **THE CITY OF POMPANO BEACH**, a municipal corporation of the State of Florida, hereinafter referred to as "CITY", and **HILLSBORO INLET MARINA CAPTAINS' ASSOCIATION, INC.**, a Florida Corporation, hereinafter referred to as "LESSEE".

**WITNESSETH**

**WHEREAS**, the CITY owns and operates municipal dockage facilities and other improvements at the Hillsboro Inlet; and

**WHEREAS**, the LESSEE is desirous of leasing from CITY certain dockage facilities and improvements at the Hillsboro Inlet.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **PREMISES.** CITY leases to LESSEE certain premises delineated as City of Pompano Beach Hillsboro Inlet Property (the "Premises"), and more particularly described as Lot 26 Block 20 of HILLSBORO SHORES SECTION "B", according to the Plat thereof, as recorded in Plat Book 22, Page 39 of the Public Records of Broward County Florida.
2. **PURPOSE.** The Premises shall be used as a marina for a charter fleet comprised of drift boats, dive boats and charter boats, initially consisting of 2 drift boats, a dive boat and 10 charter boats, and uses related thereto, to be operated by LESSEE to the extent permitted by the covenants of the non-tax bond issue. However, LESSEE shall not sell or allow the sale of petroleum fuels and motor oils to third parties on the Premises, however, this will not preclude the delivery of fuel by third parties to the charter fleet on the Premises; and, will otherwise comply with all covenants and conditions of the Internal Improvement Trust Fund lease and the provisions of the Hillsboro Inlet Marina Waterways Assistance Grant from the Florida Inland Navigation District.
3. **ACCEPTANCE OF PREMISES.** LESSEE acknowledges that it has made a thorough and complete inspection of the Premises and is fully advised of the condition, nature of construction and state of repair. LESSEE fully accepts the Premises in the present condition.
4. **NO LIENS CREATED.** LESSEE covenants and agrees that LESSEE has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of CITY in and to the Premises. Should any such lien be filed against CITY, LESSEE shall discharge the same within thirty (30) days thereafter by paying the same or by filing a

bond, or otherwise as permitted by law. LESSEE shall not be deemed to be the agent of CITY under any term, paragraph, condition or covenant of this Agreement.

**5. OPERATING COSTS.**

- A. LESSEE agrees to pay promptly all operating costs billed to it and incurred as a result of LESSEE's business operations on the Premises, which are not by this Lease an expense of CITY.
- B. LESSEE shall have deposited all garbage and trash generated by its business operations on a daily basis in enclosed containers at the Hillsboro Inlet location and LESSEE shall provide for removal on a regular basis at LESSEE's cost. Any garbage and trash that does not fit in the enclosed containers shall be properly disposed of at LESSEE's expense and shall not be left on the Premises.
- C. CITY shall provide connections for municipal water service, electricity, sanitary sewer service, cable television (CATV) and telephone for LESSEE. CITY shall bill LESSEE for electricity, water and sewer used through the dockside meter(s). LESSEE shall pay directly for telephone and CATV services if such services are desired. Specifically, the connections shall consist of the following: 12 electric meters, one for each slip and one for the office; 13 water meters, one for each slip and one for the office and one for irrigation purposes; one (1) telephone and CATV connection for each slip and for the office. The slip water and the irrigation water shall not be charged a sewer fee.
- D. LESSEE shall at its cost have the public rest room facilities cleaned at least on a daily basis and maintained at all times in a clean and sanitary condition and furnish at its expense toilet and washroom supplies. If the washrooms are not kept and maintained in a clean, orderly and sanitary manner, the CITY shall have the right, in its sole discretion, to assume such obligation and charge the expenses of such maintenance to the LESSEE.
- E. The CITY shall pay the costs of electricity for the illumination of the parking lot on the Premises.
- F. CITY shall provide adequate water for irrigation purposes through the installed irrigation system. The water for irrigation may, at some time in the future, be recycled water.

