To enrich lives through effective and caring service

LOS ANGELES COUNTY
Caring for Your Coast
Department of Beaches & Harbors

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

June 14, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

SEA WORLD UCLA RESEARCH VESSEL'S REVOCABLE NO-FEE PERMIT FOR USE OF DOCK BERTHS AT BURTON CHACE PARK IN EXCHANGE FOR SERVICES RENDERED TO THE DEPARTMENT OF BEACHES AND HARBORS' W.A.T.E.R. PROGRAM
(4th DISTRICT)
(3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that approval of a three-year no-fee Permit (Attachment I) for use of a County-operated dock at Burton Chace Park in Marina del Rey by the *Sea World UCLA* Research Vessel is categorically exempt from the provisions of the California Environmental Quality Act (CEQA).

2. Approve and instruct the Director of the Department of Beaches and Harbors (Director) to grant the three-year no-fee Permit (Attachment I) that annually waives $11,862.50 in County fees in exchange for 28 annual educational field trips provided to youth enrolled in the Department of Beaches and Harbors' (Department) Water Awareness, Training, Education and Recreation (W.A.T.E.R.) Program.

3. Authorize the Director to consent to one three-year optional extension of the Permit.

4. Authorize the Director to execute nonmaterial amendments to the Permit during the potential total six-year term.

13837 Fiji Way • Marina del Rey • CA 90292 • 310.305.9503 • fax 310.821.6345 • internet: http://marinadelrey.lacounty.gov

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

The Department issued a Board-approved revocable Permit on July 1, 2001 to the Regents of the University of California (Permittee) for use of a dock at Burton Chace Park by the *Sea World UCLA* Research Vessel. As the 2001 Permit allowed, the Permittee requested a three-year extension of the Permit, which was granted by the Department to commence on July 1, 2004. Accordingly, the 2001 Permit will expire on June 30, 2007.

The Permittee has requested a new three-year Permit commencing July 1, 2007, with one three-year extension, which will continue to allow the *Sea World UCLA* Research Vessel to dock at berths 101 and 102 of the County-operated transient docks at Burton Chace Park in Marina del Rey (Chace Park) without the imposition of docking fees. In exchange, the Permittee will conduct 28 annual field trips for youth participating in the Department's WA.T.E.R. Program, with the Permit providing a credit of one field trip of the 28 annual field trips to compensate the Permittee for moving costs each time the County requests a relocation of the *Sea World UCLA* Research Vessel. The field trips will be approximately one-half day in length, accommodating both youth and their supervisors, and will be held on board the *Sea World UCLA* Research Vessel (accommodating up to 35 people per trip).

The educational field trips will continue to benefit the underprivileged inner-city youth who participate in the W.A.T.E.R. Program. Experiences on the *Sea World UCLA* Research Vessel will offer them a unique, high-quality educational experience that otherwise might be unavailable to them. They will be provided with lessons in oceanography, marine organisms and navigation, as well as participate in surface and bottom trawls on the Vessel wherein live marine organisms are temporarily pulled from the ocean for study and interaction with the youth. They will also be instructed in the ecology of Santa Monica Bay and will discuss phenomena such as El Niño, red tides and storm patterns. The *Sea World UCLA* Research Vessel will normally operate both in Marina del Rey and, when ocean conditions allow, several miles from shore between the El Segundo and Santa Monica Beaches.

Implementation of Strategic Plan Goals

The service obtained through this Permit for the W.A.T.E.R. Program helps to promote particularly the County's Strategic Plan Goal of "Children and Families' Well-Being", as via this Permit, the Department is able to significantly enrich the range of experiences available to W.A.T.E.R. Program participants. Issuance of this Permit also promotes the County's Strategic Plan Goal of "Organizational Effectiveness" by encouraging

cooperation across jurisdictional boundaries to deliver a quality experience for needy inner-city youth.

FISCAL IMPACT/FINANCING

The value of the docking space at Chace Park, according to the current fee schedule, is $32.50 per day for the *Sea World UCLA* Research Vessel (a 65-foot vessel), or $11,862.50 for its contemplated annual use of the dock. Because the transient docks as a whole operate at much less than full capacity throughout the year, there will not be a compounding of the actual loss of fees due to other paying vessels not having slips at which to berth. In return, the County is annually receiving 28 group field trips valued at $500 per trip aboard the *Sea World UCLA* Research Vessel, for a total annual value of $14,000, minus one field trip each time the County requests the relocation of the *Sea World UCLA* Research Vessel to compensate Permittee for moving costs associated with complying with the County's request. In exchange for the relatively minimal loss in docking fees, the Permittee will be providing the County with a significant educational program for the inner-city youth who participate in the W.A.T.E.R. Program.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Director will issue the Permit (Attachment I), in accordance with the authority granted to the Director by Los Angeles County Code Section 2.116.020, upon approval by your Board. The Permit is for the period July 1, 2007 through June 30, 2010 and may be extended for one three-year period by the Director or canceled on 30 days' notice at any time and at his sole discretion.

