

RESOLUTION OF THE CITY COUNCIL

No. 107

Approved February 26, 1993

RESOLUTION OF THE CITY COUNCIL

NOW THEREFORE BE IT RESOLVED That His Honor the Mayor is hereby authorized to execute the amendment to the lease agreement between the City of Providence and Providence Terminal Associates II, dated June 5, 1984 for real estate on Terminal Road, Ernest Street and Ellis Street in the Fields Point section of Providence, described as Lot 254 on Assessor's Plat 56, making such modifications to the said lease agreement as delineated in said amendment, marked as Exhibit 1 and with such other terms and conditions as have been imposed by the City Council Committee on City Property, the City Council and His Honor the Mayor and approved as to form and correctness by the City Solicitor.

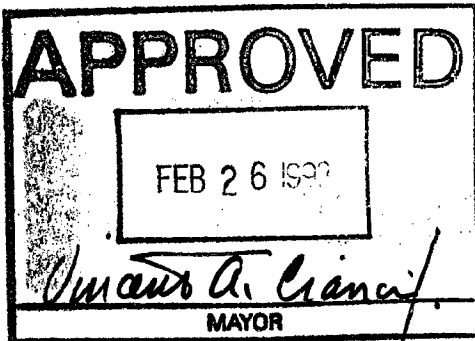
IN CITY COUNCIL

FEB 18 1993

READ AND PASSED

James H. Rosemull
PRES.

Michael L. Clement
CLERK



THE COMMITTEE ON
CITY PROPERTY

Approves Passage of
The Within Resolution

Michael R. Clement
Chairman

2-9-93



PORT OF PROVIDENCE

Thomas F. O'Connor, Jr.
Executive Director
(401) 781-4717
Fax 461-6240

January 4, 1993

Michael Clement
City Clerk
City Hall
Providence, Rhode Island 02903

RE: AMENDMENT TO LEASE PTA II: PORT OF PROVIDENCE

Dear Mr. Clement:

Please find enclosed three (3) copies of a lease amendment between Providence Terminal Associates II (PTA II) and the City of Providence (Port of Providence). This amendment has been the subject of negotiations between the Port Commission and PTA II for over a year.

Please place this item on the next City Council agenda. I understand that the matter will be referred to the City Council Property Committee and am requesting that I and the Commission be notified when the Property Committee meets to consider the matter.

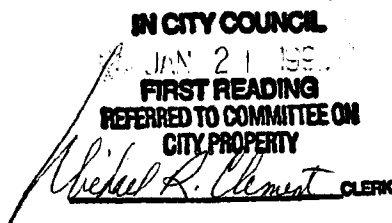
As there are construction timelines involved, the Commission would appreciate the committees expeditious consideration.

Sincerely,

Thomas F. O'Connor, Jr.
Director
Port of Providence

Enclosure: 3

TF0/sdp



FILED

C. J. JOHNSON
JAN 5 8 19 1933
JAN 5 8 19 1933

DEPT. OF CORRECTIONS
PROVIDENCE, R. I.

AMENDMENT TO LEASE AGREEMENT
BETWEEN
CITY OF PROVIDENCE
PROVIDENCE TERMINAL ASSOCIATES II

HINCKLEY, ALLEN, SNYDER & COMEN

AMENDMENT TO LEASE AGREEMENT

Amendment to Lease Agreement entered into on this ____ day of _____, 1992 by and between the CITY OF PROVIDENCE, a municipal corporation in the State of Rhode Island (hereinafter referred to as "City") and PROVIDENCE TERMINAL ASSOCIATES II, a Rhode Island general partnership, with its principal offices in the City of Pawtucket, Rhode Island (hereinafter referred to as "PTA II").

R E C I T A L S:

A. The City of Providence and Providence Terminal Associates entered into a Lease Agreement on June 5, 1984, a copy of which is attached hereto as Exhibit A.

B. Under the terms of this Lease Agreement, the City leased to Providence Terminal Associates certain real estate on Terminal Road, Ernest Street and Ellis Street in the Fields Point section of the City of Providence, said real estate being more particularly described in Exhibit A.

C. Providence Terminal Associates II has succeeded to all of the rights and has assumed all of the obligations of Providence Terminal Associates under the aforesaid Lease dated June 5, 1984 and attached hereto as Exhibit A.

D. In Section 4(e), pages 8 and 9 of said Lease attached as Exhibit A, the City designated a location hereinafter referred to as the PTA II Berth on its waterfront dock 475 feet in length at

which the Lessee was granted the preferential right, subject to conditions set forth in Section 4(e) and subject also to the prior rights of Sun Oil Company, to tie up its vessels for loading and unloading petroleum products purchased and sold in the ordinary course of its business. Also, in Section 4(e) of said Lease, Lessee was granted in common with others using said port the non-preferential right to tie up its vessel for loading and unloading at either outlet box numbered two located at Berth No. 1 or outlet box numbered 3 located at Berth No. 2, subject to the conditions set forth in Section 4(e) of said Lease. The PTA II Berth and the area designated as Berth No. 1 served by outlet box numbered 2 are shown on a plan attached to this Amendment to Lease Agreement as Exhibit A-1. Berth No. 2 formerly served by outlet box numbered three is not shown on said plan because outlet box numbered three is no longer operative.

E. From June 1, 1990 to May 31, 2000 the annual rent for said leasehold/terminal is \$110,000 payable in equal quarterly payments of \$27,500.

F. Other charges payable to the City during the term of the Lease are wharfage and dockage charges as set forth in said Lease.

G. It is agreed by the City and PTA II that certain conditions exist with respect to the depth of the PTA II Berth and Berth No. 1 which make it impossible for ships with a large

product capacity to use either of said berths. This has limited these berths only to barges with a much smaller product capacity, all of which has worked to the Lessee's economic disadvantage.

H. PTA II has conducted a survey of Berth No. 1 at the Port of Providence including the present Fendering System and underwater conditions at said berth. The survey team consisted among others of the President of Northeast Marine Pilots Association, a Hydrographic Surveyor and a Diver. A report of the survey is attached hereto as Exhibit B.

I. PTA II has also obtained a preliminary proposal for bulkhead improvements at Berth No. 1 which are set forth in a document entitled "Specification for Seibu Rubber Dock Fenders", attached hereto as Exhibit C.

J. The City and the Providence Port Commission have acknowledged the conditions that exist at Berth No. 1 and have met with the PTA II in an attempt to resolve these problems.

K. As a result of their meetings and based on the survey referred to in paragraph H above, the City and PTA II agree that the work which needs to be done to correct the existing conditions at Berth No. 1 consists of Housekeeping Work and the installation of Rubber Dock Fenders, both of which are set forth in greater detail in a document entitled "Scope of the Work" attached hereto as Exhibit D.

L. At the request of the City, PTA II obtained a number of competitive bids for the work to be done as aforesaid. The low bid for the installation of the Rubber Dock Fenders was submitted by AGM Marine Contractors, Inc. in the amount of \$136,900.00. A copy of said bid is attached hereto as Exhibit E. Attached as Exhibit F is a copy of a Memorandum from Citgo Petroleum Corporation, with the total cost of the Fendering System including Installation, \$136,900.00 (Exhibit E), cost of Fender Units, \$60,000.00, Engineering, \$18,200.00 and Latent and Unknown Conditions, \$10,000.00. As noted in Exhibit F, the total cost of the above is \$225,102.00. The low bid for the Housekeeping Work was also submitted by AGM Marine Contractors, Inc. in the amount of \$5,200.00. A copy of said bid is attached as Exhibit G. The total cost of the Fendering System, \$225,102.00 (Exhibit F) and the Housekeeping Work, \$5,200.00 (Exhibit G) is \$230,302.00.

M. The City does not have funds available to pay for the work required as aforesaid. For this reason, PTA II has agreed to pay for the work required at Berth No. 1 and the City has agreed to reimburse PTA II in the maximum amount of \$230,302.00 in the manner hereinafter set forth.

N. As of September 30, 1992, PTA II owed the City of Providence the sum of \$229,781.87 for wharfage fees (\$89,307.19) and dockage fees (\$140,474.68).

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the parties hereto mutually agree as follows:

1. PTA II will pay for the necessary work to correct the conditions at Berth No. 1, said work being itemized in the aforementioned document entitled "Scope of the Work" attached hereto as Exhibit D.

2. It is agreed and understood by the parties hereto that the City will reimburse PTA II in the maximum amount of \$230,302.00. If the cost of the work exceeds \$230,302.00, PTA II agrees to pay for any additional amount.

3. The City agrees to reimburse PTA II for work to be done by giving PTA II a credit of \$229,781.87 which sum represents the wharfage and dockage fees owed by PTA II to the City as of September 30, 1992. If the cost of the work equals or exceeds \$230,302.00, the City will give PTA II an additional credit of \$520.13, the difference between the maximum credit the City will allow, \$230,302.00, and the amount owed by PTA II to the City as of September 30, 1992, \$229,781.87. If the total cost of the work to be done is less than \$229,781.87, PTA II agree to reimburse the City for any difference.

4. Other than the credits hereinabove referred to, PTA II will pay when due all charges for rent, wharfage and dockage fees.

5. Upon the execution of this Amendment to Lease Agreement after proper approval of appropriate governmental agencies of the City, PTA II will enter into a contract with AGM Marine Contractors, Inc. to perform the work set forth in Exhibit D. PTA II will furnish the City with a copy of the contract relating to this work. PTA II will also furnish the City with a monthly account of the sums expended by PTA II during the performance of the work.

6. The City shall cooperate with PTA II and its contractors and subcontractors with respect to the work to be performed and the City shall have the right to inspect the work to assure that said work is being properly performed in accordance with the Construction Contract.

7. A Memorandum of this Amendment to Lease Agreement shall be executed by the parties hereto and recorded in the Providence Land Records.

8. When the work has been completed to the satisfaction of PTA II and the City, a statement to that effect shall be executed by the parties to this Agreement and recorded in the Providence Land Records.

9. It is agreed that the PTA II Berth in which Sun Oil Company has prior rights is too shallow to accommodate PTA II ships with a large product capacity and it is further agreed that without regard to the availability of said PTA II Berth, PTA II shall have the non-preferential right to use Berth No. 1 served

by outlet box numbered two in common with others using said port, provided that Berth No. 1 can be made available without interfering with the orderly operation of the municipal dock as determined by the port agent. All ships using said port shall have equal rights to use said Berth No. 1 and there shall be no priorities granted to any users.

10. Except for the amendments set forth herein, the Lease Agreement marked Exhibit A shall in every other respect remain in full force and effect.

WITNESS the execution of these presents on the day and date first above written.

CITY OF PROVIDENCE

BY _____
MAYOR

PROVIDENCE TERMINAL ASSOCIATES II

BY _____
its General Partner

BY _____
its duly authorized _____

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence on the _____ day of _____, 1992,
before me personally appeared the above-named Vincent A. Cianci,
Jr. to me known and known by me to be the Mayor of the City of
Providence and the party executing the foregoing instrument on
behalf of the City of Providence and he acknowledged said
instrument by him so executed to be his free act and deed, his
free act and deed in said capacity and the free act and deed of
said City of Providence.

Notary Public

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence on the _____ day of _____, 1992, before
me personally appeared the above-named _____
to me known and known by me to be the _____ of
_____, a General Partner of Petroleum
Terminal Associates II and the party executing the foregoing
instrument on behalf of _____ in its
capacity as General Partner of Providence Terminal Associates II
and he acknowledged said instrument by him executed to be his
free act and deed, and the free act and deed of _____
_____ and of Providence Terminal Associates II.

Notary Public

APPROVALS:

PROVIDENCE PORT COMMISSION

BY: _____
William H. D. Goddard, Chairman

APPROVED AS TO FORM ONLY:

Solicitor, City of Providence

A

EXHIBIT A

LEASE AGREEMENT

LEASE AGREEMENT entered into on this 5th day of June 1984, by and between the CITY OF PROVIDENCE, a municipal corporation in the County of Providence and State of Rhode Island, (hereinafter referred to as "Lessor"), and PROVIDENCE TERMINAL ASSOCIATES, a Rhode Island general partnership of which the general partners are Petroleum Service Company, Inc., a wholly owned subsidiary of DeBlois Oil Company, both Rhode Island corporations with their principal offices in the City of Pawtucket therein and Wyatt Providence Terminal, Inc., a Rhode Island corporation that is a wholly owned subsidiary of Wyatt Incorporated, a Connecticut corporation with principal offices in New Haven, Connecticut (hereinafter referred to as "Lessee").

It is hereby mutually agreed by and between the parties as follows:

1. PREMISES: Lessor, for and in consideration of the rents, charges, covenants and conditions hereinafter contained on the part of the Lessee to be paid, kept and performed, does hereby demise and lease unto the Lessee the following described real estate:

That certain real estate with all buildings and improvements thereon situated on Terminal Road, Ernest Street and Ellis Street in the Fields Point section of the City and County of Providence and State of Rhode Island, more particularly set forth and described in Schedule "A" and outlined in red pencil on Schedule B (the "Premises"). Both Schedule "A" and Schedule "B" are attached hereto and incorporated herein by reference.

2. TERM: The term of this Lease shall be for a period of sixteen (16) years, beginning on the 1st day of June, 1984 ("Commencement Date"), and ending on the 31st day of May, 2000.

3. RENT, OTHER CHARGES: During the term of this Lease, or any extensions or renewals thereof, Lessee shall pay to Lessor rent and other charges for the Premises in the amounts and at the times and in the manner hereinafter set forth:

(a) Rent: During said term, Lessee shall pay Lessor at the office of the City Collector of the City of Providence the following rent:

EXHIBIT A

- (1) For the first six (6) years of this Lease, from the Commencement Date to the 31st day of May, 1990, the annual sum of Fifty Thousand (\$50,000.00) Dollars, payable in equal quarterly payments of Twelve Thousand Five Hundred (\$12,500.00) Dollars.
- (2) For the next ten (10) years, from the 1st day of June, 1990, to the 31st day of May, 2000, the annual sum of One Hundred Ten Thousand (\$110,000.00) Dollars, payable in equal quarterly payments of Twenty Seven Thousand Five Hundred (\$27,500.00) Dollars; provided that such annual payments commencing in 1990 shall be adjusted in accordance with subparagraph (3)(a)(4) below.
- (3) Quarterly payments of rent referred to in the two (2) preceding paragraphs shall be payable in advance on the first day of January, April, July and October of each lease year. If the Commencement Date of this Lease is a day other than the first day of any of the months of January, April, July or October, the rent for the interim period shall be pro-rated accordingly and paid in advance on the date the Lessee assumes possession of the Premises. If this Lease or any extension or renewal thereof terminates on any day other than the day preceeding the first day of the months of January, April, July or October, the final rental payment shall also be pro-rated accordingly.
- (4) The annual rent due commencing in 1990 shall be adjusted to take into account the increase, if any, in the Impositions (as hereinafter defined) that are assessed against the land underlying the Premises or would be so assessed if the Lessor were a private citizen, as follows: At the request of the Lessor, the Tax Assessor of the City of Providence shall make a determination of the fair market value of the land underlying the Premises as of December 31, 1989, based on the use of the Premises as of such date; provided, however, that if any Imposition is based upon an assessed value determined for all taxpayers based upon market value as of a date other than December 31, 1989, then the fair market value shall be deemed to be the product of market value as of December 31, 1989 and the ratio of the assessed value for all property subject to such Impositions to the market value of all such prop-

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erty as of December 31, 1989. The Tax Assessor shall then apply to the market value so determined (which shall hereinafter be referred to as the "1990 Value") the tax rate applicable to Impositions assessed as of December 31, 1989. The resulting figure shall be the "1990 Base Year Taxes". Commencing June 1, 1990, the Lessee shall pay as additional rent an amount equal to the excess of (i) the Impositions that are or would be assessed against the land underlying the Premises in that year if the Lessor were a private citizen, based upon market value determined in accordance with the formula previously set forth for determining the 1990 Value (except that December 31, 1989 shall be replaced with the date of such determination of market value), over (ii) the 1990 Base Year Taxes. If in any year after 1990 there is a decrease in the tax rate, the Lessor shall refund to the Lessee the excess of (i) the 1990 Base Year Taxes over (ii) the amount of Impositions that are or would be assessed against the land underlying Premises in that year, if the Lessor were a private citizen, based upon market value determined in accordance with the formula previously set forth for determining the 1990 Value (except that December 31, 1989 shall be replaced with the date of such determination of market value). Such payments of additional rent or refunds of rent shall be made at the same time or times as such Impositions come due during the year, and if, by law, such Impositions may be paid in installments (whether or not interest shall accrue on the unpaid balance), the party paying may exercise the option to pay in installments. In the event that this Lease terminates at a date other than the end of the fiscal year of the City of Providence, such payments of additional rent (or refunds of rent, as the case may be) shall be paid over the final Lease year rather than the fiscal year over which such Impositions are payable. In the event that the Lessee contests the determination of the market value as hereinbefore determined or the 1990 Base Year Taxes, the parties shall submit the dispute to arbitration in accordance with the arbitration provisions of Paragraph 8(e) hereof. Pending the resolution of such arbitration proceedings, Lessee shall pay under protest the additional rent provided for herein, and adjustment will be made if a

different amount is found to be owed upon resolution of such arbitration proceedings. For purposes of this Paragraph (3)(a)(4), "Impositions" shall mean all real estate taxes, betterments assessments, impositions, or charges now or hereafter imposed on real estate and the improvements thereon, or any tax imposed in lieu of or in substitution for real estate taxes.