**6. REPAIRS, MAINTENANCE AND SURRENDER.** LESSEE agrees at its expense to keep, maintain and clean the Premises except as provided

otherwise herein, in the same state of repair and condition as existed on the date of commencement of this Agreement, reasonable wear and tear excepted. Such maintenance shall include, but not limited to cleaning windows, washing and waxing floors, carpet cleaning, repair of ice machines, light bulb replacement and sweeping and cleaning of sidewalks and parking lot. LESSEE at its expense agrees to deliver to CITY, upon the termination of this Agreement, the entire Premises, including any improvements and fixtures, in the same state of repair and condition as existed on the date of commencement of this Agreement, reasonable wear and tear excepted.

CITY shall make all exterior repairs, including repairs of the roof, sidewalks, and parking lot, as well as repairs as required because of water entering the demised premises from the roof or other parts of the building or from other causes not under the control of LESSEE. CITY shall maintain the exterior of the building in good condition. CITY shall maintain the docks and the parking lot on the premises so as to maintain the value of the capital assets in a manner consistent with generally accepted landlord/tenant responsibilities. LESSEE shall promptly report, in writing, to CITY any defective or dangerous conditions known to LESSEE and CITY shall maintain all landscaping, planted areas and grassy areas, in a same or similar fashion as at the commencement of this Lease. Also, CITY shall maintain the installed irrigation system in good order and repair.

CITY shall not be liable to LESSEE for damage to property of LESSEE or any loss of revenue to LESSEE resulting from its acts, omissions or neglect in the maintenance and operation of the demised premises facilities; however, CITY shall be otherwise liable to LESSEE for damage to property of LESSEE caused by the intentional or negligent acts of employees and servants of CITY.

7. **TERM.** The term of this Agreement is for the period of ten (10) years commencing on December 1, 2003, at 12:00 a.m. and ending at midnight on December 1, 2013, unless sooner terminated, as provided herein.
8. **POSSESSION.** Delivery of possession of the premises to LESSEE shall be made at the time of the commencement of the term of this Agreement, provided that LESSEE has delivered to CITY the certificates of insurance as required herein.
9. **RENT.** The initial monthly rent for the Premises shall be Seventeen Thousand Five-Hundred Dollars (\$17,500) plus any applicable tax, except ad valorem tax, payable in advance on the first day of the month. The monthly rent shall not increase for a period of two years.

After the second year, the rent shall be increased by three (3%) per year, plus any applicable tax, until termination of the Lease.

In the event of any controversy arising as to the proper adjustment for rental payments as herein provided, LESSEE shall continue paying the rental under the last preceding rental adjustment as herein provided, until such time as said controversy has been settled, at which time an adjustment will be made retroactive to the beginning of the adjustment period in which the controversy arose.

LESSEE shall pay to CITY a penalty of five percent (5%) of monies due for any period during which any payment is in arrears more than ten (10) days, said penalty not to exceed Five Hundred and No/100 (\$500.00) Dollars. Failure of LESSEE to pay any sums due hereunder within thirty (30) days after receipt of written notice shall authorize CITY, at its option and without any legal proceedings, to declare the Agreement void, to cancel the same, and to re-enter and to take possession of the premises.

In addition to the rent and other charges outlined herein, LESSEE shall pay all fees, charges, license fees and taxes of whatever nature, if necessary, as required by federal and state law or ordinance of the City of Pompano Beach.

10. **DEPOSIT.**

Under the execution of this Lease Agreement, LESSEE shall deposit with Lessor a security deposit of seventeen thousand dollars (\$17,500). The security deposit shall be retained by Lessor as security for the payment by Lessee of the rents agreed to be paid by Lessee and for the faithful performance by Lessee of the terms and covenants of this Lease. It is agreed that Lessor, at Lessor's option, may at any time apply that sum or any part of it towards the payment of the rents and all other sums payable by the Lessee under this Lease, and the performance of each of Lessee's covenants under this Lease, but discharged only pro tanto and Lessee shall remain liable for any amounts that the sum shall be insufficient to pay. Lessor may exhaust any or all rights and remedies against Lessee before resorting to the sum, but nothing contained in this Lease shall require or be deemed to require Lessor to do so. If the Lessor does resort to the security deposit to satisfy Lessee's obligations, Lessee shall on demand deposit with Lessor the amount so applied so that the Lessor shall have the full security deposit on hand at all times during the term of this Lease. Lessee's failure to pay to Lessor a sufficient amount to restore the security to the required amount within ten (10) days after the receipt of demand for it shall constitute a breach of the Lease. Lessor shall place the security

