

Board of Trustees of the Galveston
Wharves
SPECIAL MEETING
Wednesday, March 2, 2022 8:00 a.m.
Port of Galveston
123 Rosenberg Avenue, 8th Floor
Galveston, TX 77550

BOARD OF TRUSTEES
Chairman Harry D. Maxwell, Jr.
Vice Chair Todd P. Sullivan
Trustee/Mayor Craig Brown
Trustee Sheila S. Lidstone
Trustee E.L. "Ted" O'Rourke
Trustee Jeff Patterson
Trustee Victor Pierson
Rodger Rees, Port Director/CEO
Anthony P. Brown, Port Attorney

NOTICE OF MEETING

The Special Meeting is open to the public. Seating is limited due to COVID-19. To reserve a seat, please call 409.765.9321 ext. 4.

Members of the public may participate in the meeting in the following ways:

1. Watch the meeting at the following online at:
<https://www.portofgalveston.com/68/watch-meetings-online>
2. Submit public comment in advance of the meeting. Comments can be submitted to:
[https://www.portofgalveston.com/formcenter/public-comment-form-2/public-comment-form-](https://www.portofgalveston.com/formcenter/public-comment-form-2/public-comment-form-36)

[36](#)

3. Attend the meeting in person at the above address.

A. CALL TO ORDER

- A.1 Roll Call
- A.2. Declaration of Quorum
- A.3. Pledge of Allegiance

B. DECLARATION OF CONFLICTS OF INTEREST BY TRUSTEE

C. GENERAL BUSINESS

C.1. COMMENTS FROM THE PUBLIC

The Public will be permitted to submit public comments electronically.

Comments can be submitted to:

<HTTPS://WWW.PORTOFGALVESTON.COM/FORMCENTER/PUBLIC-COMMENT-FORM-2/PUBLIC-COMMENT-FORM-36>

D. RECESS INTO EXECUTIVE SESSION

D.1. ANNOUNCE GOING INTO EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE

Section 551.072 - Real Estate

a. Deliberated the Purchase, Exchange, Lease or Value of Property on Galveston and Pelican Island

b. Discuss Request From Mitchell Historic Properties, Inc., to Assign the Lessee's Interest in the Pier 21 Lease and Development Agreement to Landry's, LLC, and proposed Seventh Amendment to Lease and Development Agreement

ADJOURNMENT OF EXECUTIVE SESSION

E. RECONVENE SPECIAL MEETING

- E.1. Discuss And Consider Action, If Any, On Specific Matters Discussed In Executive Session Which Were Listed On The Agenda In Sufficient Detail To Provide Notice To The Public As Required By The Texas Open Meetings Act**

F. BUSINESS ITEMS

- F.1. Discuss And Consider Approval Of Seventh Amendment To Pier 21 Lease And Development Agreement**

Documents:

[F2.PDF](#)

G. COMMENTS FROM THE BOARD OF TRUSTEES

Pursuant to Texas Government Code Section 551.0415, Trustees may report on any of the following items:

1. Expressions of thanks, gratitude, and condolences
2. Information regarding holiday schedules
3. Honorary or salutary recognition of a public official, public employee, or other citizen
4. Reminders regarding Galveston Wharves events
5. Reminders regarding community events
6. Health and safety announcements

H. SET DATE OF NEXT BOARD MEETING, TIME AND LOCATION

I. ADJOURNMENT

THE ITEMS LISTED FOR THE CONSENT AGENDA ARE CONSIDERED ROUTINE AND WILL NOT BE DISCUSSED UNLESS A TRUSTEE DESIRES TO DISCUSS - AS IS THE CASE, THAT SUCH ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED PRIOR TO THE REGULAR AGENDA ITEMS. AS USED IN THIS NOTICE, THE TERM "EXECUTIVE SESSION" MEANS A "CLOSED MEETING" AS DEFINED IN TEXAS GOVERNMENT CODE CHAPTER 551, THE OPEN MEETINGS ACT. THE BOARD RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY SUBJECT, INCLUDING WITHOUT LIMITATION ANY SUBJECT APPEARING ON THIS AGENDA, AS AUTHORIZED BY THE OPEN MEETINGS ACT. FOLLOWING ANY EXECUTIVE SESSION, THE BOARD IN OPEN SESSION MAY TAKE A FINAL ACTION, DECISION, OR VOTE ON A MATTER DELIBERATED IN EXECUTIVE SESSION, AS AUTHORIZED BY THE OPEN MEETINGS ACT.

I certify that the above Notice of Meeting was posted in a place convenient to the public, in accordance with Chapter 551 of the Texas Government Code, on or before 4:30 p.m. Friday, February 25, 2022.

Rodger Rees, Port Director/CEO

PLEASE NOTE:

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE PORT'S OFFICE, 123 ROSENBERG, GALVESTON, TEXAS 77550 (409-765-3921).