(b) Other Charges: During the term of this Lease, Lessee shall pay Lessor at the office of the City Collector of the City of Providence the following:

- (1) Wharfage and Dockage Charges: Lessee shall pay as wharfage twenty (20) cents per ton for all crude petroleum, derivatives of the same or motor fuels that it receives or delivers by pumping to or from vessels, barges or other craft lying alongside the Municipal Wharf, up to a total of 300,000 tons in each year; and thereafter in each year, ten cents (10) per ton wharfage for all such products that it receives from or delivers to such vessels, barges or other craft in excess of 300,000 tons per year up to 600,000 tons per year; and five (5) cents per ton on all such products so received or delivered in excess of 600,000 tons per year. Lessee hereby guarantees to Lessor a minimum wharfage fee of \$60,000 per year. From and after the later of (a) December 31, 1989 or (b) such time as the water depth at the Municipal Wharf berth used by the Lessee has been dredged to a depth of 35 feet or such lesser depth as will accommodate the draft of the then current "handy-sized" 25,000 to 30,000 ton tanker the wharfage charges payable hereunder shall be increased to fifteen cents (15) per ton for all such products that it receives from or delivers to such vessels, barges, or other craft in excess of 300,000 tons per year up to 600,000 tons per year, and to ten cents (10) per ton on all such products so received or delivered in excess of 600,000 tons per year. Notwithstanding such increases, in no event shall there be any change in the wharfage charge for the first 300,000 tons in each year or in the Lessee's guaranteed minimum wharfage fee of \$60,000 per year.

Wharfage fees hereunder shall be payable monthly in arrears or otherwise in a manner con-

sistent with the Lessor's past practice (but in no event in advance), and any deficit in the Lessee's guaranteed minimum wharfage fee shall be payable annually in arrears, commencing June 1, 1985.

Lessee shall pay dockage charges from the Commencement Date to December 31, 1989 at a rate of ten (10) cents per foot length of vessel, barge or other craft per day for every day or part thereof, said dockage charge to commence twenty-four (24) hours after the arrival of such vessel, barge or other craft along side the Municipal Wharf. From and after December 31, 1989, Lessee shall pay the prevailing dockage charges as established from time to time by the Lessor in regularly established tariffs.

Lessee shall also pay wharfage, dockage, or other charges upon all other materials and commodities and for other services at regular wharfage, dockage or other charges established from time to time by municipal regulations.

- (2) Rail Charges: Lessee shall pay the published general tariff established by the Director, Department of Public Works for the Port of Providence, Municipal Wharf, for every loaded railroad car shipped inward or outward over the tracks belonging to Lessor.
- (3) Water and Other Utilities: Lessee will pay for all water furnished by Lessor to the Premises at the regular rates fixed for other customers using like quantities of water. This provision shall not apply to water used for fire purposes for which there will be no charge. Lessee shall arrange for the delivery of and pay for all other utilities furnished to the Premises.

(c) No acceptance by Lessor of rentals, fees, charges, or other payments in whole or in part for any period or periods after a default in any of the terms, covenants, and conditions to be performed, kept or observed by the Lessee shall be deemed a waiver of any right on the part of Lessor to terminate this Lease.

(d) No payment by Lessee or receipt by Lessor of a lesser rental amount than that which is due and payable under the pro-

visions of this Lease at the time of such payment shall be deemed to be other than a payment on account of the earliest rental payment then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed in accord and satisfaction and Lessor may accept such check or payment without prejudicing in any way its right to recover the balance of such rental.

(e) Without prejudice to any other rights and remedies of Lessor, upon default by Lessee, interest at the rate of one and one half percent (1 1/2%) per month shall become due from Lessee on any arrearage in rental payments or in additional rent provided for in this Lease. Such interest shall accrue from the date Lessor mails by registered or certified mail notice to the Lessee of non-receipt of such rental payments or additional rent after the same shall have become due.

(f) It is the intent of both Lessee and Lessor that this Lease shall be a net lease under which Lessor shall be entitled to receive all rents and any additional rents provided for in this Lease without offset, deduction, or counterclaim.

4. COVENANTS OF LESSOR: Lessor hereby represents, warranties and covenants with Lessee as follows:

EX-11
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(a) No Encumbrances: As of the Commencement Date, this Lease is subject to no prior or superior liens or encumbrances on the fee interest in the land that is the subject of this Lease, except as referred to in that certain title report, a copy of which has been delivered to the Lessor and the Lessee prior hereto, and except for any liens or encumbrances not appearing of record arising from acts or obligations of parties other than the Lessor of which Lessor has no knowledge. The Lessor covenants that any mortgage of the fee interest or any lesser interest in the land that is the subject of this Lease shall be subject and subordinate to this Lease including without limitation, the provisions herein according rights to or for the benefit of the Leasehold Lender (as hereinafter defined).

EX-12
RFF
(b) Quiet Enjoyment: Lessee, paying the rent and charges hereby reserved and performing and observing the covenants of the Lessee herein contained, may peacefully hold and enjoy the Premises during said term without any lawful let or hindrance by the Lessor or any party claiming by, through or under the Lessor, except as herein provided.

(c) Railroad Connection: The present railroad connection from the tracks of the New York, New Haven and Hartford Railroad

Company to the southwesterly boundary line of the Premises constructed by Lessor, shall continue to be for the joint use of the Lessee and of the owners and occupants of land abutting on said connection and the main line railroad tracks of the Lessor in conformity with that certain agreement by and between the City of Providence and the New York, New Haven and Hartford Railroad Company, dated September 20, 1917, in receiving freight, consigned by rail to said Premises and in shipping freight by rail from said Premises. The Lessee shall use said railroad connection with a due regard for the use of the same by other users and shall observe reasonable published rules and regulations promulgated by Lessor for purposes of assuring proper use of said railroad connection by all those entitled to use the same. The Lessee will not use the said railroad connection for the loading or unloading of cars but shall cause such cars to be loaded and unloaded upon the Premises. The Lessee shall have the right and election to use in their present location those portions of the spur tracks from the point of switch of said spur easterly to the southwesterly boundary line of the Premises. The Lessee agrees to maintain said spur tracks in the event it elects to use same. The Lessee agrees that under no circumstances shall the Lessor be obligated to maintain, repair, or restore those portions of said spur tracks. The Lessor reserves to itself a right of way within the Premises for its railroad tracks in a location substantially as outlined in red on Schedule "C" attached hereto and incorporated herein by reference. Said right of way shall be open at all times for the free passage of railroad cars, engines, and other railroad equipment, and the reservation of such right of way shall include the full right to build an additional side track and make any additions or alterations to existing track from time to time as its business at Fields Point may require.

(d) Installation and Maintenance of Pipes: Lessee shall have the right to install and maintain such pipes as Lessee shall deem necessary in, through and under a strip of land between the Premises and a sea wall outlet box designated Outlet Box No. 1, the location of pipe lines and outlet box to be approximately as shown on Plan No. 061935, P.W. Dept., Engineering Office, City Property Section, Oct. 2, 1959, and to maintain under a strip parallel with the sea wall existing pipe lines, appurtenances and outlet boxes designated as Outlet Boxes No. 2 and No. 3, the location of the pipe lines and outlet boxes to be approximately as shown on the above mentioned plan, for the purpose of conveying crude petroleum and derivatives of the same and motor fuels from vessels, barges and other craft to the Premises and conveying said crude petroleum and derivatives of the same and motor fuels from said Premises to vessels, barges and other craft for shipment.

Provided, however, that the permission to install and maintain such pipelines shall be subject to the following express conditions:

- (1) That the pipe lines shall be installed and maintained without interfering with existing utility lines and structures; (2) That the Lessee shall restore the surface of the ground over the pipe lines and restore the ground surface of concrete apron disturbed in the maintenance of the pipe lines or outlet boxes and to the satisfaction of the Director of Public Works; (3) That when said pipes are not in actual use in loading or unloading a vessel, barge or other craft said outlet boxes shall be securely closed and no part shall be left above the level of the ground or apron; (4) That Lessee shall repair and keep in good repair and operating condition said pipes and outlet boxes; (5) That the Lessee shall hold and keep the Lessor harmless, safe and indemnified from and against loss, cost, damage, payment and expense (including attorneys' fees) on account of any injuries to persons or damage to property for which Lessor may become liable on account of the laying, construction and maintenance, use or repair of such pipes and outlet boxes, or on account of any neglect of property by Lessee or defect in such pipes and/or boxes and Lessee releases Lessor from any and all liability for any injury, loss or damage to persons on or about said apron, pipe lines or outlet boxes, except to the extent caused by gross negligence or willful misconduct of Lessor; and (6) Lessor reserves for itself or other person or persons having permission from the Lessor the right to place pipes or structures under, along or across said pipe lines, provided the said pipes or structures do not interfere with the use or maintenance of Lessee's pipe lines or outlet boxes.

(e) Loading and Unloading of Vessels: Lessor has designated a location on its waterfront of approximately four hundred and seventy-five (475) feet in length, beginning approximately at Station 9-54 and extending southerly at which Lessee shall have a right to tie up its vessels for loading and unloading which right shall be exclusive and preferred, upon the following conditions only: If Lessee shall give Lessor at least five (5) days notice in writing of the time at which a vessel of Lessee is to arrive and tie up for said purpose at said wharf, Lessor agrees that

said designated location along the waterfront shall be open and ready to receive said vessel at the time stated in said notice and for 24 hours thereafter, but Lessor will accept but one notice as to the time of the arrival of any one vessel and if said vessel does not arrive within said 24 hours, Lessee shall thereupon lose its right to have said vessel docked in preference to other vessels, but Lessor will allow said vessel to dock as soon as reasonable, taking into consideration the number of vessels waiting, the uses of other portions of said wharf and other attending circumstances; Provided, however, that the right granted by Lessor under the provisions of this Paragraph are subject to the prior right of the Sun Oil Company, contained in paragraph numbered 7 of that certain Lease by and between the City of Providence and the Sun Oil Company, dated November 27, 1950. If the Lessee is unable to tie up its vessel for loading and unloading at the location hereinbefore designated because of the prior right of the Sun Oil Company, the Lessee shall be permitted promptly (subject to the provisions hereinabove set forth if such vessel does not arrive within 24 hours of the time stated in its notice) to tie up its vessel for loading and unloading at either outlet box numbered 2 or outlet box numbered 3, provided one of these locations can be made available without interfering with the orderly operation of the municipal dock as determined by the Port Agent. The right hereby granted shall not be construed as giving Lessee any right to use any portion of the Municipal Dock for storage purposes.

(f) Water Supply: Lessor will supply water for Lessee to said premises at the same rate for which like quantities of water are supplied to other customers of the City of Providence.

(g) Other Utilities: Lessor shall be under no obligation to provide the Premises with utilities of any type and Lessee agrees that it shall have no claim against Lessor for damages, including loss of business profits, caused by any interruption in utility services.

(h) Estoppel Certificate: Lessor will, upon Lessee's request or the request of any Leasehold Lender (as defined in Paragraph 6 hereof), provide to any such Leasehold Lender an estoppel certificate stating that the Lease is in full force and effect, that it is unamended except for amendments agreed to in writing, and certifying as to such matters as the status of rent payments, the satisfaction of any conditions precedent to the commencement of any lease term or renewal or option term, and whether there are any defaults under the Lease on the part of Lessee of which the Lessor has knowledge.

5. COVENANTS OF LESSEE: In consideration of the within Lease and the performance of the covenants and agreements on the part of the Lessor to be kept and performed as herein set forth, Lessee hereby covenants to and with Lessor as follows:

(a) Payment of Rent, Other Charges: Lessee will promptly pay the rent and other charges reserved as aforesaid at the times the same shall become due as herein fixed.

(b) Use of Premises: Lessee shall use said parcel or tract of land solely for the business of receiving, storing, shipping and selling crude petroleum, derivatives of the same, and motor fuels, but no refining operations shall be conducted on the Premises and Lessee will so conduct said business as not to create a nuisance or to be obnoxious or dangerous to the public or the holders of neighboring property. Lessee covenants and agrees that it shall not use the Premises in any manner that will constitute waste. In its use, occupation and operations at the Premises, including construction of or alterations to improvements by the Lessee, Lessee shall comply with all federal and state laws and all regulations and ordinances of the City of Providence applicable thereto, including, without limiting the generality of the foregoing, building, health and safety codes and applicable rules, regulations and standards of federal and state agencies having to do with environmental controls and pollution of the environment. Any use of said Premises in violation of this paragraph may be enjoined by Lessor without prejudice to any other remedy hereunder.

(c) Maintenance of Premises: Lessee shall maintain and keep the Premises, including all improvements thereon, in good order and repair. Lessor shall be under no obligation to make any repairs, replacements, improvements, alterations or additions of any nature to the Premises.

LESSOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE PREMISES OR ANY PART THEREOF OR AS TO ITS FITNESS FOR THE PARTICULAR PURPOSES OR NEEDS OF THE LESSEE OR ANY LEASEHOLD LENDER (AS HEREINAFTER DEFINED) OR AS TO ITS MERCHANTABILITY.

(c) Explosives: Lessee will not keep explosives of any kind upon said Premises nor allow any vessels with explosives aboard to be tied alongside said Municipal Wharf, without the written permit of the Lessor.

(d) Discharge Into River: Lessee will not permit the crew of any vessel tied alongside said Municipal Wharf to pump bilge

water overboard or allow any rubbish, oil or any substance containing oil to be discharged into the waters of Providence River.

(e) Damage to Sea Wall, Etc.: Lessee will pay all damages that may be occasioned to the sea wall, cap log or fender piling due to the negligent handling of any vessel which may tie up at said Municipal Wharf for the purpose of receiving or delivering cargo to the Lessee.

(f) Location of Tanks: Lessee will place and build any additional tanks and similar structures for the storing of crude petroleum, derivatives of the same, and motor fuels to the satisfaction of the City Engineer, and will protect any tank or similar structure carrying highly inflammable products with ample fire banks, in accordance with the present or future ordinances of the City of Providence and to the satisfaction of the City Engineer, whose approval of the initial construction as provided herein shall be considered final.

(g) Clearance for Locomotives, Cars: Lessee will place and/or maintain all permanent structures near railroad tracks so as to conform to the requirements for operating clearance for locomotives and cars prescribed by the laws and regulations of the State of Rhode Island and of the United States, or in the absence of such laws or regulations, prescribed by the standards of the New York, New Haven, and Hartford Railroad Company or its successor in interest with respect to such railroad tracks, and will indemnify and save harmless the Lessor against all loss, cost, damages, payment and expenses (including attorneys' fees) on account of any claims for damages to persons or property caused or occasioned by failure to maintain such clearances.