The Permit has been reviewed by County Counsel and the CAO's Risk Management Branch to ensure compliance with County indemnification, insurance and other standard provisions.

The Small Craft Harbor Commission recommended this Permit at its June 13, 2007 meeting.

Because the transient docks at Chace Park provide other accommodations for vessels the size of the *Sea World UCLA* Research Vessel, and because the transient docks are rarely used at full capacity, the impact, if any, of this Permit on the ability of other vessels to use these public docks will be de minimis. In addition, if an urgent need arises for the County to use the *Sea World UCLA* Research Vessel berths, the Permit provides that the Department can, with 30 days' notice, direct the Permittee to make arrangements to relocate the vessel to another venue at its own expense.

The UCLA Marine Science Center directly operates the *Sea World UCLA* Research Vessel for ocean research and educational purposes and has no connection to the SeaWorld complex in San Diego.

CONTRACTING PROCESS

Not applicable.

ENVIRONMENTAL DOCUMENTATION

Approval of this Permit is categorically exempt from the provisions of CEQA pursuant to Class 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of this no-fee Permit will enable the Department to substantially increase the quality of the educational experience for participants in its W.A.T.E.R. Program at no direct cost to the County.

Respectfully submitted,

Kerry Silverstrom
for
Stan Wisniewski, Director

SW:KS:DC:CML:ks
Attachment (1)
c: Chief Administrative Officer
County Counsel

LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS

SEA WORLD UCLA RESEARCH VESSEL'S REVOCABLE NO-FEE PERMIT FOR USE OF DOCK AT BURTON CHACE PARK

1 GENERAL CONDITIONS

1.1 Parties. This Permit is issued by the County of Los Angeles (the "County") to The Regents of the University of California ("Permittee"). It is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture or association between the County and the Permittee.

1.2 Recitals. The County issued the Permittee a revocable no-fee Permit on July 3, 2001 for use of a dock at Burton Chace Park for the *Sea World UCLA* Research Vessel (the "Vessel"). In return for free dockage at the Department's dock, the Permittee provided recreational and educational ocean field trips aboard the Vessel, as well as to the Santa Monica Pier Aquarium.

The Permittee requested a three-year extension of the 2001 Permit on May 28, 2004. The County granted this request and issued a three-year extension Permit to commence on July 1, 2004. The Permittee's revocable non-fee extension Permit is due to expire on June 30, 2007.

The County desires to continue to provide ocean-related educational and recreational opportunities for participants in the Water Awareness, Training, Education and Recreation (W.A.T.E.R.) Program administered by the Department of Beaches and Harbors (the "Department"). In accordance with Los Angeles County Code Section 2.116.020, the Director of the Department of Beaches and Harbors (the "Director"), subject to the authority of the Board of Supervisors, may license the use of portions of the harbors and beaches. The Permittee desires to use a dock operated by the Department in the Marina del Rey Small Craft Harbor for the Vessel. As with the 2001 Permit, in return for free dockage at the Department's dock, the Permittee desires to continue to provide recreational and educational ocean field trips aboard the Vessel as described in this Permit.

2 INTERPRETATION

2.1 Headings. The headings contained in the Permit are for convenience and reference only. They are not intended to define or limit the scope of any provision of the Permit.

2.2 Definitions. The following words shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used:

- *County.* The County of Los Angeles.
- *Department.* The Los Angeles County Department of Beaches and Harbors.
- *Director.* The Director of the Department.
- *Permittee.* The Regents of the University of California.
- *Premises.* The County real property and improvements described in Section 3.2.
- *Vessel. Sea World UCLA* Research Vessel, which is a Sportfisher Yacht 65 feet long and 60 tons.

3 SCOPE OF PERMIT

3.1 Permit. The County permits the Permittee, and the Permittee accepts, the privilege to use the Premises, as described in Section 3.2. The Permittee may dock the Vessel at the specified berths and may conduct such operations involving the Vessel as are usual and customary in the conduct of its educational and scientific mission, in accordance with the terms and conditions stated in this Permit. The Permittee

expressly understands that the privilege granted is a permit, not a lease, and is a revocable and unassignable permission and privilege to occupy the Premises for the uses described in this Permit. This Permit does not grant or reserve to the Permittee any interest in any real property or estate.

