

## PEASE DEVELOPMENT AUTHORITY



360 Corporate Drive, Pease International Tradeport, Portsmouth, NH 03801  
(603) 433-6088 Fax: (603) 427-0433 TDD: Relay NH 1-800-735-2964

December 20, 2005

Ms. Amy Lockwood, Executive Director  
Star Island Corporation  
10 Vaughn Mall, Suite #8  
Worth Plaza  
Portsmouth, NH 03801

Re: Right of Entry for Non-exclusive Use of Parcel A-2 and Burge Wharf

Dear Ms. Lockwood:

On behalf of the Pease Development Authority, Division of Ports and Harbors, this will serve to authorize Star Island Corporation, a corporation duly formed under the laws of the Commonwealth of Massachusetts and registered to do business in New Hampshire, and its employees, agents and business invitees to enter and use, in common with others and subject to the terms and conditions set forth herein, a portion of the above referenced Premises (Exhibit A) for a period of one year (1) year commencing April 1, 2006. This Right of Entry (ROE) is granted to Star Island Corporation for the purpose of conducting operations as defined herein, at its sole risk, and for no other use without the express written consent of the Pease Development Authority, Division of Ports and Harbors. This ROE shall terminate at midnight on March 31, 2007, unless otherwise extended by agreement of Star Island Corporation and Pease Development Authority, Division of Ports and Harbors.

Please note that the terms of this ROE are expressly subject to and conditioned upon the provisions of NH RSA 12-G, and the following:

**Grantor:** Pease Development Authority, Division of Ports and Harbors (PDA-DPH or Grantor)

**Grantee:** Star Island Corporation (Star Island or Grantee)

**Purpose:** For berthing of two corporate vessels and for transporting employees, equipment, refuse and supplies to and from its facilities on Star Island at the Isles of Shoals. Grantee will berth vessels on permanent basis, at the times and in the locations established by the PDA-DPH, subject to the agreement to provide up to 15 vehicle spaces as set forth herein.

**Premises:** For and in consideration of the fees to be paid and subject to the terms and conditions set forth herein, the PDA-DPH agrees to permit Grantee a non-exclusive right to use the area described below as the PDA-DPH's Parcel A2, including the "Burge Wharf", all as more specifically shown on the plan attached hereto and incorporated herein as Exhibit A. This ROE may include such other areas for vehicle parking, location of a trash dumpster, and a transient berth as shall be made available from time to time by the Director of the PDA-DPH.

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Grantee agrees that it will leave the Premises in a neat, clean and orderly condition and shall provide a fenced in area for its trash dumpster and arrange for trash removal at its sole expense in accordance with the operating guidelines provided from time to time by the PDA-DPH.

**Fees:** In consideration of the ROE granted herein, Grantee shall pay to the PDA-DPH the following annual amounts.

**Wharfage** To the extent any of Grantee's conferees, guests or invitees are transported to Star Island at the Isle of Shoals from the Burge Wharf, Grantee agrees to pay during the term of the ROE, the amount of \$1.00 per paying passenger as a wharfage fee (the "Wharfage Fee"). Wharfage Fees shall be paid monthly in arrears of the fifteenth (15th) day of each month. Wharfage Fee payments shall be accompanied by a statement from Grantee, on a form provided by or reasonably acceptable to PDA-DPH, showing all information concerning paid passenger activity or any applicable activity for the previous calendar month required to calculate the Wharfage Fee due, including but not limited to information in the Captain's Log. Accompanying such report shall be a statement executed by an officer of Grantee certifying that all information contained therein is true and accurate as of the date the same is given.

**Dockage:** For the intended usage, Grantee agrees to pay during the term of this ROE a dockage fee ("Dockage") at the annual rate of \$7,500. Dockage shall be paid annually in advance on April 1<sup>st</sup> of each year of the term of the ROE.