(h) Insurance; Damage and Destruction: Lessee at its expense shall maintain the following insurance coverage:

(i) Comprehensive general liability insurance for claims for property damage, bodily injury or death, arising out of and in connection with Lessee's use, occupancy, operations and activities under this Lease, in the minimum single amounts of One Million Dollars (\$1,000,000) per occurrence for the death of or bodily injury to one person with One Million Dollars (\$1,000,000) minimum aggregate coverage, and One Million Dollars (\$1,000,000) for property damage in connection with each occurrence, with One Million Dollars (\$1,000,000) minimum aggregate coverage, with an umbrella policy covering in the aggregate up to Ten Million Dollars (\$10,000,000) of additional liability of the type previously set forth. Such policy or policies shall name Lessor as an additional named insured and shall provide for no deductible amount.

(ii) Workers' Compensation and Employers Liability Insurance as required by law.

(iii) Standard fire and extended coverage insurance covering the buildings and improvements on the Premises in amounts equal to the full insurable value of such buildings and improvements or such greater amounts as may be necessary to prevent Lessor and Lessee from becoming co-insurers under such policies (with deductible provisions not to exceed \$25,000 in any one casualty). Such policies shall name Lessor as an additional named insured as its interest may appear. Proceeds from any such policy shall be used by Lessee for the repair, restoration and reconstruction of any such buildings or improvements except as otherwise provided in paragraph (iv) below.

(iv) In the event any building or improvements on the Premises shall be damaged by fire or other casualty, Lessee shall promptly repair and restore the damaged Premises. Insurance proceeds from such damage or destruction shall be held in trust by an institutional lender or trust company satisfactory to the Lessor and the Lessee for application, to the extent not inconsistent with the provisions of this Lease, to the repair, restoration or reconstruction of the damaged Premises in accordance with the provisions of the Leasehold Mortgage (as defined in Paragraph 6 hereof). If such insurance proceeds are not to be applied to such repair, restoration or reconstruction, such proceeds shall be applied as follows: First, to the payment of any unpaid obligations of the Lessee to the Lessor under the terms of this Lease; second, to the payment of any unpaid obligations of the Lessee under the Leasehold Mortgage in accordance with the terms thereof; and, third, to the Lessee; provided, however, that in the event the Lessee shall not promptly repair, restore or reconstruct the damaged Premises, such proceeds shall be applied to remove the damaged or destroyed buildings or improvements and to clear the Premises to a useable condition (reasonable wear and tear excepted) before application on account of any Leasehold Mortgage or the Lessee. The Leasehold Lender shall have the right to participate in any settlement or adjustment of insured losses.

Each policy of insurance required herein shall be in a form, and shall be with an insurer authorized to do business in Rhode Island, satisfactory to Lessor. A certificate of each policy of insurance shall be provided to Lessor upon execution of this Lease.

Each policy shall provide that it shall not be altered or cancelled by the insurer during its term without first giving at

least thirty days' written notice to Lessor. The comprehensive general liability policy shall be endorsed specifically to recognize and insure the indemnification provisions appearing in this Lease. Lessee acknowledges that the minimum insurance limits and coverage established hereunder at the commencement of the term of this Lease may become inadequate during the term, and Lessee agrees that it will increase such limits or coverage to such commercially reasonable levels as Lessor may prescribe during the term hereof.

(i) Indemnity: Lessor shall not be liable to the Lessee or to any other person for any injury, loss or damage to persons or property on or about the demised Premises or wharf area so-called, except to the extent caused by gross negligence or willful misconduct of the Lessor or of agents, employees, or contractors of the Lessor. In addition to any other indemnity in this Lease provided or otherwise provided by law, to the extent that Lessor is not held fully harmless by the provisions of policies of liability insurance carried by Lessee, Lessee will defend, indemnify and hold harmless Lessor from and against all claims, causes of action, suits, losses, damages, liabilities and expenses, including but not limited to costs of suit and attorneys' fees, arising out of or in any way related to Lessee's use and occupancy of and operations at the Premises and any additions, alterations or improvements thereto, and Lessee's failure to perform any or all of the covenants of this Lease under any circumstances, except when caused by gross negligence or willful misconduct of the Lessor, or of agents, employees, or contractors of Lessor, and the coverage of this provision shall include, without limitation, damage to property, personal injuries and injuries resulting in death. Lessor shall give Lessee reasonable notice of any claim made or suit instituted against Lessor which in any way would result in indemnification hereunder. Lessee shall have the right to compromise or participate in the defense of same to the extent of its own interests.

(j) Liens: Lessee agrees to pay, when due, all sums that may become due for any labor, services, materials, supplies, machinery, or equipment furnished to or for the Lessee in, upon, or about the Premises which may be secured by any lien against the Lessee's interest therein, and Lessee will cause each such lien and any other liens to be fully discharged and released at the time the performance of any obligation secured by any such lien matures and becomes due.

The Lessor agrees that Lessee's obligations under this paragraph shall not apply to liens of the Lessee's mortgagees relative to their mortgage interest in this Lease.

(k) Property Loss and Damage: All buildings, improvements and property of any kind, nature and description, belonging to said Lessee or any person claiming by, through or under it, which may be in, on or about said Premises during the continuance of this Lease or any extension or renewal thereof, is to be at the sole risk and hazard of said Lessee; and if the whole or any part thereof shall be destroyed or damaged by fire, water, steam, smoke, or in any other way or manner, no part of said loss or damage is to be charged to or be borne by the Lessor in any case whatsoever unless said Lessor is adjudged grossly negligent and such negligence is the cause of such losses or damages thereby resulting.

6. MORTGAGES:

(a) Lessee may at any time execute and deliver a mortgage of its interest in the Premises (any such mortgage to be herein called a "Leasehold Mortgage") without Lessor's consent, provided that the mortgagee is a bank, trust company, credit union, insurance company, or other regulated institution, agency or entity that is in the business of making loans ("Institutional Lender"), whether such Institutional Lender is acting on its own behalf or in its capacity as trustee for the benefit of the beneficial owners of the funds loaned. If either Lessee or the Institutional Lender under such Leasehold Mortgage shall give notice to Lessor of the existence thereof and of the address of such mortgagee, such mortgagee shall be a "Leasehold Lender". Any such Leasehold Mortgage shall be subject to the rights of the Lessor as Lessor hereunder. The provisions of this Paragraph and of any other paragraph of this Lease according rights to a Leasehold Lender are for the benefit of any Leasehold Lender and shall be enforceable by such Leasehold Lender, but only from and after the date the aforesaid notice is given.

(b) If any event of default under this Lease shall occur, notice thereof shall be sent by registered or certified mail by Lessor to each Leasehold Lender, and each Leasehold Lender shall have the right to cure any default of Lessee and to enter upon the Premises to that end, and Lessor shall take no action to terminate this Lease thereafter or to interfere with the occupancy, use or enjoyment of the Premises so long as:

(i) If such event of default shall be a default in the payment of any sum, such Leasehold Lender shall remedy such default not later than 30 days after the mailing of such notice; or

(ii) If such event of default shall be a default in observing or performing any other covenant or condition to be observed or performed by Lessee hereunder, (a) such Leasehold Lender shall remedy such default, or cause such default to be remedied, not later than 45 days after the mailing of such notice, provided that in the case of a default which cannot with diligence be remedied within such period of 45 days, such Leasehold Lender shall have such additional period as may be reasonably necessary to remedy such default with diligence and continuity; or (b) such Leasehold Lender shall proceed within 45 days to obtain possession of the Premises with diligence and continuity through a foreclosure, deed in lieu of foreclosure, receiver or otherwise, or to cause the interest of Lessee hereunder to be assigned to Leasehold Lender's designee through foreclosure, deed in lieu of foreclosure or otherwise, and Leasehold Lender or its designee shall remedy such default within 45 days after obtaining such possession, provided that in the case of a default which cannot with diligence be remedied within such period of 45 days after obtaining possession, such Leasehold Lender or its designee shall have such additional period as may be reasonably necessary to remedy such default with diligence and continuity; and further provided that Lessee's insolvency, bankruptcy, vacation of the Premises, unauthorized sale or transfer of the Lease, or other defaults peculiar to Lessee shall not be considered defaults that must be remedied by Leasehold Lender so long as Leasehold Lender proceeds otherwise in compliance with this Paragraph 6(b) (this proviso shall not be deemed to be a waiver of Lessor's rights against Lessee in respect of any such default);

and upon compliance with the foregoing, any notice of Lessor advising of any such event of default or any action of Lessor to terminate this Lease or to interfere with the occupancy, use or enjoyment of the Premises by reason thereof shall be deemed rescinded and this Lease shall continue in full force and effect or the Leasehold Lender or its designee at its option may elect to enter into a new lease as provided in Paragraph 6(e). Any purchase money mortgage delivered to any Leasehold Lender in connection with any assignment of Lessee's interest hereunder pursuant to a foreclosure or a deed in lieu of foreclosure, or otherwise, shall have the benefit of all of the provisions set forth in this

lease for the benefit of any Leasehold Lender. Nothing in this paragraph shall preclude Lessor from exercising any rights or remedies under this Lease with respect to any other default by Lessee during such foreclosure or other proceedings.

(c) If any Leasehold Lender shall become the owner of the interest of Lessee hereunder through foreclosure, deed-in lieu of foreclosure or otherwise; or shall enter into a new lease with Lessor as provided hereafter, such Leasehold Lender shall have the right to assign to any person all or any part of such interest or of such new lease upon notice to Lessor without its consent, provided that such person assumes the obligations of Lessee hereunder or under such new lease by written instrument satisfactory to Lessor. No assignee or designee of a Leasehold Lender shall have the right to assign or sublet all or any part of the Premises except as provided in Paragraph 8(h) hereof.

(d) If any Leasehold Lender or its designee shall become the owner of the interest of Lessee hereunder through foreclosure, deed in lieu of foreclosure or otherwise, or shall enter into a new lease with Lessor as provided hereafter, such person shall have the right to use the Premises for any use specified in Paragraph 5(b) hereof or for any other lawful use that reasonably may be considered a port related use, provided that the Providence Port Commission makes a determination that the use reasonably may be considered a port related use. In such event the Lessor agrees to exercise its best efforts to obtain a favorable determination from the Providence Port Commission in a timely manner.

(e) If this Lease shall terminate other than due to a default susceptible of curing by the Leasehold Lender that is not cured by the Leasehold Lender pursuant to Paragraph 6(b) hereof within any applicable grace periods, or be rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, any Leasehold Lender or its designee shall have the right, exercisable by notice to Lessor within 45 days after the effective date of such termination, to enter into a new lease of the Premises with Lessor. The term of said new lease shall begin on the date of the termination of this Lease and shall continue for the remainder of the term of this Lease. Such new lease shall otherwise contain the same terms and conditions as those set forth herein, except for requirements which are no longer applicable or have already been performed, provided that such Leasehold Lender or its designee shall have remedied all defaults on the part of Lessee hereunder which are susceptible of being remedied by the Leasehold Lender or its designee. In such event Lessee's insolvency, bankruptcy, vacation of the Premises, unauthorized sale or transfer of the Lease or other defaults

peculiar to Lessee shall not be considered defaults hereunder that must be remedied by the Leasehold Lender or its designee (but this sentence shall not be deemed to be a waiver of Lessor's rights against Lessee in respect of any such default). It is expressly agreed, however, that default in the payment of any sum due hereunder is a default susceptible of being remedied by the Leasehold Lender or its designee. The parties hereto intend that such new lease shall have the same priority relative to other rights or interests as this Lease and Lessor covenants to discharge or cause to be subordinated to such new lease any lien or encumbrance which is subject to this Lease arising out of the acts or obligations of the Lessor. The provisions of this Paragraph 6(e) shall survive the termination of this Lease and shall continue in full force and effect thereafter to the same extent as if this Paragraph were a separate and independent contract among Lessor, Lessee and each Leasehold Lender. From the date on which any Leasehold Lender or its designee shall serve upon Lessor the aforesaid notice of the exercise of its right to a new lease, such Leasehold Lender may use and enjoy the Premises without hindrance by Lessor, provided it performs all of the obligations (including the payment of all sums due hereunder) of the Lessee in accordance with the terms hereof. In the event a new lease is entered into pursuant to this Paragraph, Leasehold Lender shall pay reasonable attorneys' fees incurred by the Lessor in connection with the review and execution of such new lease.

(f) No Leasehold Lender shall become personally liable for the performance or observance of any covenants or conditions to be performed or observed by Lessee unless and until such Leasehold Lender becomes the owner of Lessee's interest hereunder or enters into a new lease with Lessor pursuant to Paragraph 6(e). Thereafter such Leasehold Lender shall be liable for the performance and observance of such covenants and conditions only so long as such Leasehold Lender owns such interest or is lessee under such new lease.

(g) At the time of creation of any Leasehold Mortgage, upon the request of any Leasehold Lender, Lessor shall enter into a subordinate lease of the Premises to such Leasehold Lender upon the same terms and conditions as this Lease, except that the Leasehold Lender's right to possession and the corresponding exercise of rights and performance of obligations of the parties under such Lease shall be deferred until the termination, expiration, or rejection or disaffirmance of this Lease pursuant to bankruptcy law or otherwise. Lessee agrees to pay reasonable attorneys' fees incurred by Lessor in connection with the review and execution of such subordinate lease.

(h) Anything herein to the contrary notwithstanding, during any applicable grace period set forth in this paragraph 6, Leasehold Lender shall cause all insurance coverage required to be obtained hereunder to be maintained in full force and effect, and shall cure any default referenced in paragraph 6(b)(i) within the time specified in said paragraph 6(b)(i).

(i) The bankruptcy or insolvency of Lessee shall not operate or permit Lessor to terminate this Lease so long as any Leasehold Lender is paying all rent and other monetary payments required of Lessee in accordance with the terms hereof.

(j) Lessor shall accept any curative acts performed hereunder by any Leasehold Lender as though they were performed by Lessee.

(k) In the event that this Lease becomes subject to rejection by the Lessor's trustee in bankruptcy (the "Trustee") pursuant to Section 365(h) of the Bankruptcy Code, the following shall apply:

To the extent permitted by applicable law, in the event the Lease is rejected by the Trustee and Lessee elects to remain in possession, the terms and conditions of this Lease shall be deemed to continue in full force and effect, no termination of this Lease shall be deemed to occur, and this Lease shall retain its original priority as an encumbrance on the Premises. To the extent permitted by applicable law, in such event the Leasehold Mortgage shall continue to encumber the leasehold interest of this Lease as so continued, with the same priority as prior to the rejection of the Lease by the Trustee. In such event, the laws of the State of Rhode Island shall continue to govern the interpretation and enforcement of the Lease terms unless the Bankruptcy Code or other applicable law requires otherwise. Lessor shall not be liable for any claim for damages arising out of the unenforceability of this Paragraph or inability of Lessor to perform in accordance herewith.

(l) Anything herein to the contrary notwithstanding, nothing in Paragraphs 6(b), (c), or (e) shall obligate Lessor to deliver possession of the Premises in accordance with those paragraphs to Lessee or to any affiliate of Lessee or to enter into any new lease with such person.

(m) Anything herein to the contrary notwithstanding, nothing in Paragraph 6(e) shall obligate Lessor to deliver possession of the Premises to any lessee under such new lease if any other person shall have a claim to possession thereof pursuant to acts by the Lessee or any Leasehold Lender.

7. CONDEMNATION:

(a) If the Premises or any part thereof are taken in condemnation proceedings or by exercise of any right of eminent domain, Lessee and the Leasehold Lender shall have the right to participate in the proceedings and in any award to the full extent of the value of the leasehold or any improvement. Any sums payable with respect thereto will be applied as herein provided.

(b) If all or materially all of the Premises is taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between the Lessor, the Lessee, the Leasehold Lender and those authorized to exercise the same, this Lease will terminate on the date of the taking and the rent and all other payments required to be made by the Lessee hereunder will be apportioned and paid to the date of the taking. The award payable with respect to the condemnation or the exercise of a right of eminent domain, together with any interest thereon, will be paid to the Lessor, the Lessee, and the Leasehold Lender and applied by them as follows: (i) first to the payment of all unpaid rent hereunder and all personal property taxes and Impositions (as hereinbefore defined) (ii) second, to pay to the Lessor a sum equal to the fair market value of the Premises (or part thereof) taken, valued as unimproved land exclusive of improvements and free of leases or subleases; (iii) third, to the balance due under any obligation or Leasehold Mortgage incurred or executed by the Lessee in connection with the acquisition of the leasehold interest or the construction of improvements on the Premises; and (iv) fourth, to pay to the Lessee the balance.