SEVENTH AMENDMENT TO LEASE AND DEVELOPMENT AGREEMENT

This Seventh Amendment to Lease and Development Agreement is entered into by and between the **BOARD OF TRUSTEES OF THE GALVESTON WHARVES**, a separate utility and agency of the City of Galveston ("Lessor") and **LANDRY'S, LLC**, a Delaware limited liability company ("Lessee").

WHEREAS, Lessor and The Woodlands Corporation, a Delaware corporation ("TWC"), entered into a Lease and Development Agreement dated May 31, 1990, recorded at Film Code No. 007-05-0460 of the Galveston County real property records (as amended, the "Lease");

WHEREAS, the Lease was amended by (i) a Release of Termination Rights dated April 5, 1991, recorded under Clerk's File No. 9020413, Film Code No. 007-72-1187 of the Galveston County real property records, (ii) a First Amendment to Lease and Development Agreement dated April 5, 1991, recorded under Clerk's File No. 9130509, Film Code No. 007-72-1189 of the Galveston County real property records, (iii) a Second Amendment to Lease and Development Agreement effective December 31, 1993, recorded under Clerk's File No. 9408730, Film Code No. 009-54-0534 of the Galveston County real property records, (iv) a Third Amendment to Lease and Development Agreement effective November 1, 1996, recorded under Clerk's File No. 9647474, Film Code No. 011-46-1356 of the Galveston County real property records, (v) a Fourth Amendment to Lease and Development Agreement effective August 20, 1999, (v) a Fifth Amendment to Lease and Development Agreement effective July 31, 2003, recorded under Clerk's File No. 2003059608, Film Code No. 019-10-1456 of the Galveston County real property records, and (vi) a Sixth Amendment dated effective September 2018, recorded under Clerk's File No. 2018057374 of the Official Public Records of Real Property of Galveston County, Texas;

WHEREAS, TWC assigned all of its right, title and interest in and to the Lease to Strand Harborside Joint Venture, a Texas joint venture ("SHJV") in the Assignment and Assumption of Lease and Development Agreement dated January 29, 1993, recorded under Clerk's File No. 9305683, Film Code No. 008-71-1874 of the Galveston County real property records;

WHEREAS, TWC assigned all of its interest in and to SHJV to Lessee by that Assignment and Assumption of Venture Interest dated effective January 1, 1994 (the "Assignment"), which Assignment was consented to by Lessor by Consent to Assignment dated as of January 1, 1994, by and among Lessor, SHJV, TWC and Lessee ("Consent to Assignment"); and whereas the Assignment effectuated the dissolution of SHJV as a result of Lessee being the sole remaining joint venturer of SHJV after such assignment, Lessee then becoming successor in interest to SHJV;

WHEREAS, certain terms of the Lease were further supplemented or modified by the Consent to Assignment;

WHEREAS, MBP Corp. changed its name to Mitchell Historic Properties, Inc. by Certificate of Amendment to its Articles of Incorporation filed in the Office of the Secretary of State of Texas on January 5, 2017;

APB

WHEREAS, Mitchell Historic Properties, Inc. assigned its rights under the Lease to Lessee in that certain Assignment Agreement effective as of February 28, 2022, which Lessor consented to in Lessor's Consent to Assignment and Assumption of Ground Lease, effective as of February 28, 2022; and

WHEREAS, Lessor and Lessee wish to further amend the Lease as set forth herein.

NOW, THEREFORE, for and in consideration of the sum of \$10 and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Lessor and Lessee agree to the following terms, covenants, and conditions:

1. Definition of Terms. Any capitalized term not otherwise defined herein has the meaning given to it in the Lease.

2. Amendment of Article I of the Lease. Article I of the Lease is deleted in its entirety and is replaced with the language set forth on Exhibit A, which is attached and incorporated by reference.

3. Amendment of Sections 3.02, 3.05 and 3.06 of the Lease. Sections 3.02, 3.05 and 3.06 of the Lease are deleted in their entirety and are replaced with the language set forth on Exhibit B, which is attached and incorporated by reference.

4. Amendment of Section 6.01 of the Lease. Section 6.01 of the Lease is deleted in its entirety and is replaced with the language set forth on Exhibit C, which is attached and incorporated by reference.

5. Amendment of Sections 7.02(d), 7.03, 7.05 and 7.08. Sections 7.02(d), 7.05 and 7.08 of the Lease are deleted in their entirety. Section 7.03 of the Lease is deleted in its entirety and is replaced with the language set forth on Exhibit D, which is attached and incorporated by reference.

6. Amendment of Section 11.01(a). Section 11.01(a) of the Lease is deleted in its entirety and is replaced with the language set forth on Exhibit E, which is attached and incorporated by reference.