**Parking Fees:** PDA-DPH shall provide to Grantee in connection with this ROE the right to park 6 vehicles per day at the Premises. In connection with this right to park automobiles, motorcycles, vans, and other non-commercial passenger vehicles, Star Island shall pay to PDA-DPH an annual fee of \$4,998 payable on or before April 1 of each year of the term of this ROE. In addition to the six (6) spaces provided annually, Grantee may elect, during the period June 1 through September 30 of each year of this Agreement, to license up to nine (9) additional spaces at a daily rate of \$5.00 per day to a maximum of a monthly fee of \$150 per space per month. The fees for additional parking spaces shall be paid on or before the first (1<sup>st</sup>) day of each month in advance, unless Grantee advises PDA-DPH in writing of its intent not to use the additional parking spaces in any given month. On or before the 15<sup>th</sup> day of July, August, September and October of 2006 and during any extension term of this ROE, Grantee shall forward to the PDA-DPH a statement, which shall be on a form provided by or reasonably acceptable to the PDA-DPH, showing all information concerning additional parking activity for the previous calendar month required to verify the number of vehicles parked on the

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Premises in accordance with this ROE. Accompanying such report shall be a statement executed by an officer of Grantee certifying that all information contained therein is true and accurate as of the date the same is given. Parking on PDA-DPH property shall be monitored and controlled by Grantee, shall be subject to the reasonable rules and regulations promulgated by the PDA-DPH and shall be limited to corporate officers, executive staff and employees of Grantee. Parking and ferry service to Star Island at the Isles of Shoals for Star Island conferees and guests will be provided at a separate PDA-DPH facility located at Rye Harbor Marina in Rye, New Hampshire.

Notwithstanding the provisions of this ROE to the contrary, Grantee may request from PDA-DPH the right to park an additional three (3) vehicles on the premises at an annual cost of \$800 per space, which annual cost shall not be subject to proration.

Dumpster and Storage Area: For the intended usage, Grantee agrees to pay during the term of this ROE a fee for the location of its dumpster and storage at the annual rate of \$500. Said \$500 fee shall be paid annually in advance on April 1<sup>st</sup> of each year of the term of the ROE.

**Condition of**

**Premises:**

Grantee acknowledges that it has inspected the Premises, including the parking area and all improvements and other facilities thereon, and that it has determined that the said Premises are in apparent good and tenantable condition. Grantee accepts said Premises in their present condition and without any representation or warranty by the PDA-DPH as to their condition or as to the use which may be made thereof and without obligation on the part of the PDA-DPH, to make any alterations, repairs, improvements or additions. Further, the PDA-DPH shall not be responsible for any latent or other defect not known by the PDA-DPH or any change of condition in said Premises.

**Insurance**

**and**

**Indemnification:**

During the term of the ROE, Grantee shall, as applicable, provide and shall require all contractors, agents or employees of Grantee to carry or be covered by (i) worker's compensation and employer's liability insurance in an amount and form which meets all applicable requirements of the labor laws of the State of New Hampshire, as amended from time to time, and which specifically covers the persons and risks involved in this ROE; (ii) comprehensive general liability insurance to a limit of not less than Two Million Dollars (\$2,000,000), per occurrence, Two Million Dollars (\$2,000,000) aggregate, with respect to damage to property and bodily injury or death of any one or more persons and with no deductible or such deductible amount as may



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be authorized by the PDA-DPH; (iii) protection and indemnity coverage for vessels which tie up to the Burge Wharf (or other PDA-DPH marine facility) in the amount of One Million Dollars (\$1,000,000) endorsed for piers, docks, and gangways coverage and, (iv) automobile liability insurance in amounts approved from time to time by the PDA-DPH, but not less than One Million Dollars (\$1,000,000) combined single limit for owned, hired and non-owned automobiles.