(c) If less than all or materially all of the Premises is taken in condemnation proceedings or by exercise of any right of eminent domain, an amount of the award equal to the fair market value of the portion of the Premises so taken, valued as unimproved land exclusive of improvements and free of leases and subleases shall be paid to the Lessor, and the balance of any such award will be held by the Leasehold Lender (or by an institutional lender or trust company satisfactory to the Lessor, the Lessee and the Leasehold Lender) and applied toward the cost of demolition, repair and restoration of the remaining Premises to a condition of comparable economic value (less the economic value of the land and improvements taken in such proceedings). Any balance held after the payment of such costs will be paid to the Lessor and the rental payable hereunder will be equitably adjusted. In the event of a taking of less than all or materially all of the Premises, neither party may terminate this Lease until the Leasehold Lender has received payment in full of all obligations due under the Leasehold Mortgage except in the case of a

default hereunder not cured by the Lessee or the Leasehold Lender within any applicable grace periods.

8. ADDITIONAL COVENANTS: It is further mutually agreed by and between Lessor and Lessee as follows:

(a) Pledge of Buildings and Improvements: Subject to the lien of any Leasehold Lender (as defined in Paragraph 6 hereof), it is further understood and agreed by and between the parties hereto that all buildings and improvements erected or placed upon the Premises are and shall be pledged for the payments of all rents and sums of money accruing or owing under this lease. Notwithstanding anything herein to the contrary, the Lessor's lien upon such buildings and improvements shall be junior to the lien of any Leasehold Lender securing the Lessee's obligations under the Leasehold Mortgage (as defined in Paragraph 6 hereof). Subject to the provisions of Paragraph 6 hereof regarding the Leasehold Lender's right to cure defaults, and subject to the first lien of the Leasehold Mortgage, at any time after default in the payment of any rent or sum of money accruing or owing under this Lease, and such default shall have continued for the space of thirty (30) days, from and after written notice as hereinafter provided is served upon the Lessee, it shall be lawful for the Lessor to enforce said pledge by selling the buildings and improvements, or any of them on the Premises at public auction first giving notice of the time and place of such sale to Lessee by certified mail, return receipt requested at Lessee's address hereinafter set forth (or such other address of which Lessee shall have given Lessor written notice), three weeks in advance of such sale or, if such notice by mail is undeliverable, by giving notice once a week at least for three (3) successive weeks of the time and place of such sale by advertisement in the newspaper published in said City of Providence; and in its or their own name or names, or as the attorney or attorneys of the Lessee, (for that purpose by these presents duly authorized and appointed with full power of substitution and revocation) to make, execute and deliver to the purchaser or purchasers thereof good and sufficient transfers or bills of sale thereof; and to receive the proceeds of such sale or sales, and from such proceeds to retain the amount of rent then due from the Lessee and all other sums of money accruing or owing under this Lease, together with the expenses incident to such sale or sales, rendering and paying the surplus of said proceeds, if any there be, to the Lessee.

(b) Failure to Pay Rent, Other Charges: In case of any failure on the part of the Lessee to pay said rent and charges at the times and in the manner aforesaid, or in case of failure on its part to perform any or all of the covenants and agreements

herein contained on its part to be kept and performed, and if such failure shall continue for thirty (30) days after notice in writing sent by registered or certified mail by the Lessor to the Lessee at its address hereinafter set forth, the Lessor, by any agent duly authorized shall be at liberty to declare this Lease at an end and may thereupon enter upon and take immediate and full possession of said premises and repossess the same as of its former estate, without prejudice to its right to recover full rent and charges for the time for which the Lessee has been in possession and any damages which the Lessor may have suffered by reason of any breach of the terms or conditions of this lease on the part of the Lessee: Provided, that in case the default upon which any notice shall be predicated is in the payment of any rent or other money charge reserved hereunder, the Lessee shall have the right to cure any default before actual possession is taken by the Lessor or actual sale of property pledged to secure the payment of the amount of rent hereunder. Such default may be cured by the payment of the amount of rent due with interest at 18% per annum and any costs or expenses which the Lessor shall have been put to on account of any such default.

(c) Cancellation of Lease: Lessee, provided it has fully performed any and all of its covenants and agreements herein contained, and provided it has obtained the prior written consent of any Leasehold Lender (as defined in Paragraph 6 hereof), shall have the right and option to cancel and terminate this Lease as of January 1st of any rental year of the Lease or any renewal thereof, for any reason whatsoever, by giving Lessor at least one (1) year's prior written notice of its intention so to do. In the event of such termination, this Lease shall be of no further force and effect as of the date specified in the termination notice.

(d) Title to Improvements: Title to any buildings or other improvements now or hereafter existing on the Premises shall be in Lessee, and Lessor shall have no right, title or interest in the same except as set forth in Paragraph 8(a) hereof. Lessee within one hundred eighty (180) days after the expiration or sooner termination of said Lease shall have the right and option to remove at its own expense all or any of the buildings and improvements from the Premises. Lessee shall have the obligation to remove at its own expense, or to put into good repair at its own expense, within said one hundred eighty (180) days, all or any of such buildings and improvements that are not in reasonably good repair sufficient for use as a petroleum storage terminal (reasonable wear and tear excepted). In the event that Lessee removes any of the buildings and improvements pursuant to this Paragraph, it shall have the obligation within said one hundred

eighty (180) days to repair any damage to the Premises caused by such removal and to restore and clear the Premises to a useable condition (reasonable wear and tear excepted). The Lessee agrees that during such time within the said 180 day period as may be required to perform its obligations and exercise its options under this Paragraph, Lessee shall pay the rent that would be allocable to such period based upon the rent in effect immediately preceding the termination of this Lease, in accordance with the terms hereof.

SUBJECT to SEC 416 of CITY CHARTER

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(e) Option to Renew: Lessee shall have the option by notice in writing to Lessor six (6) months before the end of the original term, to extend this Lease for a further term of ten (10) years, beginning the 1st day of June, 2000 and ending the 31st day of May, 2010, upon the same terms and conditions as are herein contained, except for the annual rental and the wharfage payments which shall be re-negotiated by the parties; provided, however, that (1) if the Premises are being used as a petroleum storage terminal, said annual rental payments shall be based upon (i) the use of the Premises as a petroleum storage terminal and (ii) the value allocable to the land only, and shall not exceed the then prevalent market rate for annual rental fees for the land supporting a comparable facility; and (2) if the Premises are being used other than as a petroleum storage terminal, said annual rental payments shall not exceed the greater of (i) the amount that would be paid pursuant to Subparagraph (1) immediately preceding or (2) the then prevalent market rate for annual rental fees for the land supporting a comparable use; and further provided that in no event shall such annual rental payments and wharfage fees be less than the annual rental payments and wharfage fees payable immediately preceding the expiration of the initial term hereof. This provision shall apply whether the rent for the renewal period is arrived at by re-negotiation or determined by arbitration as hereinafter provided.

In the event that the Lessor and Lessee have failed to agree on those terms within sixty (60) days after notice to the Lessor of the exercise of the option to renew, such rental shall be determined by arbitration in the manner hereinafter provided.

In the event that such determination is not made prior to the 1st day of June, 2000, the Lessee, pending such determination, shall continue to pay rent at the rate theretofore in effect, and any adjustment required as the result of the establishment of a higher rental and wharfage payment shall be made promptly upon such determination. Notwithstanding the Lessee's exercise of such option of extension, the Lessee, by written notice to the Lessor sent within two (2) years after final deter-

mination by arbitration as hereinafter provided of the fair rental and wharfage for the extended term, may terminate this Lease. The termination date shall be no more than one (1) year after the date of notice exercising such right of termination; and in the event that such option is exercised, the reserved rental and wharfage from the 1st day of June, 2000 up to the date of such termination shall be at the rate determined by such arbitration. In the event that such rental for the extended term beginning June 1, 2000 has not been agreed upon within sixty (60) days following the Lessee's exercise of its option of extension, either party may give written notice of demand for arbitration to the other party, naming one arbitrator. The other party shall name a second arbitrator by written notice to the party demanding the arbitration within twenty (20) days thereafter (and if said other party shall fail to name such second arbitrator within the time specified, the party demanding the arbitration may then name such second arbitrator, but in that event such second arbitrator shall not be an agent or employee of the party demanding the arbitration). The two arbitrators so named shall select a third arbitrator; but if they fail to agree on the third arbitrator within ten (10) days after the naming of the second arbitrator, the third arbitrator shall be appointed in accordance with the procedure prescribed by the then rules of the American Arbitration Association or any successor organization (or if neither said American Arbitration Association nor any successor organization is then in existence, such third arbitrator shall be appointed by the Superior Court of the County of Providence, State of Rhode Island, or other court of competent jurisdiction) upon application by either party (after first giving not less than three (3) days' written notice to the other party of the date, time and place of such application, if the application is to said Court). The determination of such rental by the arbitrators shall be made in accordance with the standards hereinabove set forth as to fair rental value. In all other respects the conduct of the arbitration shall be in accordance with the then rules of said American Arbitration Association or successor organization, it being understood that in the absence of any such rules, the arbitrators shall have full power and authority to designate the time, place and rules governing the arbitration proceedings, subject to the requirement that either party hereto shall have the right to be heard by the arbitrators and to present relevant evidence and to examine witnesses and inspect documents offered by the other party, and that the arbitrators, in making their decision, shall consider and give weight to such evidence so presented. The decision of a majority of the arbitrators (or if there be no majority, then the decision of the third arbitrator) shall be final and binding. Unless otherwise determined in the decision of the arbitrator, such party shall

pay the compensation of the arbitrator appointed by or to act for that party, and all other expenses of the arbitration (including the compensation of the third arbitrator) shall be borne equally by the parties; provided, however, that if, after such arbitration decision, the Lessee exercises its option to terminate this Lease, the entire expense of arbitration shall be borne by the Lessee. This paragraph shall be governed by and construed in accordance with the laws and statutes of the State of Rhode Island concerning arbitration which are now in force; and if and to the extent that anything herein is inconsistent therewith the provision thereof shall govern, and if anything required thereby is omitted herefrom, then such item shall be deemed to have been included herein as fully and as effectually as though set forth herein.

Subject to sec. 416 of city charter,

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CAP.
6/5/84*

(f) Second Option to Renew: A Lessee shall have the further option by notice in writing to Lessor six (6) months before the end of the first renewal term, to extend said lease for a second renewal term of ten (10) years, upon the same terms and conditions as are herein contained, except for the annual rent and the wharfage payments which shall be re-negotiated or determined by arbitration, provided that (1) if the Premises are being used as a petroleum storage terminal, said annual rental payments shall be based upon (i) the use of the Premises as a petroleum storage terminal and (ii) the value allocable to the land only, and shall not exceed the then prevalent market rate for annual rental fees for the land underlying a comparable facility; and (2) if the Premises are being used other than as a petroleum storage terminal, said annual rental payments shall not exceed the greater of (i) the amount that would be paid pursuant to subparagraph (1) immediately preceding or (2) the then prevalent market rate for annual rental fees for the land supporting a comparable use; and further provided that in no event shall such annual rental payments and wharfage fees be less than the annual rental payments and wharfage fees payable during the first renewal term hereof. The provisions of Paragraph 8(e) with respect to re-negotiation and/or arbitration are incorporated herein except that references to the year "2000" therein shall be construed in this sub-paragraph (f) to mean the year "2010" and references to the year "2010" shall be construed herein to mean the year "2020".

(g) Right of First Refusal: The Lessor shall not sell the fee interest or any lesser interest in the land that is the subject of this Lease without first offering the same to the Lessee at the price for which the Lessor intends to sell the same. The offer will be in writing and will include the terms of the proposed sale. The Lessee may accept the offer by providing Lessor

with a written acceptance, within 30 days after the date of Lessor's offer. Until the Lessor's offer is rejected or until the period for the acceptance of the same expires, whichever first occurs, no sale will be made by the Lessor. If the offer is rejected or if no action is taken thereon prior to the expiration of the period for the acceptance of the same, the Lessor may then transfer the interest that is the subject of the offer (at not less than the price contained in the offer) to any transferee at any time within six months after the expiration of the period for the acceptance of the offer, but not otherwise or thereafter without complying with the provisions of this Paragraph.

(h) Assignment and Subleases:

(a) The Lessee will not assign or sublet the whole or any part of the Premises or (except as hereinabove provided in Paragraph 6) encumber its interest in the Premises without first obtaining the consent of the Lessor, acting through the City Property Committee of the City of Providence or any successor committee, and of the Mayor of the City of Providence. The foregoing notwithstanding, any Leasehold Lender may, upon the foreclosure of the Leasehold Mortgage, sell and assign the Lessee's interest in the Premises, subject to the terms of this Lease.

(b) The foregoing notwithstanding, Lessee shall have the right to assign this Lease without the consent of Lessor or to enter into a sublease of all or any part of the Premises without such consent, provided that, in each case, the assignee or sublessee shall be a subsidiary or affiliate of Lessee or an entity of which Lessee, or any principal of Lessee, is principal, and provided that the Lessee shall continue to be liable for the performance of its obligations under the Lease.

The sale, assignment, exchange, transfer or other disposition of a partnership interest in Lessee or of any of the stock of either of Lessee's general partners shall not be deemed a prohibited assignment for purposes of this Lease.

(i) Right to Enter, Inspect and Make Repairs: Lessor, its authorized employees, agents, contractors, subcontractors, and other representatives shall have the right at all reasonable times to enter upon the leased Premises, for the following purposes:

(1) To inspect the Premises during regular business hours (or at any time in case of emergency) to ascertain the condition of the Premises and to determine Lessee's compliance with the terms of this Lease. This right of inspection shall impose

on Lessor no duty to inspect and shall impart no liability upon Lessor for failure to inspect.

(2) To perform maintenance and make repairs and replacements in any circumstance in which Lessee is obligated to do so under this Lease and has failed to do so or has failed to commence those repairs which require more than thirty days to complete within thirty days after written notice from Lessor, or at any time with or without written notice in the event that Lessor, in the exercise of reasonable discretion, judges that it is necessary or prudent to do so to avoid immediate injury or damage to the Premises or any portion thereof, to preserve the leased Premises or any portion thereof or to correct any condition likely to lead to injury or damage; provided, however, that as to any such maintenance, repairs or replacements performed by the Lessor or its authorized employees, agents, contractors, subcontractors, or other representatives in accordance with this paragraph, Lessee shall reimburse the cost incurred by the Lessor within thirty days of demand therefor. This right to perform maintenance and make repairs shall impose on Lessor no duty to perform maintenance and make repairs and shall impart no liability upon Lessor for failure to perform maintenance and make repairs.

The term "costs incurred by the Lessor" shall include the actual cost to the Lessor of maintenance or repairs plus additional amounts for planning, design, engineering, supervision or construction, administration, and operation costs related to the repair maintenance contracts.

All entries made for the purposes set forth in this paragraph shall be without abatement of rent.

(j) Entire Agreement: The covenants and agreements contained in this Lease constitute the entire agreement of the parties hereto and are binding upon and shall inure to the benefit of the Lessor and Lessee and their respective successors and assigns.

(k) Non-waiver: No waiver of default by either party of any of the terms, covenants and condition hereof to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party.

(l) Amendment: This Lease may not be amended or terminated by agreement of the parties hereto without the prior written con-

sent of the Leasehold Lender (as defined in Paragraph 6 hereof). Lessor and Lessee shall cooperate in including in this Lease by suitable amendment from time to time any provisions which may reasonably be requested by any Leasehold Lender for the purpose of implementing the mortgagee protection provisions contained in this Lease and allowing such Leasehold Lender reasonable means to protect or preserve the lien of the Leasehold Mortgage (as defined in Paragraph 6 hereof) on the occurrence of a default under the terms of this Lease. Lessor and Lessee each agree to execute and deliver (and to acknowledge if necessary for recording purposes) any agreement necessary to effect any such amendment; provided, however, that any such amendment shall not in any way affect the term or rent under this lease nor otherwise in any material respect adversely affect any rights of the Lessor under this Lease.