7. Amendment of Section 15.02. Section 15.02 of the Lease is hereby deleted in its entirety.

9. Amendment of Section 17.01. Section 17.01 of the Lease is hereby deleted in its entirety and is replaced with the language set forth on Exhibit F, which is attached and incorporated by reference.

9. Addition of Article 20. Article 20 is hereby added to the Lease, with the language thereof set forth on Exhibit G, which is attached and incorporated by reference.

APB

EFFECTIVE the ____ day of _____, 2022 (the "Seventh Amendment Effective Date").

**BOARD OF TRUSTEES OF
THE GALVESTON WHARVES**

By: _____
Rodger E. Rees, Port Director/CEO

Approved as to form:

Anthony P. Brown,
Counsel to the Board of Trustees
of the Galveston Wharves

LANDRY'S, LLC

By: _____
Name: Tilman J. Fertitta
Title: _____

LIST OF ATTACHMENTS

- Exhibit A – Amended Article 1
- Exhibit B – Amended Sections 3.03, 3.05 and 3.06
- Exhibit C – Amended Section 6.01
- Exhibit D – Amended Section 7.03
- Exhibit E – Amended Section 11.01(a)
- Exhibit F – Amended Section 17.01
- Exhibit G – New Article 20

APB

STATE OF TEXAS
COUNTY OF GALVESTON

This instrument was acknowledged before me on the ____ day of March, 2022, by Rodger E. Rees, Port Director/CEO of the **BOARD OF TRUSTEES OF THE GALVESTON WHARVES**, on behalf of said entity.

Notary Public, State of Texas

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on the ____ day of March, 2022, by _____, _____ of **LANDRY'S, LLC**, on behalf of said entity.

Notary Public, State of Texas

APB

EXHIBIT A

ARTICLE 1 – DEMISE OF LEASED PREMISES

Section 1.01 - Leased Premises. Lessor, for and in consideration of the rents, covenants and promises contained in this Agreement and to be kept, performed and observed by Lessee, does hereby lease and demise to Lessee, and Lessee does hereby lease and accept from Lessor, the following:

- (a) Those certain four (4) tracts or parcels of land described as Tract 1A, Tract 1B, the portion of Tract 2 described in Exhibit A-1 attached hereto east of 23rd Street, and Tract 4, and that certain tract or parcel of land described as "Expansion Parcel No. Three," all of which are more fully described in Exhibit A-1 attached hereto, including all bulkheads, pilings, piers, catwalks, or other structures extending northward into the waters immediately adjacent to Expansion Parcel No. Three, the construction of which was completed on or about August 1, 1996;
- (b) A limited, non-exclusive easement to use those three (3) certain tracts or parcels of land described as Tract 7, Tract 8 and Tract 9 in Exhibit A-1 attached hereto (the "Landscape Easement"), for the limited purposes of improving, landscaping and maintaining same at Lessee's expense, with prior written approval by Lessor, and ingress and egress, subject to the right of ingress and egress by Lessor, its agents, employees, tenants, customers, invitees, contractors, suppliers and their customers and invitees; and
- (c) Subject to the limitations of Section 7.06 below, a non-exclusive easement to use that certain tract or parcel of land described as Tract 10 in Exhibit A-1 attached hereto (the "Dock Easement") for the limited purpose of pedestrian ingress and egress over, across and through the Dock Easement by Lessee, Lessee's Subtenants, and their respective guests, customers, licensees and invitees;

(the Landscape Easement and the Dock Easement being herein sometimes collectively referred to herein as the "Easement").

TO HAVE AND TO HOLD the Leased Premises, the Landscape Easement and the Dock Easement, together with all rights, privileges, easements, appurtenances and other interests belonging to or in any way pertaining to the Leased Premises, subject to the encumbrances set forth on Exhibit "C", which is attached and incorporated by reference, and subject to the railroad trackage presently existing on or over the Leased Premises.

RMB

EXHIBIT B

Section 3.02 - Amount and Computation of Rent. Lessee shall pay to Lessor as rent a sum equal to the greater of:

- (a) The "Percentage of Gross Sales", as defined in Section 3.03 below, for each year of the Term, including any Renewal Terms; or
- (b) The minimum rent ("Minimum Rent") commencing with the Seventh Amendment Effective Date and continuing for the remainder of the Term, including any Renewal Terms, shall be \$225,000.00 per year; PROVIDED, HOWEVER, that if Lessee does not commence constructing the Additional Improvements as defined in Section 7.03 below within forty-eight (48) months of the Seventh Amendment Effective Date, the Minimum Rent shall increase to \$500,000.00 per year (prorated for any partial calendar year in which the revised Minimum Rent goes into effect) and shall increase \$10,000.00 per year (prorated for any partial calendar year in which the revised Minimum Rent goes into effect) for each successive twelve (12) month period if Lessor has not commenced the construction of the Additional Improvements by that time. The term "commencing construction," as used in this Section 3.02, shall mean (a) Lessee is contractually obligated to the expenditure of at least \$1,000,000 for the construction of Additional Improvements and (b) the commencement of site work has begun.