Grantee agrees to indemnify, defend and hold harmless the PDA-DPH and the State of New Hampshire from any and all claims, judgments, damages, penalties, fines, assessments, costs and expenses, liabilities and losses resulting or arising during the term of the ROE and any actions, demands and causes of actions caused by or resulting from (i) any conditions of the Premises, which condition first arises during the term of the ROE (ii) from any breach or default on the part of Grantee in the performance of any covenant or agreement to be performed pursuant to the terms of the ROE, or from any act or omission of Grantee, or any of its agents, contractors, servants, employees, Licensees or invitees; and (iii) from any accident, injury, death, loss or damage whatsoever caused to any person or property occurring during the term of the ROE or as the result of Grantee's exercise of the rights granted to it pursuant to the ROE.

Any service, use, or consumption of alcoholic beverages in on or about the Premises shall be specifically subject to prior written approval of the PDA-DPH, or its designee, and such additional liability insurance as the PDA-DPH shall reasonably require.

**Maintenance  
of Premises:**

Except as otherwise provided in this ROE, PDA-DPH shall maintain in good and tenable condition the common areas of the PDA-DPH property and the structural components and integrity of the Burge Wharf.

Grantee covenants and agrees, throughout the term of this ROE, without cost to the PDA-DPH to take good care of the Premises, and related improvements, including sidewalks, curbs, access routes and /or parking areas designated for Grantee's use and to keep the same in good order and condition at all times.

PDA-DPH shall in no event be responsible to Grantee for any condition of the Premises or the common areas caused by any act or negligence by Grantee or Grantee's representatives and invitees.

**Base Term:** The base term of the ROE will be for a one (1) year period, commencing on April 1, 2006 and continuing until midnight on March 31, 2007.

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**Additional  
Usage:**

Notwithstanding anything in this ROE to the contrary, Grantee's right to use the Premises, and specifically the linear footage of dock area shall be limited to 74 feet as shown on Exhibit A, attached hereto and incorporated herein. Any available lineal footage, dock and wharf space not specifically reserved to Grantee during the term of the ROE and required for its timely use for its support vessels, shall be available to the PDA-DPH for its use or the use of third parties as authorized by PDA-DPH, without limitation. Nothing in this ROE shall be deemed to confer upon Grantee any exclusive interest or reservation in PDA-DPH property; provided, however, that during the term of this ROE no use by the PDA-DPH or its tenants shall interfere with Grantee's operations as contemplated herein. Grantee hereby acknowledges and agrees that storage of hazardous substances is not permitted on the Premises. "Hazardous Substances" as used herein means any hazardous or toxic substance, material or waste, oil or petroleum product, which is or becomes regulated by any local governmental authority, the State of New Hampshire or the United States Government.

**Non-  
Compete:**

Notwithstanding anything in this ROE to the contrary, Grantee acknowledges and agrees that its use of the Premises, to include Parcel A2 and "Burge Wharf" shall be subject to the pre-existing rights of the Isles of Shoals Steamship Company (ISSCO) and specifically the non-compete provisions set forth in Paragraph 7.3 of a certain Lease dated effective January 1, 1999, as amended July 1, 2001 and January 1, 2005 (the "Lease"), which Lease, as amended is attached hereto and incorporated herein as Exhibit B. Nothing in this ROE shall be deemed to prohibit Grantee from seeking relief from the non-compete provisions directly from ISSCO, prior to seeking approval from PDA-DPH for any proposed use not specifically authorized by this ROE.

**Compliance:**

Grantee's use of the Premises shall be orderly and efficient and shall not cause any disruptions to other PDA-DPH activities. Grantee shall not cause or maintain any nuisance on the Premises. Grantee warrants that prior to engaging in any permitted use, it will hold all certificates, permits, licenses or other entitlements required by federal, state or local laws in order to allow Grantee to conduct the permitted uses hereunder, and that the same are and will be kept current and complete. In its use and occupation of the Premises and the conduct of its business thereon, Grantee, at its sole cost and expense, shall promptly comply with all present and future laws, ordinance, orders, rules, regulations and requirements, to the extent in each of the foregoing cases that such are applicable and have the force of law. Grantee agrees that any vessels at the transient berth will be attended at all times by a competent operator.