(m) No Merger: In the event that the Lessee should acquire the fee interest in the land that is the subject of this Lease, the leasehold estate granted hereunder shall remain separate and shall not be merged into the fee estate.

(n) Notices: All notices required or permitted to be given hereunder shall be sent by registered or certified mail to the parties at the following addresses, and copies of any such notices shall be sent by registered or certified mail to any Leasehold Lender (as defined in Paragraph 6 hereof) at the address provided by such Leasehold Lender.

If to Lessor: City Hall
Providence, Rhode Island 02903

with a copy to
Port Director
The Providence Port Commission
Port Administration Building
Municipal Wharf
Providence, Rhode Island

EM
RAF

If to Lessee: P.O. Box 9505
Providence, Rhode Island 02940

(m) Severability: In the event that any clause of this Lease is found by a court of competent jurisdiction to be invalid, such finding shall not invalidate the remaining provisions of this Lease, and this Lease shall continue in full force and effect as though drafted without such invalid clause.

WITNESS the execution of these presents on the day and date first above written.

*Approved as to form only -
C.A. Bisaturo
City Solicitor 6/5/84*

CITY OF PROVIDENCE

By *John J. Pawlet*
Mayor

PROVIDENCE TERMINAL ASSOCIATES
By Petroleum Service Company, Inc.,
its General Partner

By *Robert E. Dickson*
Its duly authorized: President

STATE OF RHODE ISLAND

COUNTY OF Providence

In Providence, on the 5th day of June, 1984,
before me personally appeared the above-named Joseph R. Pawlet,
to me known and known by me to be the Mayor of the City of
Providence, and the party executing the foregoing instrument on
behalf of the City of Providence and he acknowledged said instru-
ment by him so executed to be his free act and deed and the free
act and deed of said City of Providence.

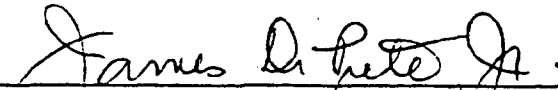
Vincent P. Pelleri
Notary Public
notary Public
VINCENT PELLERI

STATE OF RHODE ISLAND

COUNTY OF Providence

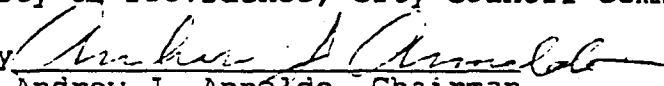
In Providence, on the 5th day of June, 1984,
before me personally appeared the above-named Robert E. Dickson,
to me known and known by me to be the President of Petroleum
Service Company, Inc., a General Partner of Providence Terminal
Associates, and the party executing the foregoing instrument on
behalf of Petroleum Service Company, Inc. in its capacity as
General Partner of Providence Terminal Associates and he acknowl-
edged said instrument by him so executed to be his free act and

deed and the free act and deed of said Petroleum Service Company,
Inc. and of said Providence Terminal Associates.

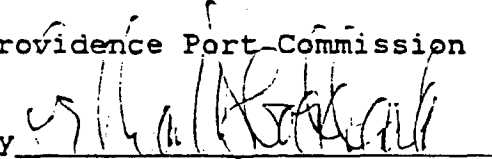

Notary Public JAMES DUPRETE JR
NOTARY PUBLIC


Approved:

City of Providence, City Council Committee on City Property


By 
Andrew J. Annaldo, Chairman

Providence Port Commission

By 
William H. D. Goddard,
Chairman


Robert P. Freeman, Commissioner

Approved as to form only -


6/5/84
Solicitor, City of Providence

SCHEDULE A

DESCRIPTION

That certain tract or parcel of land situated on Terminal Road, Ernest Street and Ellis Street in the Fields Point section of the City of Providence Shown as shaded area and designated by the letters A-B-C-D-E-F-G-H-J-K-L-M- on the accompanying plan entitled "Providence, R.I., P.W. Dept. - Engineering Office, City Property Section, Plan No. 061896. Date July 21, 1959", bounded and described as follows:

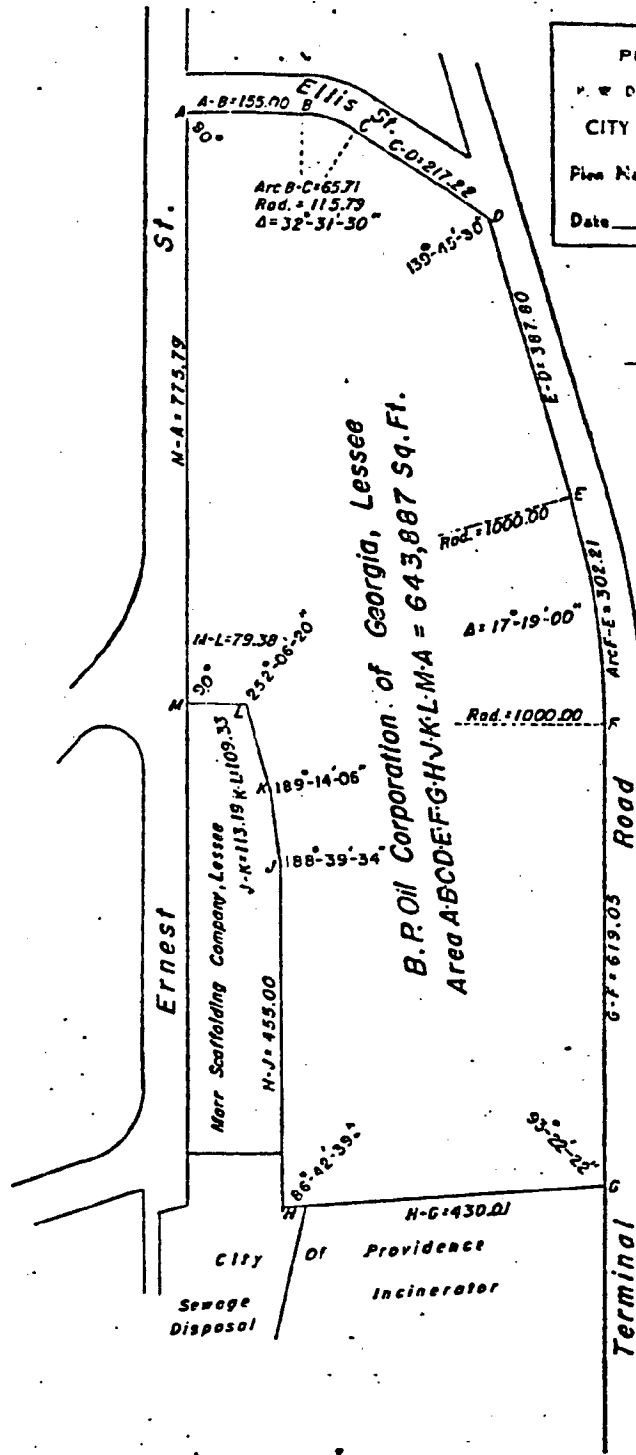
Beginning at the northeasterly corner of Ernest and Ellis Streets, thence northerly along the easterly line of Ellis Street, one hundred fifty-five (155) feet to a point of curve; thence in a general northeasterly direction along the general southeasterly line of said Ellis Street in the arc of a curve to the right having a radius of one hundred fifteen and seventy-nine one-hundredths (115.79) feet and a central angle of 32 degrees - 31'-30", sixty-five and seventy-one one-hundredths (65.71) feet; thence northeasterly along the southeasterly line of Ellis Street, two hundred seventeen and twenty-two one-hundredths (217.22) feet to the southeasterly corner of Ellis Street and Terminal Road, thence easterly along the southerly line of said Terminal Road, making an interior angle of 139 degrees - 45'-30", three hundred eighty-seven and eighty one-hundredths (387.80) feet to a point of curve; thence in a general easterly direction along the general southerly line of said Terminal Road in the arc of a curve to the right having a radius of one thousand (1000) feet and a central angle of 17 degrees - 19'-00", three hundred two and twenty-one one-hundredths (302.21) feet; thence continuing easterly along the said southerly line of Terminal Road, six hundred nineteen and five one-hundredths (619.05) feet; thence southerly, making an interior angle of 93 degrees - 22'-22" and bounded easterly by other land of this grantor, four hundred thirty and one one-hundredths (430.01) feet; thence westerly, making an interior angle of 86 degrees - 42'-39" and bounded southerly by other land of this grantor presently leased in part to M.A. Gammino Construction Company, four hundred fifty-five (455) feet; thence continuing westerly, making an interior angle of 188 degrees - 39'-34" and bounded southerly by said Gammino lease, one hundred thirteen and nineteen one hundredths (113.19) feet; thence continuing westerly, making an interior angle of 189 degrees - 14'-06" and bounded southerly by said Gammino lease, one hundred nine and thirty-three one-hundredths (109.33) feet; thence southerly, making an interior angle of 252 degrees - 06'-20" and bounded easterly by said Gammino lease seventy-nine and thirty-eight one-hundredths (79.38) feet to the northerly line of Ernest Street; thence westerly, making an interior angle of 90 degrees along the said northerly line of Ernest Street, seven hundred seventy-five and seventy-nine one-hundredths (775.79) feet to the northeasterly corner of Ernest and Ellis Streets and the point and place of beginning. The last described line making an interior angle of 90 degrees with the line first described herein.

Said parcel contains 643,887 square feet.

EX-77
RCK

SCHEDULE A CONTINUATION

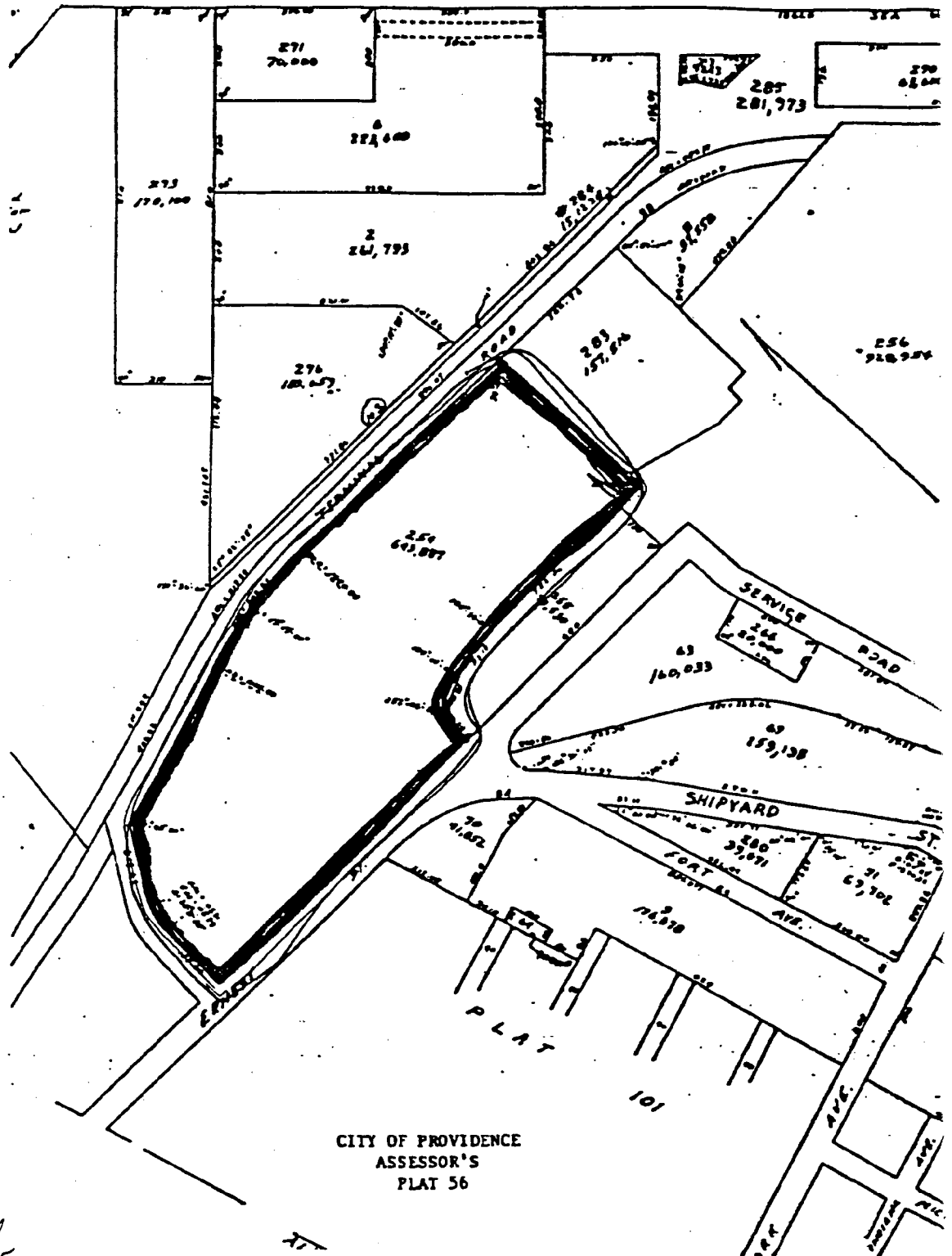
PROVIDENCE, R. I.
 P. W. DEPT. - ENGINEERING OFFICE
 CITY PROPERTY SECTION
 Plan No. 061896
 Date July 21, 1959



CITY OF PROVIDENCE, R. I.
 Public Works Dept. - Engineering Office
 Showing Proposed Lease at Fields Point
 (B.P. Oil Corporation of Georgia)
 Drawn by E.A.K. - L.R. Checked by E.F.L.
 Scale 1" = 200' Date July 21, '59
 Correct - *[Signature]* Associate Engr.
 Approved - *[Signature]* Chief Engineer

Revised February 18, 1970

NARRAGANSETT BAY



CITY OF PROVIDENCE
ASSESSOR'S
PLAT 56

SCHEDULE "B"