Section 3.05 - Parking Revenues. Lessee shall have the right to operate parking facilities within Tracts 1A, 1B, 2 and 4 of the Leased Premises (the "Parking Areas"), subject to the provisions of Article 6 below.

Section 3.06 – Delinquency. All amounts payable pursuant to this Article 3 that are not paid when due shall bear interest at the rate of eight percent (8%) per annum.

APB

EXHIBIT C

Section 6.01 – General Provisions. The Leased Premises may be used for the purpose of the construction and operation of a retail/wholesale waterfront commercial development, which may include outlets for the sale and provision of goods and services to the public, restaurants, bars, hotels, motels, residential rental units, offices, museums, and a small boat basin constructed in Tract 1A for the docking of pleasure craft and recreational vessels ("Lessee's Boat Basin"), together with related offices, parking facilities and other facilities incidental or appurtenant thereto, subject to subsection (d) below. No part of the Leased Premises shall be used for:

- (a) The docking or berthing of any floating vessel containing a "gambling place", a "gambling device", or "gambling paraphernalia" as those terms are defined in Section 47.01 of the Texas Penal Code or any similar or successor statute;
- (b) Any illegal, obnoxious or offensive activity;
- (c) The storage, handling, or other usage of any radioactive or hazardous materials; or
- (d) Intentionally providing overnight parking for cruise passengers cruising from the Port of Galveston.

Lessee shall post and maintain reasonable signage notifying visitors of the Leased Premises that parking structures located on the Leased Premises is not available for overnight cruise passenger parking at (1) each entrance to parking garages and any other parking structures located on the Leased Premises, and (2) each parking ticket entry machine on the Leased Premises. Lessor agrees that Lessee's obligations under the immediately preceding sentence shall be deemed satisfied if such signage states the following: "Parking for Pier 21/Harbor House visitors and guests only."

DPB

EXHIBIT D

Section 7.03 - Construction of Additional Improvements by Lessee. Within forty-eight (48) months after the Seventh Amendment Effective Date Lessee shall have commenced construction upon the Leased Premises additional improvements which may include retail, amusement, office, restaurant, bar, hotel and/or residential facilities together with parking and other support facilities reasonably required for the operation of the additional improvements (the "Additional Improvements"). Lessee must submit plans for the Additional Improvements to Lessor for review at least two (2) months prior to commencement of construction. Lessor shall have fifteen (15) days thereafter to provide comments to such plans. Lessee agrees to review and consider in good faith any comments provided by Lessor. If Lessee fails to comply with this Section 7.03, Lessor's sole remedy, notwithstanding any other provision of this Lease to the contrary, shall be to increase the Minimum Rent shall be to increase the Minimum Rent as provided in Section 3.02. Following completion, the Additional Improvements shall be considered part of the Improvements. The Additional Improvements shall be located so as to not interfere with the location and construction of the Cruise Corridor roadway described in Section 20.02 below. Lessor and Lessee will reasonably cooperate to ensure that plans for the Additional Improvements do not interfere with the location of the Cruise Corridor.

APD

EXHIBIT E

Section 11.01 - Insurance. (a) Casualty Insurance. During the period of construction of any Improvement on the Leased Premises and at all times thereafter during the term of this Agreement, Lessee shall keep the Improvements insured under a standard all risk insurance policy with such responsible insurance companies duly authorized to transact business in the State of Texas, and in amounts not less than the full replacement value of the Improvements, provided, that reasonable deductibles and/or self-insured retentions shall be acceptable. All insurance provided by Lessee and Lessor pursuant to this Section 11.01(a) shall name both Lessor and Lessee as insureds, as their interests may appear. At any time that there is a lien on the leasehold estate complying with the provisions of Article 8 hereof, said insurance, at Lessee's option, may contain a loss payable clause in favor of any mortgagee or trustee in connection with any such mortgage or lien under the terms of which any proceeds will be payable solely to such mortgagee or trustee. All such insurance shall be issued by companies as required by any such mortgagee or trustee, if so required.

DAB

EXHIBIT F

Section 17.01 - Delivery of Rents and Notices. All rents or other sums, notices, demands, or requests from one party to another shall be in writing and shall be personally delivered or sent by mail, certified or registered, postage prepaid, to the addresses stated in this Section, and shall be deemed to have been given at the time of receipt. All payments, notices, demands, or requests to Lessor shall be delivered to Lessor at 123 Rosenberg, 8th Floor, Galveston, Texas 77550, attention of the Port Director/CEO, with a copy to Anthony P. Brown, 802 Rosenberg, Galveston, Texas 77550, or at such other address as Lessor shall request in writing. All payments, notices, demands, or requests to Lessee shall be given to Lessee at 1510 West Loop South, Houston, Texas 77027, Attn: Steven L. Scheinthal, with copy to Lessee at 1510 West Loop South, Houston, Texas 77027, Attn: Dash Kohlhausen, or at such other address as Lessee shall request in writing.