3.2 **Premises.** The premises subject to this Permit are the dock operated by the County at Chace Park in Marina del Rey and designated berths 101 and 102.

3.3 **Need to Vacate Premises.** Twice a year, the Permittee may need to temporarily relocate its Vessel from the Premises for two special events held at Burton Chace Park: Discover Marina del Rey and the In the Water Boat Show. The Permittee may also need to temporarily vacate the Premises at other times and durations as directed by the County. The County will give the Permittee a 30-day advance written notice for each move of the Vessel.

4 **TERM.** The permit shall be effective on July 1, 2007, and shall expire June 30, 2010, unless earlier revoked by the Director. The Director may, in his sole discretion, revoke the permit on 30 days' written notice to the Permittee. The Permit may be extended for one three-year period at the sole discretion of the Director upon the Permittee's request.

5 **CONDITIONS OF USE**

5.1 **Fees.** In consideration of the services to be rendered by the Permittee as a condition of use, the County's fees for use of the Premises are waived.

5.2 **Permittee's Improvements.** The Permittee may build or install no improvements except those specifically approved in writing and in advance by the Department. The Permittee, as a condition of use, shall provide and install dock cleats on the Premises that are able to bear the Vessel's weight when berthed. The Permittee shall promptly remove all improvements and personal property upon the termination of this Permit. Construction of all improvements shall conform to the applicable requirements of all local, county, state and federal agencies. Evidence of authorization for all improvements to be built or installed by Permittee shall be filed with the Department in advance of any such work.

5.3 **Permittee's Repair of Premises.** The Permittee will repair or replace any and all County property lost, damaged or destroyed as a result of or connected with the conduct or activities of the Permittee. In addition, before the Permittee vacates the Premises as a result of the termination or expiration of this Permit, the Director or his authorized representative shall inspect the Premises to determine repairs the Permittee must perform. Should Permittee fail to promptly make repairs to the satisfaction of the County, the County may have repairs made and Permittee shall be responsible to reimburse County for costs incurred by County, plus maximum interest allowed by law.

5.4 **Surrender of Premises.** Upon the expiration of the term of this Permit or any other termination, the Permittee shall promptly and peaceably vacate the Premises and deliver them to the County.

5.5 **Right of Inspection.** The County and its fully authorized representatives or agents may enter upon the Premises at any and all times during the term of the Permit for the purpose of determining whether the Permittee is complying with the Permit terms and conditions, or for any other purpose incidental to the County's rights.

5.6 **Cessation of Use.** In the event that an authorized representative of the County finds that the Permittee's use of the Premises endangers the health or safety of persons on or near the Premises, the representative may require that this Permit immediately be terminated until said endangering use ceases.

5.7 **Utilities.** The Permittee shall pay all bills and charges for utilities.

5.8 **Parking.** The County undertakes no obligation to provide parking for the Permittee in connection with this Permit.

5.9 **Signage.** The Permittee may not place any form of advertising material, signs or structures on or about the Premises except as authorized in writing by the Director.

5.10 County's Obligations to Repair. Permittee accepts the Premises in the present state and condition. The County shall not be required to make any improvements or repairs whatsoever. However, the County may, in its sole discretion, perform dredging, filling, grading, slope protection, construction of seawalls, repair of water systems, sewer repair, road repair or repair of other County facilities in order to protect County property. The right of the County to undertake such work shall not be construed as a duty of the County to the Permittee to perform any repair or build any improvement.

5.11 Supervision. The Permittee shall supervise and direct the Permittee's educational and scientific programs and shall supervise the County's staff and W.A.T.E.R. Program participants while they are on the Premises or the Permittee's Vessel.

5.12 Permittee's Services. The Permittee shall provide the services described in this Section on mutually agreed-upon dates during the term of the Permit, recognizing that the services should be rendered on a year-round basis and especially during the W.A.T.E.R. Program participants' school vacation periods to afford the greatest degree of access. The Permittee shall annually provide 28 field trips of approximately ½ day each aboard the Vessel, accommodating W.A.T.E.R. Program participants and their adult supervisors, although the number of field trips may vary depending on conditions outlined in Section 5.13 below. The itinerary and subject matter of all field trips are subject to the mutual agreement of the County and the Permittee.

5.13 Credit for Relocation of Vessel. The Permittee shall be allowed an annual credit of one field trip for each required relocation of the Vessel from the Premises, as outlined in Section 3.3 above, to compensate the Permittee for moving costs. This credit will reduce the annual number of field trips owed to the County by the Permittee as outlined in Section 5.12 above.