deposit in a separate, non interest - bearing account at a local bank. Should Lessee comply with all of the terms, covenants and conditions of this Lease and promptly pay all of the rent provided for as it falls due and all other sums payable by the Lessee to the Lessor under this Lease, the security deposit shall be applied to Lessee's last month's rent payment.

11. **INSURANCE.** LESSEE shall maintain in full force and effect at its own expense during the full term of this Agreement, with an insurance company or companies acceptable to CITY, owners' and tenants' public liability insurance for the Premises in the minimum amount of \$1,000,000.00 single limit coverage for each occurrence for public liability, bodily injury, loss of life, property loss or damage, and products liability. All such policies shall name CITY as a primary insured and shall not be affected by any insurance which CITY may have in its own name. All such policies shall be endorsed to provide CITY with thirty (30) days' notice of cancellation restriction or both. LESSEE shall deliver certificates of insurance to CITY's Risk Manager. In the event any person, firm or corporation should sustain damages not covered by the insurance required of LESSEE, or in excess of the limits of such insurance, then LESSEE agrees to indemnify and hold CITY harmless in accordance with the terms herein. Notwithstanding, LESSEE is not obligated to indemnify and hold harmless the CITY for intentional and negligent acts of CITY's own employees and agents. To limit liability LESSEE agrees that there will be no liquor or intoxicating beverages sold on the premises. The CITY shall maintain in full force and effect, at its own expense during the term of this Agreement, casualty insurance for the building and other improvements subject to this lease in the amount of the replacement value.
12. **ASSIGNMENT AND SUBLEASING.** The LESSEE shall not, without prior approval of LESSOR assign or transfer this Agreement nor any share, part or interest in it, nor any of the rights or privileges granted by it, nor enter into any contract requiring or permitting the doing of anything under this agreement by an independent contractor unless otherwise expressly provided in this Agreement. LESSEE further agrees that it shall not enter into any agreement of any nature, formal or informal, concerning other business activities at the Premises, with any individual, partnership or corporation without prior approval of CITY, it being understood that the only activity that LESSEE may conduct directly or indirectly, along or through others, on, upon or from said demised premises and facilities located there, be they demised to the others or under the control of CITY, is as authorized under the terms of this Agreement. Notwithstanding, LESSEE shall be permitted to sub-lease slips for uses as set forth in Section 2.

**EXHIBIT B -- RFP T-11-14****13. DELIVERIES AND FUELING.**

- A. General deliveries may be made at the Premises at established times and days as may be mutually agreed by the LESSEE and CITY.
- B. Only LESSEE and any sublessees may fuel their vessels from, at or in the vicinity of the Premises, providing the fuel is acquired from an authorized dealer of marine fuel and by an operator that is independent of LESSEE and sublessee.

**14. LAWS AND ORDINANCES.** LESSEE agrees to comply with all applicable state statutes, Broward County and CITY's ordinances, and any safety requirements of all federal, state and local governments. LESSEE shall maintain all required licenses from governmental agencies in full force and effect during the term of this Agreement.**15. INDEMNIFICATION AGAINST CLAIMS.** LESSEE shall indemnify and save CITY harmless from and against any and all claims, suits, actions, damages and causes of action arising during the term of this Agreement for any bodily injury, loss of life, or damage to property sustained in or about the premises, or the appurtenances to them, arising out of any alleged act or omission of LESSEE or its employees, agents or servants, and from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claim, the investigation of them, or the defense of any action or proceeding brought on them, and from and against any orders, judgments or decrees which may be entered in them. LESSEE will further, upon CITY's request, assume and defend any action that may be brought against CITY as the result of any alleged act or omission of LESSEE or employees, agents or servants and shall further assume and pay all associated costs and attorneys' fees which may be incurred by CITY. Notwithstanding, CITY shall be liable for the intentional or negligent acts of its own employees and agents.