APB

EXHIBIT G

ARTICLE 20 – ADDITIONAL AGREEMENTS

Section 20.01 – Lessor’s Agreement Not to Conduct Certain Operations. Lessor agrees that during the Term of this Lease, Lessor’s future development of the Port of Galveston on Tracts 3, 5, 6, 11 (all as described in Exhibit A to the original Lease), or the portion of Tract 2 described in Exhibit A-1 attached hereto west of 23rd Street will not include Lessor’s direct or indirect operation, leasing, licensing or management of hotels, amusement facilities or full service restaurants, without Lessee’s prior written consent which Lessee shall not unreasonably withhold.

Section 20.02 – Cruise Corridor Roadway. Lessee acknowledges and understands that Lessor is in the process of constructing a new public “Cruise Corridor” roadway, funded in part by grants from the Texas Department of Transportation, which will be at least fifty feet wide, running in a generally east-west direction, north of Harborside Drive, and which will cross the Leased Premises. Lessor agrees that it will consult with Lessee when determining the specific location at which the road will cross the Leased Premises; provided, however, absent an agreement between Lessor and Lessee (a) such road will be situated generally in the vicinity of the existing road shown in Lessor’s “20 Year Master Plan Draft” dated June 2019; and (b) such roadway shall not adversely impact Lessee’s operation or improvements located on the Leased Premises. Lessee shall not construct any improvements in the vicinity of such road, as shown in said 20 Year Master Plan Draft. Once constructed, (x) the portion of this roadway crossing the Leased Premises will no longer be part of the Leased Premise, and (y) Lessee shall have an easement over, under and across such roadway for purposes of ingress and egress and such other uses incidental to Lessee’s operation of the Leased Premises for Lessee, its Subtenants, licensees and invitees.

Section 20.03 – Special Dockage Charge for the Vessel *Boardwalk*.

- (a) Lessor agrees that notwithstanding the dockage charges set forth in The Board of Trustees of the Galveston Wharves Tariff No. 7, which may be amended from time to time (the “Tariff”), during the Term of the Agreement Lessee shall have a preferential right to tie up a Controlled Vessel (defined below) at the Pier 21 berth in accordance with the provisions for Pier Assignment under Section 100 of the Tariff, except on Lessor Preferential Dates (also defined below). Additionally, during each calendar year of the Term, including any Renewal Terms, Lessee shall receive discounts in dockage charges otherwise payable under the Tariff of (1) twenty-five percent (25%) for the first 60 aggregate days during which the Vessels *Boardwalk* (of Georgetown, C.I.), *Boardwalk* (of The Creek, C.I.), or any future Vessel which may be owned by Lessee or Lessee’s corporate affiliates or its ultimate majority shareholder (collectively “Controlled Vessels” and each a “Controlled Vessel”), are docked at Pier 21, and (2) fifty percent (50%) for the sixty-first (61st) day and each additional day thereafter during which Controlled Vessels are docked at Pier 21. For the avoidance of doubt, (a) only one Controlled Vessel at a time will have the preferential right to tie up at the Pier 21 berth and receive the discounted dockage rate described herein; (b) all days during which a Controlled Vessel is docked at the Pier 21 berth will be counted toward the day totals set forth in clauses (1) and (2) above; (c) there shall be no requirement that any days be consecutive in order to satisfy the day totals set forth in clauses (1) and (2) above; and (d) all other terms and charges

APB

under the Tariff shall apply to the Controlled Vessel. Commencing as of the Seventh Amendment Effective Date and until the end of the Term, if Lessor offers or charges a dockage charge which is lower than the rates stated herein to a paying third party vessel tying up at the Pier 21 berth, then Lessor agrees, effective as of the date that such rate was offered or charged, to reduce the rates charged on the Controlled Vessels to any amount equal to such third party rate.