5.14 Unused Field Trips. If the County does not completely use its annual allotment of field trips in any one year, then all unused field trips from that year will carry over into the next year of the Permit and thus be required of Permittee as additional field trips in that next year. All unused field trips from any year can only accumulate for one year.

5.15 Taxes and Assessments. The Permittee shall pay before delinquency all lawful personal property taxes, assessments, fees or charges, if any, which at any time may be levied by the state, county, or any tax or assessment levying body by reason of Permittee's use or occupancy of the Premises or construction of improvements.

5.16 Coast Guard and Marine Surveyor Inspection. The Permittee shall obtain an inspection certificate from the U.S. Coast Guard and annually demonstrate to the County compliance with Subchapter T, 46 CFR 24-26, which includes renewing the certificate as necessary. In addition, the Permittee shall annually have a marine surveyor inspect the Vessel to verify its safety, seaworthiness, and emergency procedures for all adult and child passengers. The Permittee shall provide a copy of each such certificate and marine surveyor's report to the Department for its review and approval by May 1st of each year this Permit is in effect. Any modifications/repairs to the Vessel recommended or required by the U.S. Coast Guard and/or the marine surveyor must be resolved to the mutual satisfaction of the Permittee and the County.

5.17 Compliance with Federal, State and Local Laws. The Permittee agrees to comply at all times with all applicable federal, state, county and city laws, rules, regulations, ordinances, or codes, and all provisions required by these laws to be included in the Permit are incorporated by reference. The Permittee agrees to indemnify and hold the County harmless from any loss, damage or liability resulting from a violation on the part of the Permittee of such laws, rules, regulations, ordinances, or codes.

6 GOVERNING LAW. The Permit shall be construed in accordance with and governed by the laws of the State of California.

7 INDEMNIFICATION. The Permittee agrees to indemnify, defend and hold harmless the County and its elected and appointed officers, employees and agents from and against any and all liability and expense, including defense costs and legal fees arising from or connected with claims and lawsuits of third

parties for damages relating to the Permittee's Vessel, operations or the Permittee's compliance with the Permit's provisions, including, but not limited to, claims and lawsuits relating to bodily injury, death, personal injury, property damage (including damage to Permittee's property) or economic injury, but only in proportion to, and to the extent that, any and all such liability for damages, costs, expenses or claims for injuries to or death of persons or damage to, destruction, loss or theft of property results from the acts or omissions of the Permittee, its officers, agents, employees or invitees. Permittee shall not be obligated to indemnify for liability and expense arising from the active negligence of the County, its officers, agents, or employees.

8 INSURANCE

8.1 General Requirements. Without limiting the Permittee's indemnification of the County and during the term of this Permit, the Permittee shall provide and maintain at its own expense the following programs of insurance. Such programs and evidence of insurance shall be satisfactory to the County. Certificates or other evidence of coverage and certified copies of additional insured endorsements shall be delivered to the Department of Beaches & Harbors, Community and Marketing Services Division, 4701 Admiralty Way, Marina del Rey, CA 90292, prior to commencing operations on the Premises, shall specifically identify this Permit, and shall contain the express condition that the County is to be given written notice by registered mail at least 30 days in advance of any modification or termination of insurance. Prior to the expiration of such insurance or any renewal or replacement policy, the Permittee shall provide satisfactory proof of a renewal or replacement policy complying with the Permit.

8.2 Liability Insurance. Such insurance or an equivalent program of self-insurance shall be endorsed naming the County of Los Angeles as an additional insured and shall include:

(1) General liability insurance written on a commercial general liability form, or on a comprehensive general liability form or an equivalent program of self-insurance, covering the hazards of premises/operations, advertising, products/completed operations, property damage and personal injury with a combined single limit of not less than $5 million per occurrence. If written with an annual aggregate limit, the aggregate limit shall be not less than three times the required occurrence limit. If written on a claims made form, the Permittee shall be required to provide an extended two-year reporting period commencing upon termination or cancellation of the Permit;

(2) Comprehensive auto liability endorsed for all owned, non-owned and hired vehicles with a combined single limit of not less than $1 million per occurrence; and

(3) Protection and indemnity coverage for marine liability with a limit of not less than $5 million per occurrence.

8.3 Workers' Compensation Insurance. Workers' Compensation Insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability or its equivalent with a $1 million limit covering all persons the Permittee is required to cover.