LESSEE fully understands and agrees that by entering into this Agreement, LESSEE waives and releases CITY of and from all damages and claims on account of any existing conditions or any conditions that may subsequently develop at the premises or approaches to the premises where LESSEE's vessels may be moored or berthed under the terms of this Agreement.

**16. OWNERSHIP AT TERMINATION.** All fixtures, alterations, improvements, structures, additions and modifications of every kind now existing or later erected, installed or placed within the Premises shall, at

EXHIBIT B -- RFP T-11-14

the end of the term or earlier termination of this Agreement, for any reason, be and become the property of CITY and shall be left in good condition and repair, ordinary wear and tear excepted unless CITY at its option requires LESSEE to remove all or a portion of same. In such event LESSEE at its sole expense shall promptly remove same. LESSEE further agrees at its sole expense to promptly repair and restore all portions of the entire Premises to good condition upon such removal. A fixture is defined as an article which was a chattel, but which, by being physically annexed or affixed to the Premises by LESSEE and incapable of being removed without structural or functional damage to the Premises, becomes a part and parcel of them. Nonfixture personalty owned by LESSEE at the expiration of the term or earlier termination of this Agreement, for any reason, shall continue to be owned by LESSEE, and at the time of such expiration or earlier termination, LESSEE at its option, may remove all such personalty, provided LESSEE is not then in default of any covenant or condition of this Agreement; otherwise, all property shall remain on the Premises until the damages suffered by CITY from any such default have been ascertained and compensated. Any damage to the Premises caused by the removal by LESSEE of any such personalty shall be repaired by LESSEE immediately at its expense.

17. **LOUDSPEAKERS AND SPOTLIGHTS.** LESSEE shall not at any time use or permit the use of exterior spot lights (tower lights excepted) or loudspeakers or any device to amplify sound including, but not limited to, voice, music (live or otherwise), with the exception of the sounding of horns for navigational purposes and informational messages through the dockmaster's office. Violation of this provision shall be considered a basis for termination of this Agreement by CITY pursuant to the provisions for default as provided for herein.
18. **DEFAULT.** It is agreed that upon any default by LESSEE in keeping and performing any and all terms and conditions of this Agreement to be kept and performed by LESSEE, CITY may, at its option, declare this Agreement terminated and may, after thirty (30) days written notice to LESSEE to cure such default, re-enter and take possession of the Premises. The power granted in this paragraph to CITY is in addition to any other rights or remedies which CITY may have under the existing laws of the State of Florida with regard to the removal of tenants, distress or other legal recourse. All rights and remedies available to CITY may be exercised concurrently or separately.
19. **NON-WAIVER.** The failure of CITY to insist upon the strict performance of any of the covenants, conditions and agreements of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and

**EXHIBIT B -- RFP T-11-14**

agreements, or as a waiver of any other covenants, conditions and agreements.

20. **DAMAGE TO PREMISES.** In the event the Premises or the building of which the Premises are a part shall be damaged or destroyed by fire or other casualty, the same may be promptly repaired or rebuilt by CITY at its expense as soon as funds are available, but CITY shall not be obligated to repair, rebuild, restore or replace any fixtures, equipment, displays or other property installed by LESSEE or others pursuant to this Agreement.

CITY may elect, at its sole option, not to repair or reconstruct the Premises or the facility which are a part of this Lease and upon written notice of such election from CITY to LESSEE the obligation of LESSEE to pay rent shall cease and this Agreement shall thereupon terminate. However, if CITY does not give notice of termination, LESSEE's obligation to pay rent shall abate during the existence of any damage or other casualty which renders the demised premises unsuitable for LESSEE in continued operation of business. In the event the demised premises are rendered only partially unsuitable for LESSEE's operation rent abatement shall be prorated. Prorated rental shall be determined by CITY.