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**Additional Provisions:**

Grantee agrees and accepts the following conditions to its use of the Premises:

1. The use, occupation and maintenance of the Premises shall be: (a) without cost or expense to the PDA-DPH; (b) subject to the general supervision and approval of the PDA-DPH and the State of New Hampshire ("State"); and (c) subject to such rules, regulations and operating procedures as the PDA-DPH may prescribe from time to time.
2. Grantee understands and acknowledges that this ROE: (a) allows only temporary use of the facilities; and (b) is granted on a non-exclusive basis. The use of the Premises shall be orderly and efficient, shall not constitute a nuisance and shall not cause disruption to other PDA-DPH activities.
3. PDA-DPH shall not be responsible for damages to property or injuries to persons which may arise from or be attributable or incident to the condition or state or repair of the Premises, or the use and occupation thereof, or for damages to the property or injuries to the person of the PDA-DPH's officers, agents, servants, employees, research associates, or others who may be on the Premises at their invitation or the invitation of any one of them.
4. Grantee's agreement herein that any use of the Premises is at its sole risk and that its signature below constitutes its agreement to assume full responsibility for any and all risks of loss or damage to property and injury or death to persons by reason of or incident to its entry or the entry by any of its employees, agents, or contractors upon the Premises and/or the exercise of any of the authorities granted herein. Star Island expressly waives all claims against the State of New Hampshire and the PDA-DPH for any such loss, damage, personal injury or death caused by or occurring as a consequence of Grantee's use of the Premises or the conduct of activities or the performance of responsibilities under this authorization.
5. Any actions or proceedings with respect to any matters arising under or growing out of this ROE shall be instituted and prosecuted only in courts located in the State of New Hampshire. Nothing contained in this ROE shall be deemed to constitute a waiver of the sovereign immunity of PDA-DPH and the State of New Hampshire which at all times is reserved to PDA-DPH and the State of New Hampshire; provided, however, that PDA-DPH agrees to waive immunity for contractual claims under this ROE to the extent permitted under NH RSA 491:8, as the same may be amended from time to time.
6. Grantee's access to and egress from the Premises shall be restricted to Gate 2 off of Market Street Extension.

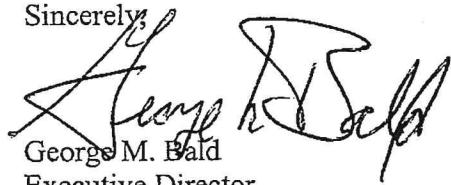
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7. Grantee's agreement to make appropriate arrangement for the installation, maintenance and payment of any utilities required in connection with this ROE.

If these terms and conditions are acceptable to you, it is my hope that you will be in a position to advise me of your commitment to the PDA-DPH by executing this original and the enclosed copy in space provided and returning the original to me with evidence of insurance, as required prior to the commencement of any activities in connection with this ROE. A fully executed copy of the ROE will be provided to you shortly thereafter.

If you have any questions, please feel free to call me directly.

Sincerely,



George M. Bald  
Executive Director

I have read the foregoing and, on behalf of Star Island Corporation, hereby agree and accept the terms and conditions of this Right of Entry.