- (b) On or before January 1 of each calendar year of the Term, Lessee will notify Lessor in writing of the dates on which Lessee reasonably plans to tie up a Controlled Vessel at the Pier 21 berth during said calendar year ("Lessee Preferential Dates"); provided, however absent notice by Lessee to the contrary, the four week period preceding Ash Wednesday and the four week period following Ash Wednesday shall be deemed to be Lessee Preferential Dates each calendar year, regardless of whether Lessee has timely submitted a notice. Lessee shall have a preferential right to tie up a Controlled Vessel on Lessee Preferential Dates, provided that none of the dates on the list has already been designated as a Lessor Preferential Date (defined below).
- (c) From time to time, Lessor may use the Pier 21 berth for special events of public interest, such as (by way of example and not limited to) christening or other ceremonies for United States Navy vessels, ceremonial Port Calls by foreign naval vessels, and port calls by seaworthy historically significant vessels. The specific dates during which such special events occur are "Lessor Preferential Dates." Lessor shall notify Lessee promptly and in writing of any Lessor Preferential Dates. If Lessor notifies Lessee of any Lessor Preferential Dates prior to January 1 of a calendar year, Lessee shall not include those Lessor Preferential Dates on its list of Lessee Preferential Dates for that calendar year (except for the four-week period preceding Ash Wednesday and the four-week period following Ash Wednesday each calendar year). Additionally, Lessor may designate additional Lessor Preferential Dates during a calendar year on dates that were not included in Lessee's list of Lessee Preferential Dates, or otherwise deemed to be Lessee Preferential Dates, for that calendar year.
- (d) Lessee will also have a preferential right to tie up a Controlled Vessel on any dates during a calendar year of the Term which are not Lessor Preferential Dates, even if those dates were not included in Lessee's list of Lessee Preferential Dates.

DAB

EXHIBIT A-1

May 9, 1990 (Revised June 26, 1990)

Metes & Bounds Descriptions of eight Tracts, identified as Tracts 1-A, 1-B, 2, 4, 7, 8, 9, and 10, all being out of Blocks 740, 741 and 742, part of 20th., 21st. and 22nd. Streets, and part of the Michael B. Menard Survey, all in the City of Galveston, Galveston County, Texas.

TRACT 1-A

All of Block 740, part of Block 741, that part of 21st. Street that lies West of Block 740 and East of Block 741, and part of the Michael B. Menard Survey, all in the City of Galveston, in Galveston County, Texas, and being more fully described by metes and bounds as follows;

BEGINNING at the Southeast corner of said Block 740;

THENCE South $73^{\circ}20'20''$ West, along the South line of Block 740, across 21st. Street, and along the South line of Block 741, and along the North line of Port Industrial Boulevard (Avenue A), a distance of 680.00 feet to a point for corner;

THENCE North $16^{\circ}39'40''$ West, along the West line of Block 741 and the East line of 22nd. Street, a distance of 54.80 feet to a point for corner;

THENCE North $12^{\circ}20'28''$ East, 19.13 feet; North $48^{\circ}59'31''$ East, 57.60 feet; and North $57^{\circ}47'20''$ East, 92.20 feet to a point for corner in the North line of Block 741, and being 149.42 feet West of the Northeast corner of Block 741;

THENCE North $16^{\circ}39'40''$ West, a distance of 40.24 feet to a point for corner;

THENCE North $57^{\circ}47'20''$ East, a distance of 65.00 feet to a point for corner;

THENCE North $25^{\circ}22'41''$ West, a distance of 244.27 feet to a point for corner;

THENCE North $64^{\circ}37'18''$ East, parallel with and 65 feet perpendicularly distant South of the Galveston Harbour line, a distance of 510.02 feet to a point of intersection with the Northerly projection of the West line of 20th Street;

THENCE South $16^{\circ}39'40''$ East, along a Northerly projection of the West line of 20th. Street, at 378.49 feet passing the Northeast corner of said Block 740, a total distance of 498.38 feet to the PLACE OF BEGINNING, containing 245,694 square feet of land, more or less.

NAB

Revised: 5-31-90
6-07-90

TRACT 1-B

Part of the Michael B. Menard Survey in the City of Galveston, in Galveston County, Texas, and being more fully described by metes and bounds as follows;

COMMENCING at the Southeast corner of Block 740;

THENCE North $16^{\circ}39'40''$ East, at 120 feet passing the Northeast corner of said Block 740, a total distance of 498.49 feet to a point for corner lying in the Southerly edge of a 60 foot concrete pier; South $64^{\circ}37'18''$ West, along and with said 60 foot concrete pier, a distance of 465.02 feet to the POINT OF BEGINNING:

THENCE South $64^{\circ}37'18''$ West, a distance of 45.00 feet to a point for corner;

THENCE North $25^{\circ}22'41''$ West, a distance of 65.00 feet to a point for corner lying in the Southerly line of the Galveston Harbour;

THENCE North $64^{\circ}37'18''$ East, along and with said Southerly line of Galveston Harbour, a distance of 45.00 feet to a point for corner;

THENCE South $25^{\circ}22'41''$ East, a distance of 65.00 feet to the POINT OF BEGINNING and containing 2,925.0 square feet of land, more or less.