21. **IMPROVEMENTS.** LESSEE shall not attach, affix or permit to be attached or affixed, upon the premises, or if so attached or affixed, relocate, replace, alter or modify, without the consent in writing in each instance of CITY any flags, placards, signs, poles, wires, aerials, antennae, improvements or fixtures. In connection therewith, CITY may require submission of proposed designs, floor plans, construction plans, specifications and contract documents therefore and, if then approved, may incorporate all or part thereof within this Agreement as attachments thereto.
22. **TIME OF PERFORMANCE.** Time is of the essence in this Agreement and the parties agree promptly to perform, comply with and abide by all terms and conditions of this Agreement.
23. **SUCCESSORS.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
24. **PARAGRAPH HEADINGS.** Paragraph headings of this Agreement are not part of the substance of this Agreement and shall have no effect upon the construction or interpretation of any terms, conditions or part of this Agreement.

**EXHIBIT B -- RFP T-11-14**

25. **GOVERNING LAW.** This Agreement shall be construed and enforced according to the laws of the State of Florida, notwithstanding conflict of law provisions of the State of Florida.
26. **SEVERABILITY.** The unenforceability, invalidity, or illegality of any provision of this Lease Agreement shall not render the other provisions unenforceable, invalid or illegal.
27. **NOTICE.** The parties to this Agreement shall be contacted at the following addresses:
- CITY:** City Manager  
City of Pompano Beach  
100 West Atlantic Boulevard  
Pompano Beach, Florida 33061
- LESSEE:** Mr. Skip Dana  
Hillsboro Inlet Marina Captains' Association  
2705 North Riverside Drive  
Pompano Beach, Florida 33062
28. **REPAIRS TO VESSEL.** Any repairs to be done to vessels at the premises shall be limited to those of a minor and routine nature that do not generate excessive air, water or noise pollution.
29. **WASTEWATER.** All vessels docked at the Premises shall at all times abide by all city, state and federal regulations governing the discharge of sewage, including, but not limited to, 40 CFR Parts 3 and 4 and 33 CFR 159.7, Pages 520-521 NAVIGATION AND NAVIGABLE WATERS CHAPTER I - COAST GUARD, DEPARTMENT OF TRANSPORTATION (CONTINUED) PART 159 - MARINE SANITATION DEVICES. In the event the City at any time reasonably believes any vessel is not in compliance with same, the City shall have the right to inspect said vessel to verify compliance. LESSEE shall maintain records of all wastewater discharges and shall furnish CITY with a copy of such records upon request.
30. **RIGHT TO ENTER.** CITY may enter the premises at any time upon giving reasonable notice to the LESSEE and so long as the same does not unduly interfere with the LESSEE's conduct of its regular business. In the event of an emergency, CITY shall not be required to give LESSEE notice prior to entering the premises.

**EXHIBIT B -- RFP T-11-14**

- 31. **PARKING SPACES AND ADDITIONAL LANDS - LESSEE'S EXCLUSIVE USE.** There shall be available at and contiguous to the Premises 53 parking spaces for the exclusive use of LESSEE and sub-lessees. LESSEE shall be provided use and benefit of the adjacent parking facilities on Lot 27 and additional lands described in Exhibit A.
- 32. **SIGNAGE.** LESSEE, may, at its own expense, erect or place in a manner as it sees fit a sign for the advertising of LESSEE and Lessee's sublessees on the Premises. Thereafter, LESSEE shall maintain said sign in a good state of repair, and shall repair any damage to the sign.
- 33. **SUBMERGED LAND LEASE.** City agrees to maintain for the exclusive use of LESSEE the submerged land lease at no additional cost to LESSEE as described on Exhibit B and attached hereto throughout the term of the lease subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. LESSEE specifically agrees to abide by the terms and conditions of the Sovereignty Submerged Land Lease between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and the City of Pompano Beach.