8.4 Failure to Procure and Maintain Insurance. Failure on the part of the Permittee to procure or maintain the required insurance shall constitute grounds for immediately revoking the Permit. In addition, in the event that the Permittee fails to comply with any of the indemnification or insurance requirements of this Permit, and such failure to comply results in any costs to County, Permittee shall pay full compensation for all costs incurred by County.

8.5 Approved Self-Insurance Program as Alternative. As an alternative to providing commercial insurance policies pursuant to this Section 8, the Permittee may provide the certified statement of an authorized principal or a resolution of the Board of Regents that the Permittee is self-insured for the types and amounts of coverage required by this Section 8. The Permittee agrees to immediately notify the County of any discontinuation or substantial change in such program of self-insurance. If the Permittee elects to be self-insured, the Permittee shall provide the County at least the same defense of suits and payment of claims as would be provided by a primary insurance policy under which the County is a named additional insured, but only in proportion to, and to the extent that, any and all such liability for damages, costs, expenses or claims for injuries to or death of persons or damage to, destruction, loss or theft of property

results from the acts or omissions of the Permittee, its officers, agents, employees or invitees. The Permittee shall notify the County immediately of any claim, judgment, settlement, award, verdict or change in the Permittee's financial condition that would have a significant negative effect on the protection that the self-insurance program provides the County.

8.6 Notification of Incidents, Claims or Suits. Permittee shall report to the County any of the following:

(1) any accident or incident relating to services performed under this Permit that involves injury or property damage which may result in the filing of a claim or lawsuit against Permittee and/or County. Such report shall be made in writing within 24 hours of occurrence;

(2) any third party claim or lawsuit filed against Permittee arising from or related to services performed by Permittee under this Permit;

(3) any injury to a Permittee employee that occurs on County property. This report shall be submitted on a County Non-employee Injury Report to the Department; and

(4) any loss, disappearance, destruction, misuse, damage, or theft of any kind whatsoever of County property, monies or securities entrusted to Permittee under the terms of this Permit.

9 STATUS OF PERMITTEE'S EMPLOYEES: INDEPENDENT STATUS OF PERMITTEE

9.1 This Permit is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture or association as between the County and the Permittee.

9.2 The Permittee understands and agrees that all of the Permittee's personnel who furnish services to the County under the Permit are employees solely of the Permittee and not of the County for purposes of Workers' Compensation liability.

9.3 The Permittee shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to the Permittee's personnel for injuries arising from or connected with the Permit and the Permittee's compliance with the Permit's provisions.

10. COUNTY LOBBYIST. Permittee agrees that each "County Lobbyist" as defined in Los Angeles County Code Section 2.160.010 retained by the Permittee shall fully comply with the County Lobbyist Ordinance that is set forth in Los Angeles County Code Chapter 2.160. Failure on the part of any County Lobbyist retained by the Permittee to comply with the County Lobbyist Ordinance shall constitute a material breach of this Permit upon which the County may immediately terminate this Permit, upon written notice thereof to Permittee.

11. NOTIFICATION

11.1 Except as otherwise provided by the Permit, notices desired or required to be given by law or under the Permit may, at the option of the party giving notice, be given by enclosing a written notice in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States mail. Any such notice shall be addressed to the Permittee at the following addresses:

The Regents of the University of California
10920 Wilshire Blvd., Suite 810
Los Angeles, CA 90024
Attention: Real Estate

Organization of the Vice Chancellor of Research
2248 Murphy Hall, Stop 951405
Los Angeles, CA 90095-1405

or such other place designated in writing by the Permittee. Notice to the County shall be addressed to the Director, Department of Beaches and Harbors, 13837 Fiji Way, Marina del Rey, California 90292, or such other place as the Director may designate in writing.

11.2 Notice of any matter may also be given by personal delivery of a written notice to any person whose actual knowledge would be sufficient notice to the Permittee.

12. AMENDMENT. Only nonmaterial amendments to the Permit that do not materially change the scope of the Permit, increase the County's financial responsibility or impose additional liability on the County may be executed without approval of the Los Angeles County Board of Supervisors, and all must be in writing and shall not be effective until executed by the Permittee and the Director.

EXECUTED ON_____, 2007

PERMITTOR:
County of Los Angeles

_____
Stan Wisniewski, Director
Department of Beaches and Harbors

PERMITTEE:
The Regents of the University of California

W Brandt 6/13/07

WAYNE BRANDT

DIRECTOR OF REAL ESTATE

APPROVED AS TO FORM:
RAYMOND G. FORTNER, JR.
County Counsel

By_____
Deputy