APP

Revised: 5-31-90
6-07-90

TRACT 2

Part of Block 742, part of Block 743, that part of 23rd. Street that lies West of Block 742 and East of Block 743, and part of the Michael B. Menard Survey, all in the City of Galveston, in Galveston County, Texas, and being more fully described by metes and bounds as follows;

BEGINNING at the Southeast corner of Block 742;

THENCE South $73^{\circ}20'20''$ West, along the South line of Block 742, across 23rd. Street, and along the South line of Block 743, and along the North line of Port Industrial Boulevard (Avenue A), a distance of 680.00 feet to a point for corner being the Southwest corner of Block 743;

THENCE North $16^{\circ}39'40''$ West, along the West line of Block 743 and the East line of 24th. Street, a distance of 12.30 feet to a point for corner;

THENCE in a Northeasterly direction along a curve to the left having a radius of 1833.80 feet and a central angle of $2^{\circ}43'55''$, the long chord of which bears North $63^{\circ}40'46''$ East, 87.43 feet, a distance of 87.44 feet along the arc to a point of tangency;

THENCE North $61^{\circ}40'20''$ East, a distance of 429.10 feet to a point of curve to the right;

THENCE Northeasterly, along the arc of a curve to the right having a radius of 1107.90 feet and a central angle of $8^{\circ}20'01''$, the long chord of which bears North $65^{\circ}50'20''$ East, 161.00 feet, a distance of 161.14 feet along the arc to a point for corner;

THENCE South $60^{\circ}03'56''$ East, a distance of 20.31 feet to the Northeast corner of Block 742;

THENCE South $16^{\circ}39'40''$ East, along the East line of Block 742, a distance of 120.00 feet to the PLACE OF BEGINNING, and containing 53,152.4 square feet of land, more or less.

APB

TRACT 4

Part of Block 741 and part of the Michael B. Menard Survey, all in the City of Galveston, in Galveston County, Texas, and being more fully described by metes and bounds as follows;

BEGINNING at a point lying in the West line of Block 741, the same being the East line of 22nd. Street, said point being North $16^{\circ}39'40''$ West, a distance of 54.80 feet from the Southwest corner of said Block 741;

THENCE North $16^{\circ}39'40''$ West, at 65.20 feet passing the Northwest corner of said Block 741, a total distance of 105.44 feet to a point for corner;

THENCE North $73^{\circ}20'20''$ East, parallel with the North line of Block 741, a distance of 86.36 feet to a point for corner;

THENCE North $57^{\circ}47'20''$ East, a distance of 21.00 feet to a point for corner;

THENCE North $19^{\circ}40'49''$ West, a distance of 115.98 feet to a point for corner;

THENCE South $89^{\circ}46'20''$ East, a distance of 14.50 feet to a point for corner;

THENCE South $19^{\circ}40'49''$ East, a distance of 117.42 feet to a point for corner;

THENCE North $73^{\circ}20'20''$ East, a distance of 30.00 feet to a point for corner;

THENCE South $16^{\circ}39'40''$ East, a distance of 40.24 feet to a point for corner lying in the North line of Block 741 and being 149.42 feet South $73^{\circ}20'20''$ West of the Northeast corner of said Block 741;

THENCE South $57^{\circ}47'20''$ West, a distance of 92.20 feet to a point for corner;

THENCE South $48^{\circ}59'31''$ West, a distance of 57.60 feet to a point for corner;

THENCE South $12^{\circ}20'28''$ West, a distance of 19.13 feet to the POINT OF BEGINNING and containing 11,300 square feet of land, more or less.

NPB

Revised:6-26-90

TRACT 7

All that part of 20th. Street that lies West of Block 739 and East of Block 740 and part of the Michael B. Menard Survey, all in the City of Galveston, in Galveston County, Texas, and being more fully described by metes and bounds as follows;

BEGINNING at the Southeast corner of Block 740;

THENCE North $16^{\circ}39'40''$ West, along the East line of Block 740, the same being the West line of 20th. Street, at 120 feet passing the Northeast corner of Block 740, a total distance of 498.38 to a point for corner in the South boundary of the Galveston Harbour Line;

THENCE North $64^{\circ}37'18''$ East, a distance of 80.93 feet to the point of intersection with the Northerly projection of the East line of 20th. Street;

THENCE South $16^{\circ}39'40''$ East, along the Northerly projection of the East line of 20th. Street, at 390.76 feet passing the Northwest corner of Block 739, a total distance of 510.65 feet to a point for corner in the North line of Port Industrial Boulevard and being the Southwest corner of Block 739;

THENCE South $73^{\circ}20'20''$ West, along the North line of Port Industrial Boulevard and across 20th. Street, a distance of 80.00 feet to the PLACE OF BEGINNING and containing 40,367 square feet of land, more or less.