**IN WITNESS TO THE FOREGOING**, the parties have set their hands and seals the day and year first above written.

**"CITY":**

Witnesses:

**CITY OF POMPANO BEACH**

Joanne Bechan  
Sheryl Bartholomew

By: Kay M. Meginn  
 KAY MEGINN, MAYOR

By: C. William Hargett, Jr.  
 C. WILLIAM HARGETT, JR.,  
 CITY MANAGER

Attest:

Mary L. Chambers  
 MARY L. CHAMBERS  
 CITY CLERK

(SEAL)

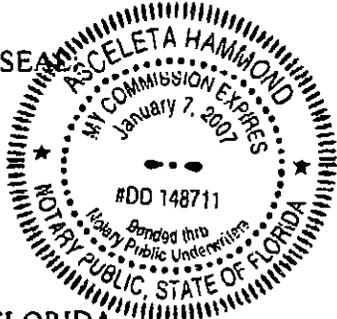
Approved As To Form: Gordon B. Linn  
 GORDON B. LINN, CITY ATTORNEY

**EXHIBIT B -- RFP T-11-14**

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 30th day of September, 2003 by KAY MCGINN, as Mayor of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL



Asceleta Hammond  
NOTARY PUBLIC, STATE OF FLORIDA

Asceleta Hammond

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 30th day of September, 2003 by C. WILLIAM HARGETT, JR., as City Manager of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL



Asceleta Hammond  
NOTARY PUBLIC, STATE OF FLORIDA

Asceleta Hammond

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 30th day of September, 2003 by MARY L. CHAMBERS as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL



Asceleta Hammond  
NOTARY PUBLIC, STATE OF FLORIDA

Asceleta Hammond

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

**EXHIBIT B -- RFP T-11-14**

**"LESSEE":**

Witnesses:

Hillsboro Inlet Captains Association

THOMAS R. HORN

By: George M Dana III

Thomas R Horn  
PRESIDENT

George M Dana III  
Name Typed, Printed or Stamped

Asceleta Hammond  
Asceleta Hammond

Title: Secretary Treasurer



STATE OF FLORIDA  
COUNTY OF BROWARD

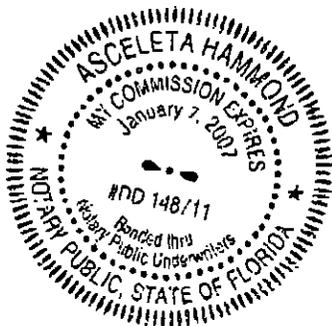
The foregoing instrument was acknowledged before me this 30th day of September, 2003 by GEORGE M. DANA III as Secretary/Treasurer of Hillsboro Inlet Captains' Association. He/she is personally known to me or who has produced D500-313-71-364-0 (type of identification) as identification.

NOTARY'S SEAL:

Asceleta Hammond  
NOTARY PUBLIC, STATE OF FLORIDA

Asceleta Hammond  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number



**EXHIBIT B -- RFP T-11-14****EXHIBIT A  
ADDITIONAL LANDS**

THAT PORTION OF THE SW ¼ OF THE SW ¼ OF SECTION 20, TOWNSHIP 48 SOUTH, RANGE 43 EAST, WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF LOT 27 OF BLOCK 20 OF HILLSBORO SHORES, SECTION "B", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, AT PAGE 39 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND RUNNING THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 27, A DISTANCE OF 129.68 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 27; THENCE NORTHWESTERLY ALONG A PROJECTION OF THE EASTERLY LINE OF SAID LOT 27 IF SAID EASTERLY LINE WERE PROJECTED NORTHWESTERLY A DISTANCE OF 99.14 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY AS SAME IS RECORDED IN PLAT BOOK 17, PAGE 5B OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE SOUTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY A DISTANCE OF 130.16 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 20; THENCE EASTERLY 21.71 FEET TO THE POINT OF BEGINNING; SAID LAND SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