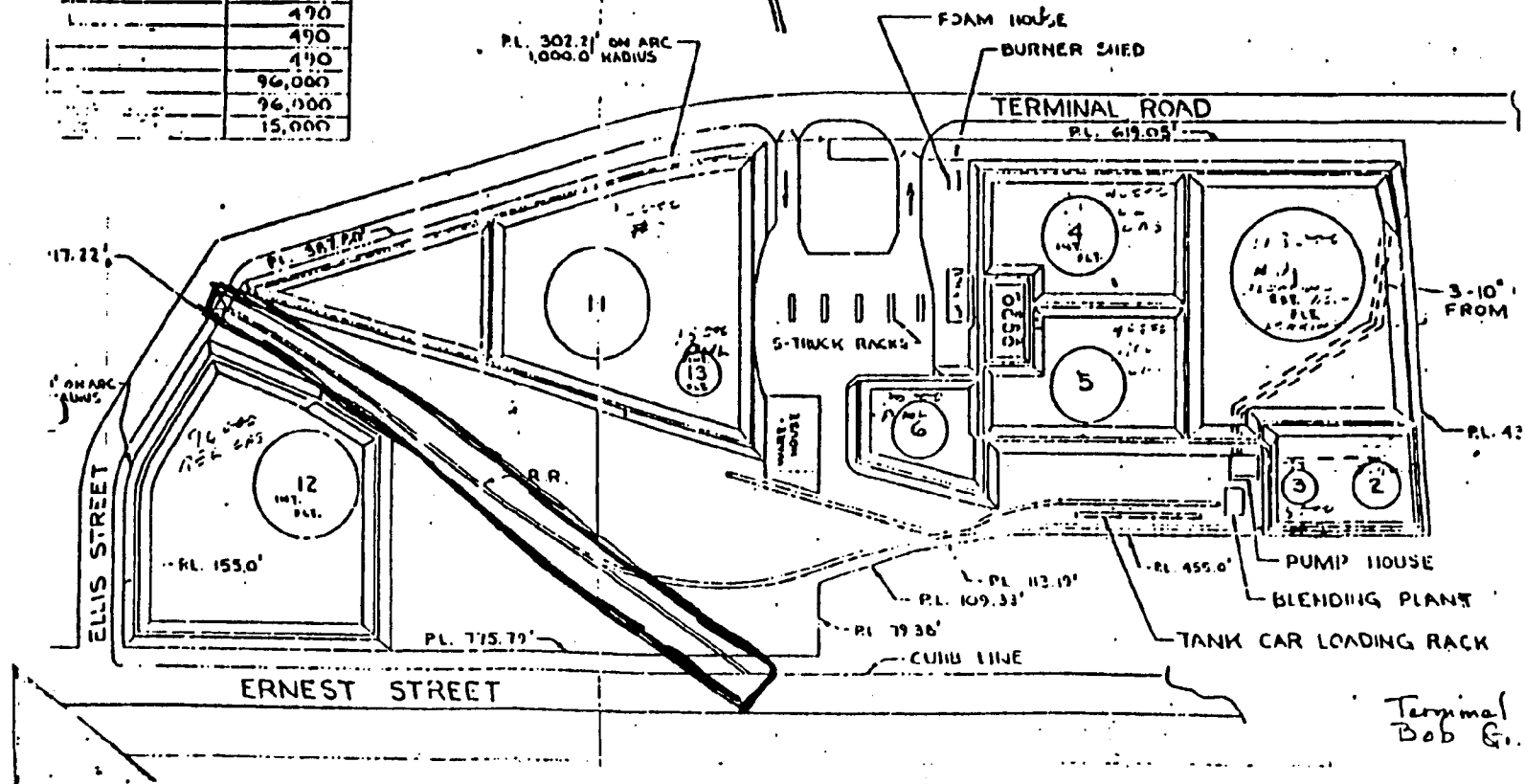
SCHEDULE C

PRODUCT	CAPACITY (BALS)
	113,000
	10,000
	5,000
	40,000
	40,000
	20,000
	490
	490
	490
	490
	96,000
	96,000
	15,000

BP OIL PROVIDENCE, R.I. TERMINAL PLOT PLAN

ALL LAND & DOCK LEASED FROM CITY OF
SCALE: 1"=100' CFW 1/14/72

REV A - PRODUCT CHANGES 6-2-73 RLB

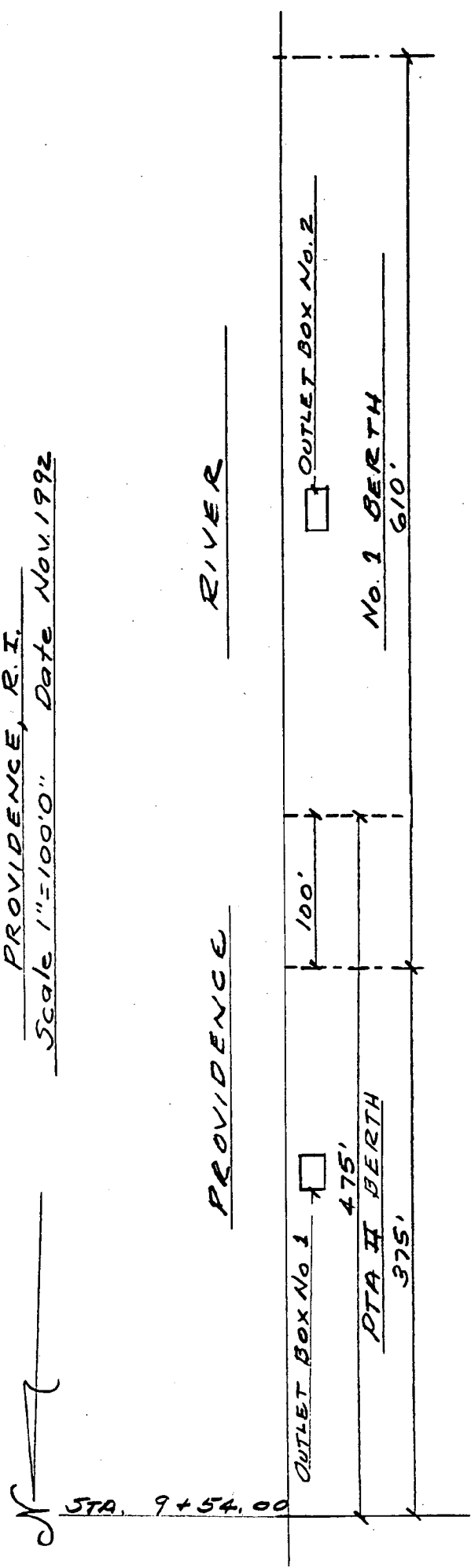


Terminal
Bob G.

Ext'n
R/R

EXHIBIT A-1

PLAN SHOWING
PTA II BERTH AND NO. 1 BERTH
AT THE
PORT OF PROVIDENCE
PROVIDENCE, R.I.
Scale 1"=100'0" Date Nov. 1992



NOTE: PTA II BERTH EXTENDS APPROXIMATELY 100' INTO BERTH NO. 1

B

EXHIBIT B

CITGO PETROLEUM CORPORATION

INTEROFFICE LETTER

TO: Jim Miller
Bill Mayberg
Bob Rotham
Bob Williams
Herb Whitney
Bob Sanborn
Dean Hasselman

FROM: Capt. Bill Doherty

SUBJECT: Providence PTA Marine berth Condition Survey, October 21, 1991

PURPOSE OF THE SURVEY

1. On Monday, October 21, 1991 a condition survey of our Marine berth at Providence RI. was conducted to determine the following facts:

- i. Actual minimum depth at Mean Low Water (MLW)
- ii. Existence, if any of debris, pilings, etc., which would further limit safe draft warranties at this berth.
- iii. Extent of intrusion of the Granite block bulkhead into berth, particularly at base, or foot of the bulkhead.
- iv. Effectiveness of the recently installed fendering system, and their suitability for ship and/or barge traffic.
- v. To determine if there were any other conditions at the berth which would impact CITGO's ability to safely conduct Marine Petroleum Operations.

Weather conditions during the survey were ideal. Clear skies, little breeze, and underwater clarity of ten (10) to fifteen (15) feet for the diver. The hydro surveyor will provide mylar computer generated condition charts. The diver will provide voice narrated video and the pilot will provide a written summary of the survey.

SURVEY TEAM

1. The survey team consisted of Captain Bruce Fisher, President of Northeast Marine Pilots Association, 243 Spring St., Newport RI, 02840, (401) 847-9050; Mr. Rick McLain, Principal Hydrographic Surveyor, Monmouth Marine Services, 1012 North Concourse, Cliffwood Beach, NJ., 07735, (908) 546-2904, Mr. Jim Doran, Diver, TNJ Marine

TWO

Services, P.O. Box 6, Belmar, NJ., 07719, (708) 681-8122. In attendance for CITGO, was Mr. Bill Sousa, Asst. Terminal Manager PTA(CITGO), Providence, RI. NOTE: I was unable to attend the survey as scheduled due to a spill on a ship in Boston Harbor, and Bob Botham, PTA Terminal Manager was out sick. Nobody probably missed us. I did stay in phone contact during the day, and the following report is based upon a conference call, upon completion of the survey, between myself and those listed in the team.

PRELIMINARY SURVEY RESULTS

CAUTION: These are not final results. Any long term decision should be delayed until all the data has been compiled, reviewed and recommendations made.

1. The hydro survey reported that the minimum depth alongside was 30'-00" MLW, but the diver reported several, at least thirty (30) wooden pilings at the base of the bulkhead which project about seven (7'-00") feet above the berth bottom.

2. There is at least one large boulder about eighteen feet (18'-00") long in the berth at the 30'-00" depth, so berth depth improvements would require rock removal. This might be a bargaining point in negotiations with the Port of Providence with respect to berth fees, which are presently based upon a 35'-00" MLW depth alongside.

3. The granite block bulkhead has a vertical slope which results in a horizontal projection into the berth of between five and ten feet from the waterline. There are several vertical gaps in the bulkhead, some as large as 16" which cause the back fill of the dock to seep into the berth causing siltation problems.

4. There is at least one automobile, make and model unknown, sunk in the mud in the berth, it has been crushed and flattened out by berth traffic and presents no immediate danger, but should be removed for berth improvement. There also are at least twenty (20) crushed car cubes, (scrap metal) which apparently have been dropped during loading of scrap iron ships at this berth.

5. Visual inspection of our new large tire fendering system indicates that the berth is protected for ships and/or barges to at least twenty seven (27'-00"). I spoke today with Bill Sousa, ATM, and he told me the barge "ROCKLAND" was currently alongside and although the fendering we installed was functioning, he recommended at least two more tires be installed. I asked he to make a drawing and take a Polaroid picture while the barge was still alongside to evaluate to condition.

CONCLUSION

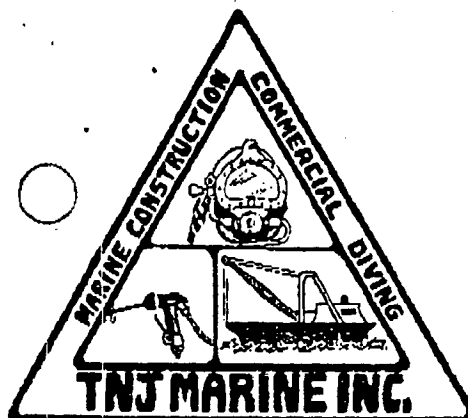
Captain Fisher reports that the berth and its approaches are safe for at least twenty-eight feet (28'-00") MLW, based upon the preliminary findings. I would only concur after review of the FINAL

data.

RECOMMENDATIONS

Before returning to deep draft ship traffic we should arrange to have the pilings cut off, flush with the bottom. We should also remove all the crushed car cubes as these can do damage to a vessels bottom. We should review the final survey results and also the photos of the fendering system in operation. If further remedial action is required, it should be done as soon as possible to take full advantage of the most depth available.

Based upon preliminary data, I am pleased with the performance of this survey team, and would recommend perhaps looking at establishing a travelling road show to get a condition survey at all our terminals, except Braintree, and Linden, since they are already well surveyed.



P.O. BOX 6 • BELMAR, NEW JERSEY 07719 • 201-681-8122 • FAX 201-681-8533

Date: October 21, 1991

To: Port Users, Berth 1, Municipal Wharf, Providence, R.I.

From: T.N.J. Marine, Inc.

Gentlemen,

On October 21, 1991, an underwater survey was conducted to determine the general condition of the granite bulkhead, and to what extent the foundation block footings extended into the berth.

Any and all obstructions found by the hydrographic survey team were to be visually identified by the dive team who were working concurrently this day.

Mr. Rick McClain of Monmouth Marine Hydrographic services and Captain Bruce B. Fisher of Northeast Marine Pilots determined that the survey of Berth 1 be extended to include an approach from the north. Stations were then established from station 0+00, which is located on the Sun Oil Terminal property to the north, and terminated at station 8+25 a few feet short of the sewage outfalls to the south.

During this survey an underwater video was conducted. Filming was conducted at stations 0+00 to stations 1+00 and again at stations 3+00 to 4+25. The video was also to be conducted at stations 7+00 to 8+00, but due to the sewage discharge in this area the underwater visibility was reduced to zero making filming unsatisfactory.

The following is a report of the debris and obstructions found at the various stations and the general condition of the granite bulkhead.

Station 0+00: Diver reports foundation block footing to be extended approximately 4' into berth. Moving several feet to the south the next block has an extension of approximately 3' into the berth. Next to the foundation some silt has accumulated to a depth of 1'. Moving

GENERAL



ASSOCIATION of DIVING CONTRACTORS

approximately 15' out from the wall the bottom is hard sand with some stone strewn about. Measurements of the stones are estimated to be 1' x 6" (See video).

Station 0+25: There are several iron ingots in a pile, then a few strewn about the bottom. Ingots measure approximately 3' long by 6" wide. Also observed was a large vertical gap in the granite bulkhead wall measuring approximately 6" at the top. At the bottom the gap measured approximately 18". Diver reports signs of bulkhead settlement at this station.

Station 0+50: Numerous small stones are lying strewn about the bottom.

0+75: A pile of iron ingots was located at the base of the foundation block extending approximately 6' out into the berth. Foundation block extending 3' out into berth at this station. Diver reports a significant amount of settlement to the bulkhead in this area.

Station 1+00: Hard sand bottom.

Station 1+25: An automobile was located. Diver states it is half buried and has a rise off the bottom of 4' on one end and 2' on the other. Location is approximately 15' off the bulkhead wall.

Station 1+30: A timber fender pile was located next to the foundation block and has a rise of approximately 6". Debris about the bottom consists of cables, ropes and iron fittings. Also reported is a 15" vertical gap in the bulkhead wall.

Station 1+75: Debris in this area consist of old batteries and pipes which are located at the base of the foundation block. Two vertical gaps in the bulkhead wall at this station are reported to be triangular in shape, narrow at the top and wide at the bottom.

Station 2+05: A large granite block stone was located lying approximately 5' from the base of the foundation block. Further investigation of the bulkhead wall in this area revealed no missing block from the bulkhead wall. (Possibly dropped during initial construction.)

Station 2+25: Timber fender pile standing vertical with a 10' rise. Three quarters of the pile is broken apart at the mud line. Diver reports this pile to be lying against the bulkhead wall. Not much debris was located here. There was some accumulation of silt 6" estimated.

Station 2+50: Some small debris. Iron fused together.

Station 2+75: Diver reports the rubber tire employed as a fender to be located approximately 7' from the bottom.

Station 3+10: Two timber fender piles, both having a rise of approximately 7' against the bulkhead wall.

Station 3+25: One timber fender pile with approximately 7' rise located off the bulkhead wall.

Station 3+60: Fused iron debris and three compacted car cubes. Dimensions of cubes approximately 4'x4'x4'.

Station 3+75: Report of vertical gap in the bulkhead walls of approximately 18" and a horizontal gap of 6". Signs of bulkhead settlement.

Station 4+00: Two timber fender piles, one has a 4' vertical rise, the other broken and lying against the bulkhead wall.

Station 4+25: One timber fender pile with a 8' vertical rise and three compacted car cubes fused together. The car cubes are approximately 2' off the bottom.

Station 4+50: A large amount of fused iron rising approximately 4' from the bottom.

Station 4+75: One granite block located 5' from bulkhead wall.

Station 5+00: One granite block and some steel cable.

Station 5+20: Three compacted car cubes located at the base of the foundation block.

Station 5+25: One timber fender pile with a 10' vertical rise.

Station 5+50: One large timber piling lying horizontal on the bottom.

Station 5+55: One granite block.

Station 5+60: One granite block.

Station 5+70 Three compacted car cubes.

Station 5+75" One compacted car cube.

Station 6+00: Three compacted car cubes.

Station 6+25: Three compacted car cubes 25' off the bulkhead wall.

Station 6+75: A large mound of fused iron that extends approximately 15' from the bulkhead was located. At its termination point it drops off 4' to a hard sand bottom. Also located at this station is one granite block and an additional compacted car cube.

Station 7+00: There is a large amount of iron fused together from the foundation block to approximately 15' outward on a gradual slope.

Station 7+25: Fused iron debris was located at the base of the foundation block to approximately 10' out shore. Two compacted car cubes were located.

Station 7+50: One timber piling is lying horizontal on the bottom. Silt accumulation has covered the foundation block and has risen up to the second granite block of the bulkhead.

Station 7+75: One granite block with a 1' rise off the bottom, located approximately 10' from the bulkhead. Some steel cable was also located.

Station 8+00: Zero visibility, very silty.

Station 8+25: Termination of survey

The discharge area of the effluent sewage outfall was checked by the diver. Nothing was noticed to protrude from the face of the bulkhead.

The following are obstructions noted by the hydrographic survey team and visually identified by the diver.

Station 5+75: A large mound of fused iron was found approximately 20' from the bulkhead.

Station 5+25 to 5+50: A large rock was identified 25' off the bulkhead. It is approximately 18' long, 6' wide and rises 4 1/2 to 5' from the bottom.

Station 5+00: 15' from the bulkhead a rock approximately 8'x6' with two compacted cars on top of it were located. The diver reports a rise of 2'. Also, 30' off the bulkhead one additional compacted car was found.

Station 3+75: Small mound of fused iron debris was identified.