DPB

Revised 5-11-90
6-07-98

TRACT 8

All that part of 22nd. Street that lies West of Block 741 and East of Block 742 and part of the Michael B. Menard Survey, all in the City of Galveston, in Galveston County, Texas, and being more fully described by metes and bounds as follows;

BEGINNING at the Southwest corner of Block 741;

THENCE South $73^{\circ}20'20''$ West, along the North line of Port Industrial Boulevard and across 22nd. Street, a distance of 80.00 feet to a point for corner being the Southeast corner of Block 742;

THENCE North $16^{\circ}39'40''$ West, along the East line of Block 742, at 120.00 feet passing the Northeast corner of Block 742, a total distance of 163.66 feet to a point for corner;

THENCE in a Easterly direction, North $84^{\circ}56'46''$ East, a distance of 16.99 feet, and North $73^{\circ}20'20''$ East, a distance of 63.35 feet to the point of intersection with the Northerly projection of the East line of 22nd. Street;

THENCE South $16^{\circ}39'40''$ East, along the Northerly projection of the East line of 22nd. Street, at 40.24 feet passing the Northwest corner of Block 741, a total distance of 160.24 feet to the **PLACE OF BEGINNING** and containing 12,847.7 square feet of land, more or less.

DAB

Revised:6-26-90

TRACT 9

Part of the Michael B. Menard Survey in the City of Galveston, in Galveston County, Texas, and being more fully described by and bounds as follows;

BEGINNING at a point lying in the Northerly projection of the East line of 20th. Street, said point being North 16°39'40" West, a distance of 125.9 feet from the Northwest corner of Block 739;

THENCE North 16°39'40" West, along and with said Northerly projection, a distance of 22.5 feet to a point for corner;

THENCE North 61°42'00" East, parallel with the Northerly edge of a 20 foot concrete roadway (Old Wharf Road), a distance of 272.0 feet to a point for corner;

THENCE North 28°18'00" West, a distance of 29.0 feet to a point for corner in an existing wooden bulkhead;

THENCE North 61°42'00" East, along the line of said existing wooden bulkhead, a distance of 262.5 feet to a point for angle;

THENCE North 57°07'15" East, continuing along said bulkhead, a distance of 321.7 feet to a 3 inch iron fence post for corner;

THENCE North 35°56'05" East, along and with said fence, a distance of 72.3 feet to a point for corner;

THENCE in a Southeasterly direction, South 36°06'55" East, a distance of 128.4 feet; South 17°44'16" East, a distance of 56.4 feet; and South 54°46'28" East, a distance of 49.8 feet;

THENCE South 16°39'40" East, a distance of 22.0 feet to a point for corner;

THENCE South 73°20'20" West, parallel with the north line of Blocks 738 and 739, and the South edge of a 20 foot concrete roadway (Old Wharf Road), a distance of 697.0 feet to a point for angle;

THENCE South 61°42'00" West, continuing parallel with said concrete roadway, a distance of 267.0 feet to the **POINT OF BEGINNING** and containing 93,643 square feet of land, more or less.

ADD

Revised:6-26-90

TRACT 10

Part of the Michael B. Menard Survey in the City of Galveston, in Galveston County, Texas, and being more fully described by metes and bounds as follows;

COMMENCING at the Southeast corner of Block 740;

THENCE North $16^{\circ}39'40''$ West, along and with the East line of said Block 740, at 120 feet passing the Northeast corner of said Block, a total distance of 498.49 feet to a point lying in the Southerly edge of a 60 foot concrete pier and being the POINT OF BEGINNING;

THENCE South $64^{\circ}37'18''$ West, along the Southerly edge of said 60 foot concrete pier, a distance of 465.02 feet to a point for corner;

THENCE North $25^{\circ}22'41''$ West, a distance of 65.00 feet to a point for corner lying in the Southerly line of the Galveston Harbour;

THENCE in an Easterly direction, along and with the Southerly line of Galveston Harbour, North $64^{\circ}37'18''$ East, a distance of 305.02 feet, and North $62^{\circ}17'29''$ East, a distance of 252.68 feet to the point of intersection with the Northerly projection of the East line of 20th. Street;

THENCE South $16^{\circ}39'40''$ East, along said Northerly projection, a distance of 76.15 feet to a point for corner;

THENCE South $64^{\circ}37'18''$ West, a distance of 80.93 feet to the POINT OF BEGINNING and containing 37,090 square feet of land, more or less.

APB

EXPANSION PARCEL THREE

Beginning at a point on the northwest corner of the bulkhead at the southwest corner of Pier 22 Slip;

Thence in an easterly direction for a distance of 356'2" along the north edge of the pile cap to an angle point end cap;

Thence to the left at an angle of 34°21' for a distance of 61' to a point for corner;

Thence to the right at an angle of 125°23' for a distance of 111'5" to a point for corner;

Thence to the right at an angle of 76°54' for a distance of 21' to a point for corner;

Thence to the right at an angle of 12°23' for a distance of 168'6½" to a point 6" north of road from Pier 23 to 22nd Street;

Thence in a westerly direction 6" north of an parallel to road for a distance of 223' to a point for corner;

Thence to the right in a northwesterly direction 6" northeast of and parallel to road to the point of beginning.

APB