TOGETHER WITH

BEGINNING AT A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF A-1-A AS SAME IS NOW LOCATED AND CONSTRUCTED, A DISTANCE OF 62 FEET NORTHEASTERLY OF THE MOST SOUTHEAST CORNER OF LOT 27, BLOCK 20, HILLSBORO SHORES, SECTION "B". ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 39 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE SOUTHWESTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF ROAD A-1-A A DISTANCE OF 62 FEET PLUS OR MINUS TO SAID SOUTHEREASTERLY CORNER OF SAID LOT 27; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY PROPERTY LINE OF SAID LOT 27, AND THE PROJECTION NORTHWESTERLY OF SAID NORTHEASTERLY PROPERTY LINE OF SAID LOT 27 A DISTANCE OF 185 FEET, PLUS OR MINUS; THENCE SOUTHEASTERLY ALONG A CONCRETE CAP RUBBLE ROCK WALL A DISTANCE OF 195 FEET, PLUS OR MINUS TO THE POINT OF BEGINNING, CONTAINING 0.13 ACRES, MORE OR LESS, LYING AND BEING IN SECTION 29, TOWNSHIP 48 SOUTH, RANGE 43 EAST, BROWARD COUNTY, FLORIDA.

TOGETHER WITH

LOT 27, BLOCK 20, HILLSBORO SHORES SECTION "B", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 39 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAID LANDS LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA.

**EXHIBIT B -- RFP T-11-14****EXHIBIT B  
SUBMERGED LAND LEASE  
HILLSBORO INLET MARINA****PARCEL 1**

COMMENCING AT THE MOST NORTHWESTERLY CORNER OF LOT 27 OF BLOCK 20 OR HILLSBORO SHORES, SECTION B, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 22, PAGE 39 OF THE PUBLIC RECORDS OF BROWARD COUNTY; THENCE S88°36'30" W A DISTANCE OF 21.71 FEET TO THE POINT OF BEGINNING LYING ON THE EASTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY AS SAME IS RECORDED IN PLAT BOOK 17, PAGE 5B OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE N29°23'58" W A DISTANCE OF 65.00 FEET; THENCE N60°36'02" E A DISTANCE OF 170.27 FEET; THENCE S50°09'14" E A DISTANCE OF 259.92 FEET; THENCE S39°50'46" W A DISTANCE OF 65.0 FEET; THENCE N 50°09'14" W A DISTANCE OF 195 FEET PLUS OR MINUS TO A POINT ON THE EXTENSION OF THE EASTERLY LINE OF THE SAID LOT 27; THENCE N33°09'59" W A DISTANCE OF 34.90 TO A POINT ON THE SAID EASTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY; THENCE S48°15'09" W A DISTANCE OF 130.16 FEET TO THE POINT OF BEGINNING. SAID LAND LYING IN BROWARD COUNTY, FLORIDA AND CONTAINING 23,328 SQUARE FEET, MORE OR LESS. SAID DESCRIPTION PROVIDED BY THE CITY OF POMPANO BEACH ENGINEERING DIVISION AND ARE BASED ON LAND SURVEYS BY MICHAEL D. AVIRON, DATED APRIL 16, 1987.

**PARCEL 2**

A PORTION OF THE INTRACOASTAL WATERWAY AS SHOWN IN PLAT BOOK 17, PAGE 5B OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA LYING IN THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 20, TOWNSHIP 48 SOUTH, RANGE 43 SOUTH BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 26 OF BLOCK 20 OF HILLSBORO SHORES SECTION B AS RECORDED IN PLAT BOOK 22, PAGE 39 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. THENCE N25°53'21" W ALONG THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF SAID LOT 26 A DISTANCE OF 39.67 FEET TO A POINT ON A LINE 30.00 FEET SOUTH EAST OF AND PARALLEL WITH THE RANGE 125 LINE OF THE INTRACOASTAL WATERWAY; THENCE N63°20'07" E ALONG SAID PARALLEL LINE A DISTANCE OF 72.31 FEET; THENCE S29°23'58" E A DISTANCE OF 36.14 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 26; THENCE S60°36'02" W A DISTANCE OF 74.66 FEET TO THE POINT OF BEGINNING. SAID LAND SITUATE WITHIN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA, CONTAINING 2,783 SQUARE FEET, MORE OR LESS.