GENERAL SYNOPSIS

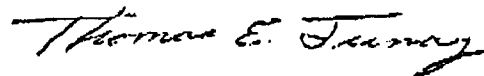
As can be seen from the above survey, the majority of debris is located at the base of the foundation block of the granite bulkhead to an area approximately 10' offshore. Nine timber fender pilings were located in Berth 1 and may pose a threat to vessels using the berth. The general condition of the granite bulkhead is good, although in the areas the diver reports settlement, several vertical cracks were observed in the granite blocks. The granite foundation blocks has an irregular pattern the entire length of the berth. The most noted extension into the berth was 4' and the least was 2'.

No steel sheet piling was observed at or around the base of the granite bulkhead during the entire survey of Berth 1. All of the rubber tires employed as a fendering system are all located approximately 7' from the bottom of the granite foundation block footings.

During the survey the project diver was James Doran, Senior Construction Diver, T.N.J. Marine Inc. Enclosed find sketches of the granite bulkhead and video.

If you have any questions pertaining to the above survey please call.

Respectfully submitted



Thomas E. Junay
T.N.J. Marine, Inc.

TEJ/ntj

cc:

Captain William Doherty, Citgo Petroleum Corp.
Captain Bruce B. Fisher, Northeast Marine Pilots
Mr. Robert Botham, Providence Terminal Associates II

T.N.J. MARINE INC
COMMERCIAL DIVING
P.O. Box 6
Belmar, NJ 07719

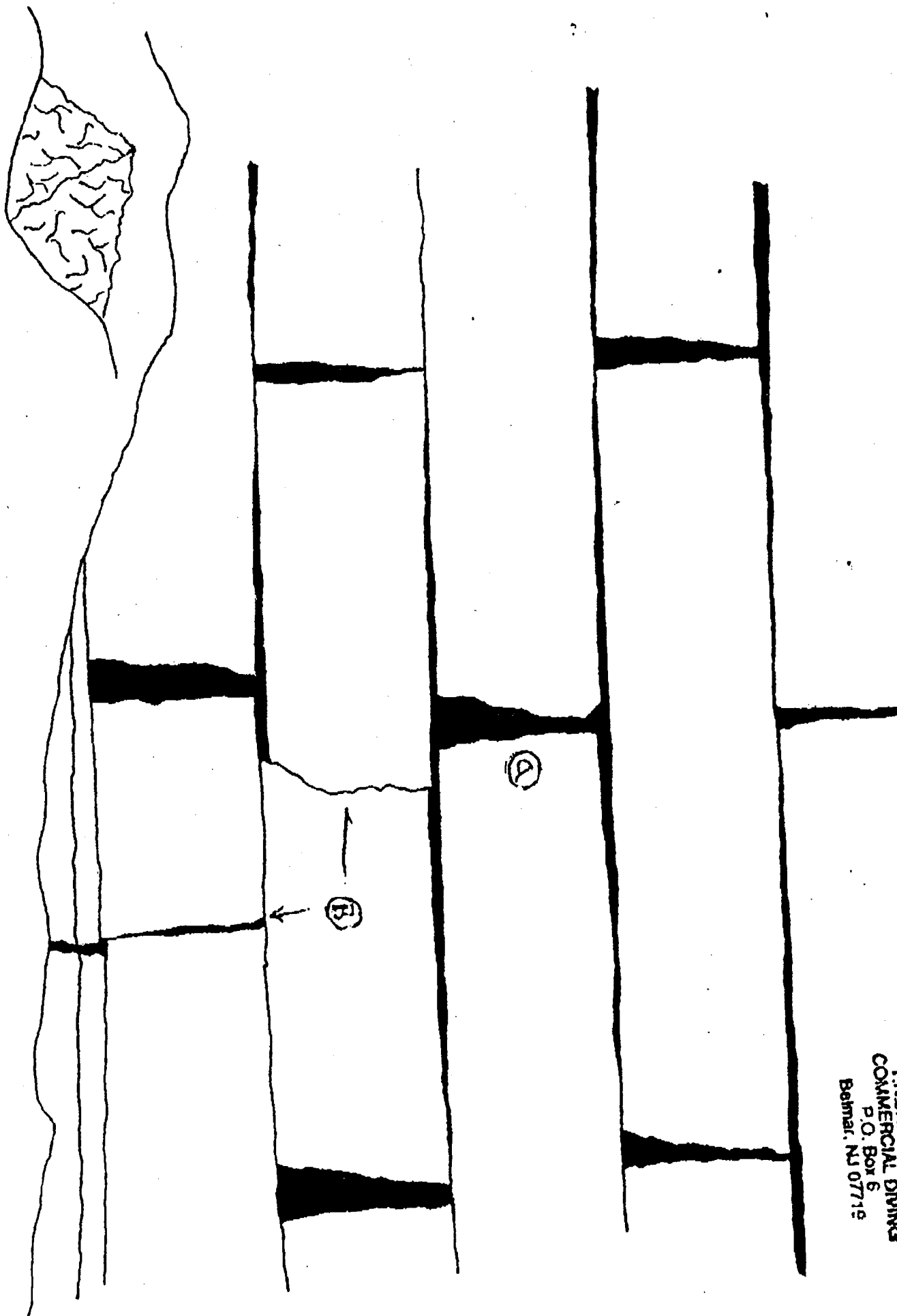
↓
Bottom half
of wall stepped
in or out

Piles from former fender system

Debris consists of
mostly iron scrap plus
piles and granite stones

FOUNDATION
STONE
(EXPOSED IN SOME AREAS)

Not to scale



T.N.J. MARINE INC.
COMMERCIAL DIVING
P.O. Box 6
Belmar, NJ 07719

c

EXHIBIT C

PRELIMINARY PROPOSAL
FOR BULKHEAD IMPROVEMENTS
AT TANKER AND BARGE BERTHS
FOR
THE PORT OF PROVIDENCE

EXHIBIT C

SPECIFICATION
f o r
SEIBU RUBBER DOCK FENDERS

This Specification describes the details of the Characteristics of Rubber Dock Fenders and Accessories designed for the project :

INDEX OF CONTENTS

	<u>Page</u>
1. Type, Size and Quantity of Fender	1
2. Performance of Fender	2
3. Physical Property of Rubber	3
4. Anchor Bolt	4
5. Protector Panel with Relative Accessories	5
6. Fender Top	6
7. Chain with Relative Accessories	7
8. Drawing:	

DWG. NO. DG1-0779-S : REV-17 UNIT - 1000H x 1000L (S0.5)

DWG. NO. DG2-1146-S : Parts - Chain

1. Type, Size and Quantity of Fenders

No.	Use for	Type	Height × Length Rubber Grade ()	Quantity
1		UNIT	1000H × 1000L (S0.5)	2 pcs.

2. Performance of Fender(s)

(1) Compression Test

Compression test shall be performed on a sample product made of the same material or scale model.

Energy absorption and compression load must meet the value(s) listed below within the deflection hereunder.

(2) Compression Recovery

The test shall be performed by compressing the specimen down to the value(s) listed below of its original height.

And the recovery in height of specimen after one minute of the release of the compression load applied must be more than 95% of its original height.

This phenomenon of the recovery in height must be same after the repeated compression test.

(3) The Standard Characteristic(s)

The value(s) of the standard performance characteristics are as follows:

Type & Size	Energy Absorption	Reaction Force	Deflection
UNIT - Type 1000H × 1000L (S0.5)	31.4 T-M 227.4 FT-KPS	69.4 Tons 153.0 KPS	57.5 % 57.5 %

(Allowance =10%)

3. Physical Property of Rubber

The rubber material used for the rubber fender shall satisfy the following physical requirements based on the standard established by the Harbour Construction Bureau of the Ministry of Transportation of Japan.

(1) Rubber Material

The material used for the rubber fenders shall be natural or synthetic rubber of high quality having sufficient resilience, anti-aging, weather and wear resistant property to meet all service in normal condition. The material shall be homogeneous and shall not have any defective impurities, pores, cracks, etc.

(2) Table of Physical Properties (Standard)

Condition	Kind of Test	Requirement	Conforming Standard JIS K-6301	Corresponding Standards	
				ASTM	B. S.
Before Aging	Hardness (Hs)	78° max.	Spring Type (Type A)	D-2240-68	903 A-7
	Tensile Strength (Kgf/cm ²)	160 min.	Dumbell No. 3	D-412-75	903 A-2
	Elongation (%)	350 min.	"	"	"
After Aging (70°±1°C ×96hrs)	Hardness (Hs)	Original value +8° max.	Spring Type (Type A)	D-412-75 D-2240-68	903 A-7 903 A-19
	Tensile Strength (%)	Not less than 80% of original value	Dumbell No. 3	D-573-67	903 A-2 903 A-19
	Elongation (%)	Not less than 80% of original value	"	D-573-67	903 A-2 903 A-19
70°±1°C ×22hrs	Compression Set (%)	30 max.	JIS K-6301	D-395-67	903 A-6 Method "A"

4. Anchor Bolt

(1) Anchor Bolt

- a. Anchor Bolt is made of Structural Steel SS-41 conforming to JIS G-3101 which corresponds to ASTM A-36 and B.S. 15 or B.S. 4360-40A.
- b. Surface treatment of the bolt shall be Hot-Dipped Zinc coating conforming to JIS H-8641 (Min. coating 400g/sqm) which corresponds to ASTM A-153 or B.S. 729, PART I, or by anti-corrosion coating.

5. Protector Panel with Relative Accessories

(1) Protector Panel shall be made of Structural Steel SS-41 conforming to JIS G-3101 which corresponds to ASTM A-36 and B.S. 15 or B.S. 4360-40A.

(2) Welding

Welding shall be done by Arc Welding Conforming to the Japanese Industrial Standard.

(3) Coating

a. Surface Preparation

All surface of fabricated steel structures shall be blast cleaned to near white metal and the surface should be free from grease, oil, dust and other foreign materials.

b. Prime coat

For prime coat, one (1) coat of Zinc Rich Paint shall be applied.
(Thickness 20 μ min.)

c. Final coat

For final coat, one (1) or two (2) coats of Coal tar Epoxy Paint shall be applied.
(Thickness 300 μ min.)

(4) Relative Accessories

- a. Bolt to secure protector panel to fender body shall be made of Structural Steel SS-41 conforming to JIS G-3101 which corresponds to ASTM A-36- and B.S. 15 or B.S. 4360-40A.
- b. Bolt to secure fender top to protector panel shall be made SWRM NO. 15 to 17 conforming to JIS G-3505 which corresponds to ASTM A-546-72 and B.S. 15 or B.S. 4360-40A.
- c. Surface treatment of the bolt shall be Hot-Dipped Zinc coating conforming to JIS H-8641 (Min. coating 400g/sqm) which corresponds to ASTM A-153 or B.S. 729, PART I, or by anti-corrosion coating.

6. Fender Top (Synthetic Resin Board)

(1) Material and Function

Fender Top shall be made of high molecular weight polyethylene having low friction coefficient. Its function is to reduce the friction force between Dock Fender and Vessel's Hull (i.e. steel) and thus to avoid fire sparking during the berthing of vessel.

(2) Physical Properties

Physical Properties	Requirement	Conforming Standard	Corresponding Standards	
		(JIS)	(ASTM)	(B.S.)
Density (g/cm ³)	0.92-1.05	K-7112	D-1505	3412
Tensile Strength (kg/cm ²)	200 min.	K-7113	D-638	2782 Method 301-C
Elongation (%)	500 min.	K-7113	D-638	"
Compression Strength (kg/cm ²)	300 min.	K-7208	D-395	-
Friction Coefficient (Fender Top vs Steel)	0.2 max.	-	-	-

(3) Standard Dimension

Every dimension is applied to fit for each Type, Size and Length of fenders as mentioned in catalogue.

(4) Colour

Colour of Plate is usually "Green".

7. Chain with Relative Accessories

(1) Chain

a. Material, Physical Property and Dimensions

Material, Physical Properties and Dimensions of the Chain shall conform to JIS F-3303 (Electrically Welded Anchor Chain Cables) which corresponds to ASTM A-413 and B.S. 590 or B.S. 1663, but dimensions of enlarged link and end link will be different from JIS Standard to adjust the total length of the Chain.

b. Surface Treatment

Surface treatment of the Chain shall be Hot Dipped Zinc Coating conforming to JIS H-8641 (min. coating 400g/sqm) which corresponds to ASTM A-153 and B.S. 729, PART I, or by anti-corrosion coating.

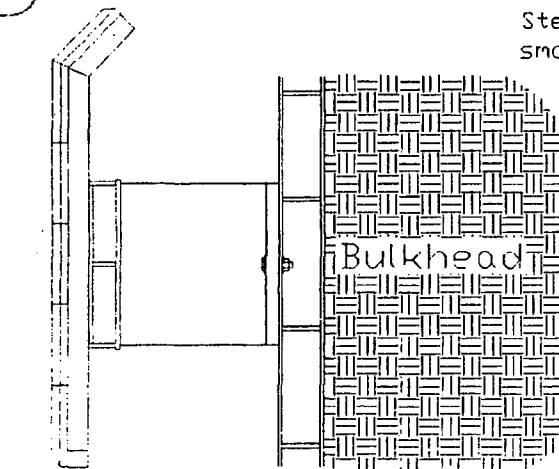
(2) Bracket for Chain

a. Material

Bracket shall be made of Structural Steel SS-41 conforming to JIS G-3101 which corresponds to ASTM A-36 and B.S. 15 or B.S. 4360- 40A.

b. Surface Treatment

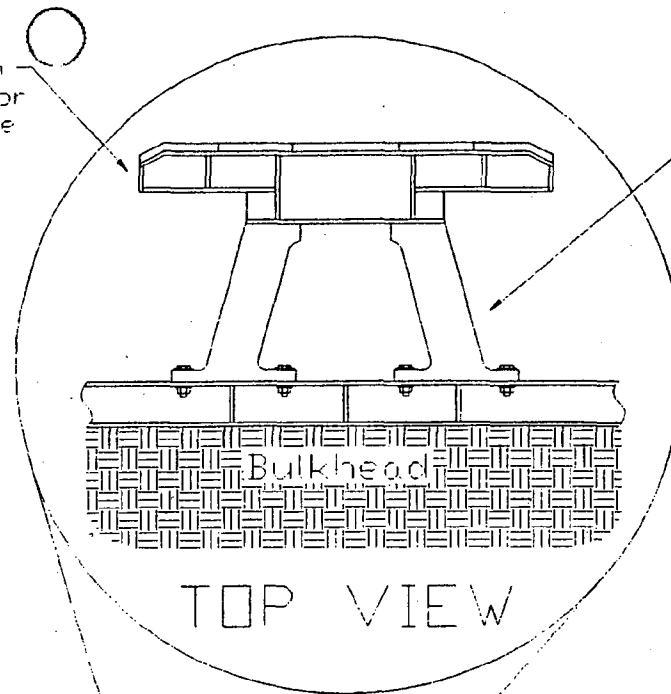
Surface treatment of Bracket shall be same as the treatment of Chain mentioned above.