**Star Island Corporation**

By: \_\_\_\_\_

Its: Executive Director, Amy L. Lockwood  
duly authorized

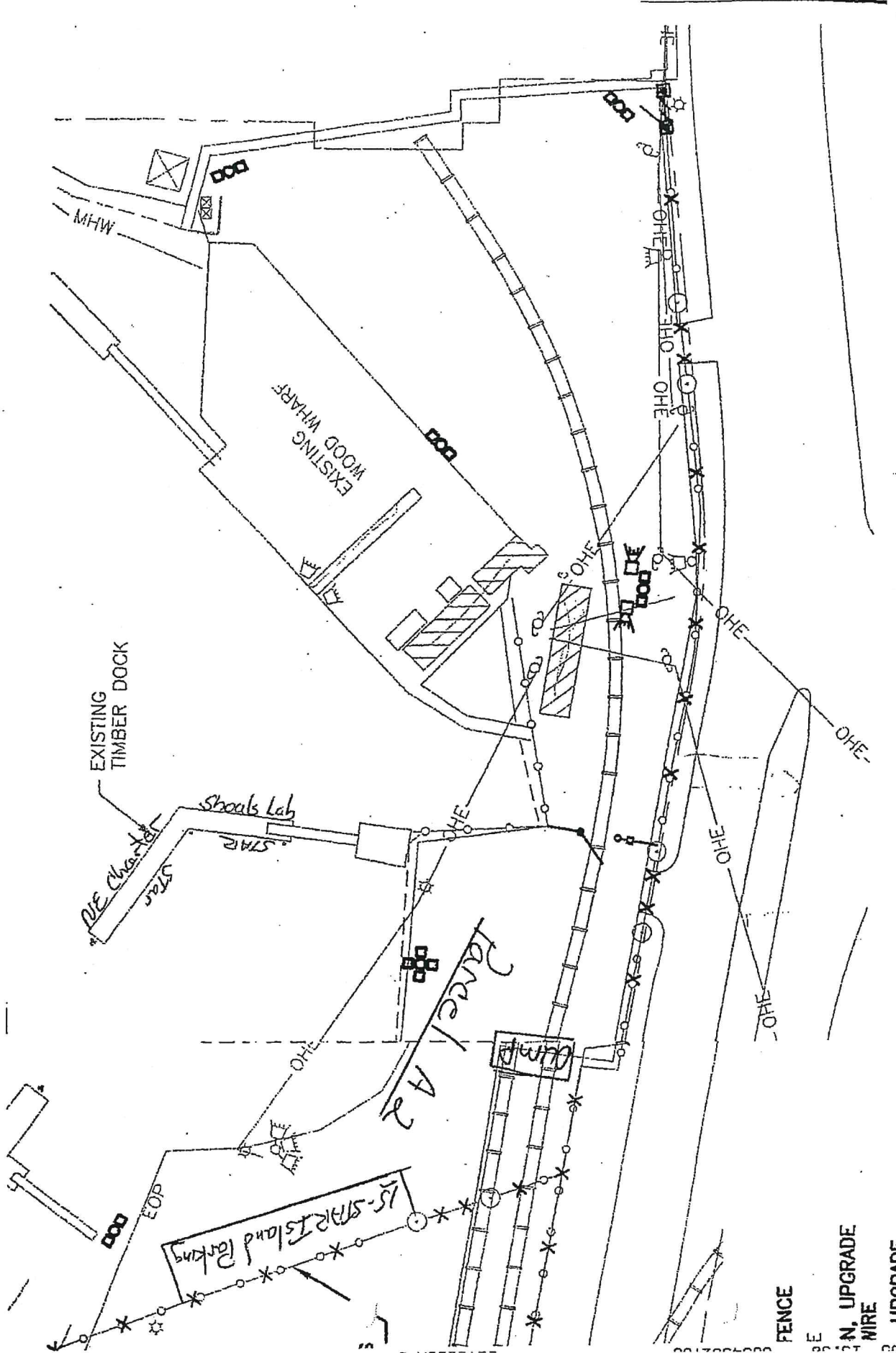
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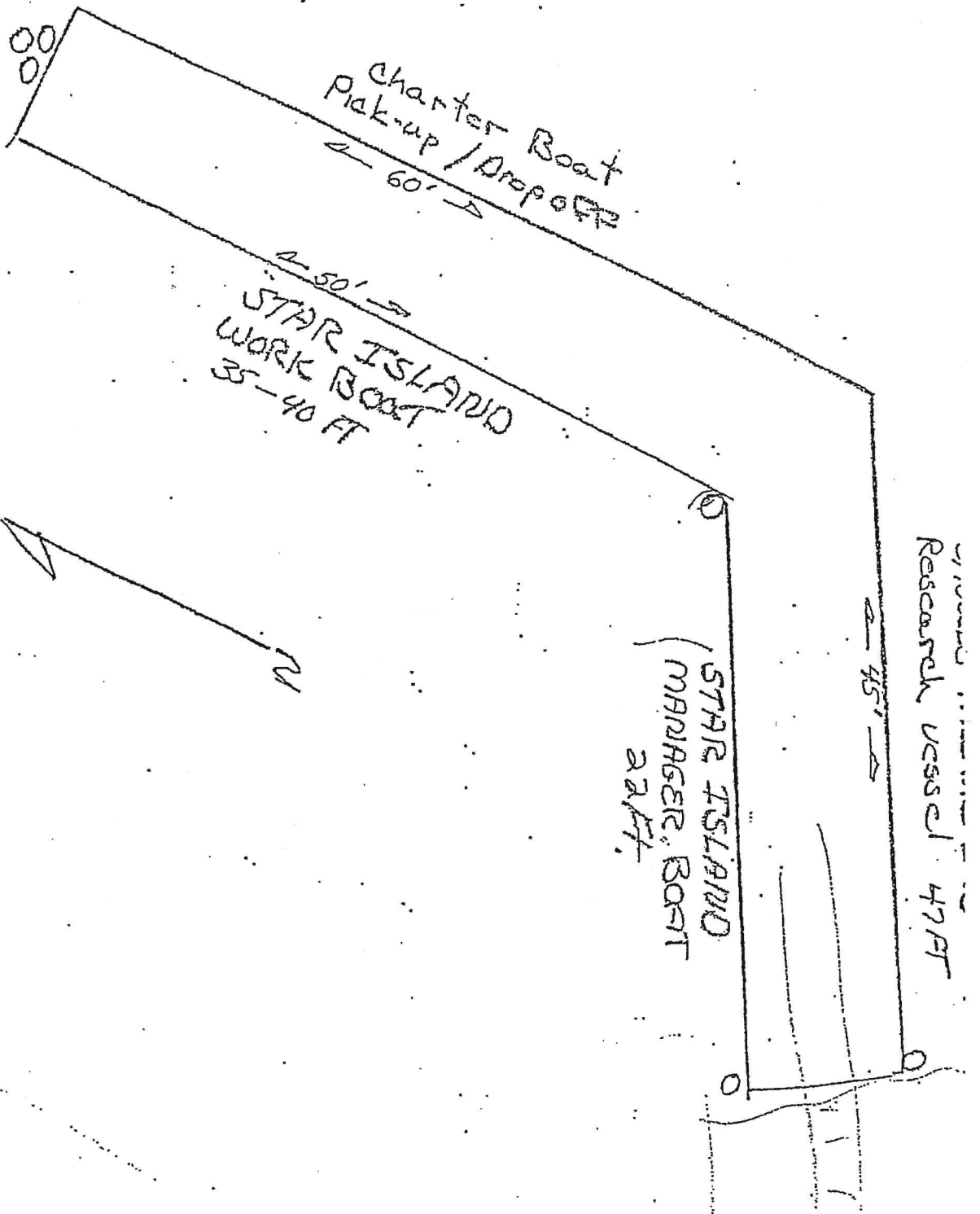
**EXHIBIT A**

**PREMISES**





FENCE  
 WIRE  
 UPGRADE WIRE  
 UPGRADE WIRE  
 GATE



Berger Dock  
Market Street  
Rutland

**EXHIBIT B**

**ISLES OF SHOALS STEAMSHIP CO. LEASE**