SIDE VIEW

Steel Backing with
smooth protector
face

Bulkhead

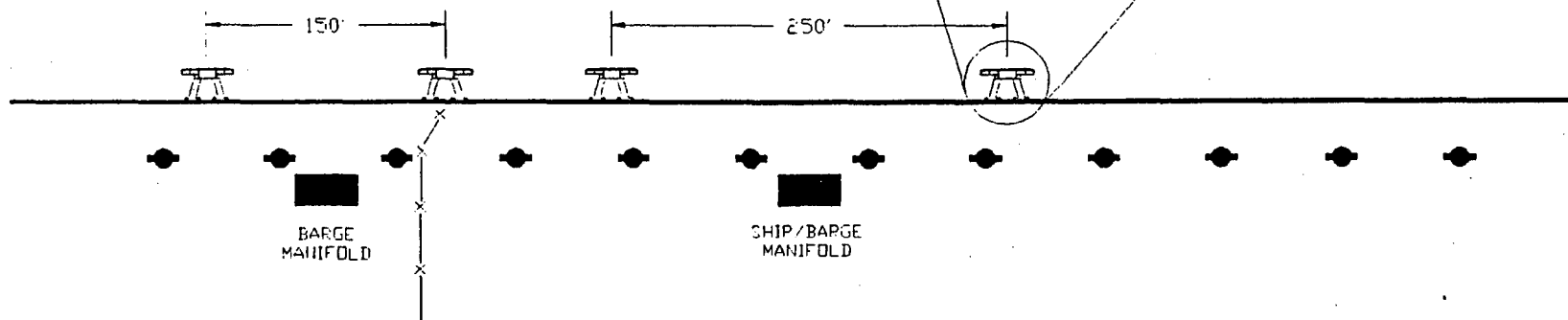


TOP VIEW

Rubber

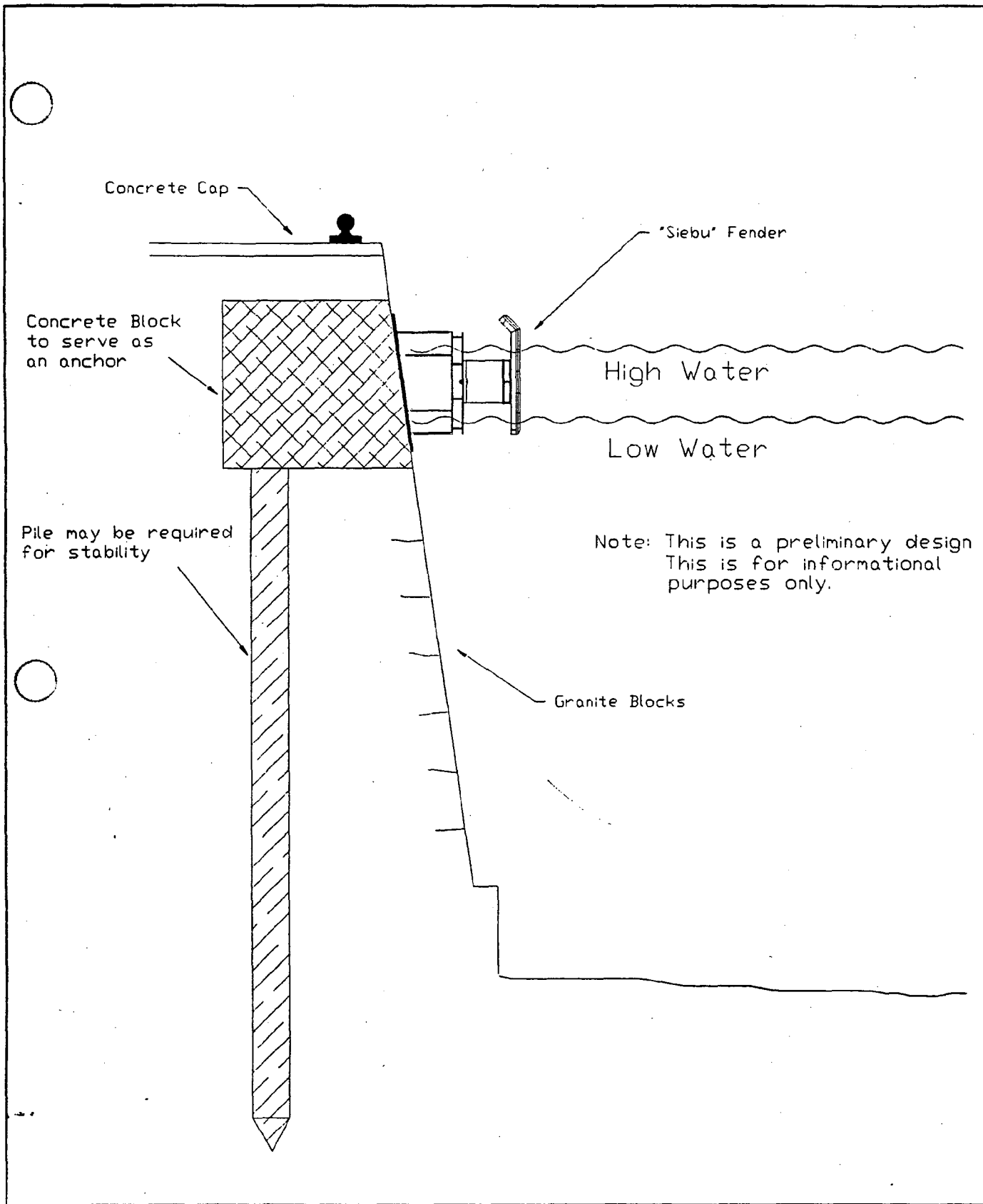
Bulkhead

NOTE: This is a preliminary design
for informational purposes
only.



DRAWN BY	SJS	SCALE	1"=100'	DWG
CHECKED BY		DATE		REV
APPROVED BY				FILE PTAPIER2

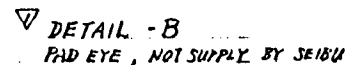
Providence Terminal Associates
Port of Providence
'SEIBU' Style Fender
Preliminary Proposal




<div> <div> DRAWN BY</div> <div>SJS</div> </div> <div> <div>SCALE</div> <div>No Scale</div> </div> <div> <div>DWG</div> </div>	<div> <div> <div> <div> PROVIDENCE TERMINAL ASSOCIATES</div> <div>PORT OF PROVIDENCE</div> </div> <div> <div>"Siebu" Style Fender</div> <div>Preliminary Proposal</div> </div> </div> </div>	
<div> <div> DATE</div> </div> <div> <div>REV</div> </div>	<div> <div> <div>FILE</div> <div>PTAPIER4</div> </div> </div>	



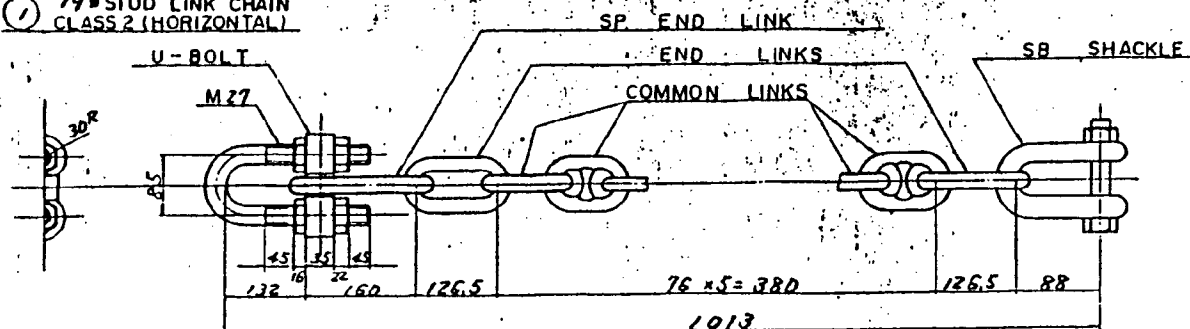
PLAN



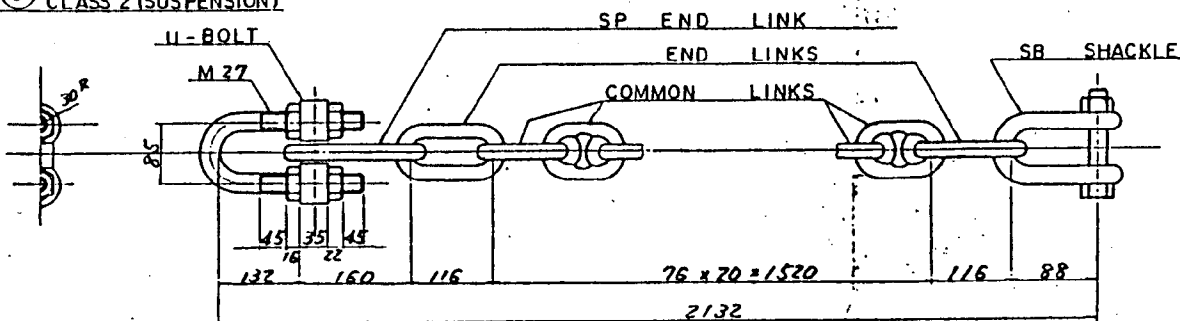
SIDE ELEVATION

REFERENCE DWG.																				DWG. NO.									
<input checked="" type="checkbox"/> IN JAPAN					DIMENSION & LOCATION OF HOLE RYS.															N/A									
REV/DATE					DESCRIPTION															BY					CHK'D				
SEIBU UNIT TYPE RUBBER FENDER																													
1000M x 1000' (S.O.S)																													
FOR CITGO - PETROLEUM																													
 SEIBU POLYMER CHEMICAL CO., LTD.																													
TOKYO JAPAN																													
APP'D															CHK'D										DRWN				
																									MAK-S-A				
SCALE 1 : 30										DATE										DWG. NO.									
SHEET OF										10 JUN 1985										061-0779 s									

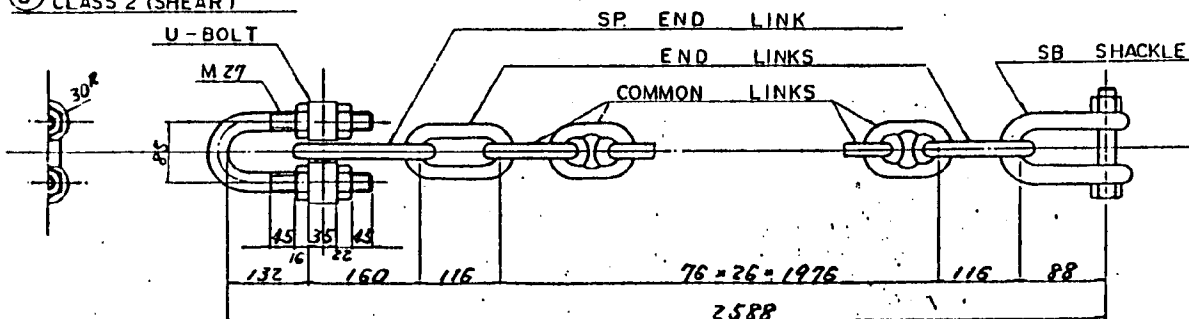
① 19# STUD LINK CHAIN
CLASS 2 (HORIZONTAL)



② 19# STUD LINK CHAIN
CLASS 2 (SUSPENSION)



③ 19# STUD LINK CHAIN
CLASS 2 (SHEAR)



No.	ITEM	MATERIAL	Q'TY	REMARKS
1	19# STUD LINK CHAIN (HORIZONTAL)	SBC 50 55 41	1/SET	
2	19# STUD LINK CHAIN (SUSPENSION)		1/SET	
3	19# STUD LINK CHAIN (SHEAR)		4/SET	

REFERENCE DWG.			DWG. NO.		
REV. DATE DESCRIPTION BY ICHK'D					
PART					
DETAIL OF CHAINS					
FOR CITGO E BRANTREE					
SEIBU POLYMER CHEMICAL CO., LTD.					
TOKYO JAPAN					
APP'D		CHK'D		DRWN	
SCALE		DATE		DWG. NO.	
SHEET OF		16 JAN 1987		052 1146-S	

D

EXHIBIT D

March 12, 1992

SCOPE OF THE WORK

The work to be performed under this Agreement consists of two (2) phases.

I. Housekeeping Work. This is the work which must be done to correct the problems referred to in the underwater survey report (Exhibit B). The work will include the removal of an automobile, a number of crushed car cubes, large boulders, iron ingots, cables, ropes and iron fittings, old batteries and pipes, a large granite block stone, and timber piling lying horizontal on the bottom. The work also includes cutting flush with the bottom a number of wooden pilings which project above the berth bottom and which could cause damage to ships using this berth. It should be emphasized that there shall be no dredging involved in this work and that the river bottom shall not be disturbed during the course of said work.

II. Rubber Dock Fenders. This is the work described and illustrated in Exhibit C. Because of the unstable condition of the pier which to some extent has been undermined by erosion, this work may also require piles to be driven to properly stabilize and anchor the Siebu Fender to the pier.

EXHIBIT D

E

EXHIBIT E

BID FORM

Proposal of AGM MARINE CONTRACTORS, INC.
(hereinafter called "BIDDER"), organized and existing under the laws of the
State of MASSACHUSETTS doing business
as CORPORATION * To the CITGO PETROLEUM
CORPORATION (hereinafter called "Owner".)

In compliance with your Advertisement for Bids. Bidder hereby proposes to perform all WORK for the construction for the construction and installation of three new Seibu Fender Units at the Port of Providence, Rhode Island in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below.

By submission of this BID, each BIDDER certifies, and in the case of a joint BID each party thereto certifies as to his own organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any Competitor.

BIDDER hereby agrees to commence WORK under this contract on or before a date to be specified in the NOTICE TO PROCEED and to fully complete the PROJECT within 60 consecutive calendar days thereafter.

BIDDER acknowledges receipt of the following ADDENDUM:

1. NONE
- 2.
- 3.
- 4.

* Insert "a corporation". "a partnership". or "an individual" as applicable.

Bidder agrees to perform all work described in the CONTRACT DOCUMENTS for the following lump sum:

LUMP SUM PRICE:

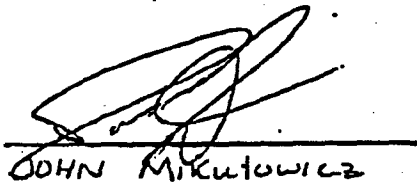
\$ 136,900.00

ONE HUNDRED THIRTY
SIX THOUSAND NINE
HUNDRED DOLLARS

Written in Words

Respectfully Submitted:

Signature:


JOHN Mikutowicz

Title:

President

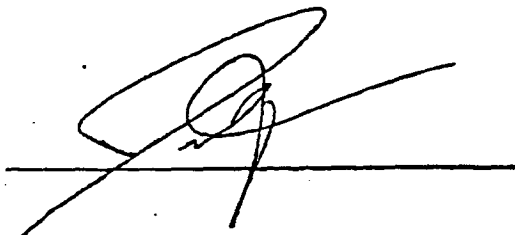
Date:

AUGUST 26, 1992

License Number (if Applicable)

Seal - If Bid is by a Corporation

Attest



F

EXHIBIT F

CITGO Petroleum Corporation
INTEROFFICE LETTER

Via Fax

September 9, 1992

To: Jim Deprete

From: Steve Sullivan
CITGO, Braintree



Re: Bids for proposed fenders at the Port of Providence for PTA

At the request of Arthur Deblois III, I am forwarding the actual costs for the installation of the Seibu fenders at the Port of Providence's Berth #1. All the bids have been returned and have been reviewed. I am also copying the low bid to you for your information. The following are the actual costs:

Engineering	\$ 18,202.00
Fender Units	\$ 60,000.00
Installation	\$ 136,900.00
Latent and Unknown Conditions	<u>\$ 10,000.00</u>

TOTAL \$225,102.00

As you can see the actual costs are in line with the budget estimate provided by the Maguire Group. With this information we can move forward with the City of Providence. If there are any questions or comments, please do not hesitate to call me at (617) 848-2595 ext. 14. Thank you.

c: Bill Meyberg
Bob Botham

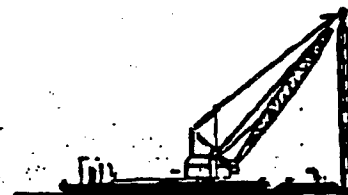
EXHIBIT F

G

EXHIBIT G

AGM

MARINE CONTRACTORS, INC.
30 Echo Rd., Mashpee, MA 02849
508-477-8801 FAX 508-477-8804



October 1, 1992

Mr. Steve Sullivan
Citgo Petroleum Corp.
385 Quincy Ave.
Braintree, MA 02184

Re: Port of Providence
Debris Removal

Subject: Price Quotation

Dear Sir:

As requested by you I have prepared a price quotation for the removal of the debris located in the Citgo Petroleum, Port of Providence Berth #1.

The total cost for AGM Marine to provide a diver with tender, crane with operator and trucking of the debris is \$5,200.00. This cost includes any disposal fees.

If you have any questions regarding this matter please do not hesitate to contact me.

Respectfully submitted,

AGM MARINE CONTRACTORS, INC.


JOHN MIKUTOWICZ

JM/sg

EXHIBIT G