

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

(Mark One)

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended September 30, 2009

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number:

1-33891



**ORION MARINE GROUP, INC.**

(Exact name of registrant as specified in its charter)

**DELAWARE**

(State or other jurisdiction of  
Incorporation or organization)

**26-0097459**

(I.R.S. Employer  
Identification Number)

**Aerospace Dr. Suite 300**

**12000**

**77034**

**Houston,**

**Texas**

(Address of

(Zip Code)

principal executive offices)

**(713) 852-6500**

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days

Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every interactive data file required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files)

Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of "Large Accelerated Filer," "Accelerated Filer," and "Smaller Reporting Company" in Rule 12b-2 of the Exchange Act. (Check one)

Large accelerated filer ☐ Accelerated filer ☒ Non-accelerated filer ☐ Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of November 1, 2009, 26,776,722 shares of the Registrant's common stock, \$0.01 par value, were outstanding.

**ORION MARINE GROUP, INC.**  
**Quarterly Report on Form 10-Q for the period ended September 30, 2009**  
**INDEX**

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	Exhibits	
10.27	Lease Agreement dated July 16, 2009 between F. Miller Construction, LLC and Reeves Commercial	
10.28	Lease Agreement dated September 8, 2009 between F. Miller Construction, LLC and West Calcasieu Port Authority	
31.1	Certification of the Chief Financial Officer Pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	
31.2	Certification of the Chief Executive Officer and the Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	
32.1	Certification of the Chief Executive Officer Pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	

**Orion Marine Group, Inc. and Subsidiaries**  
**Condensed Consolidated Balance Sheets**  
(Unaudited)  
(In Thousands, Except Share and Per Share Information)

	September 30, 2009	December 31, 2008
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 108,984	\$ 25,712
Accounts receivable:		
Trade, net of allowance of \$1,203 and \$800, respectively	37,056	37,806
Retainage	11,198	5,719
Other	476	691
Income taxes receivable	2,197	4,017
Note receivable	765	--
Inventory	1,744	738
Deferred tax asset	1,642	1,319
Costs and estimated earnings in excess of billings	9,094	7,228
Prepaid expenses and other	1,834	3,207
Total current assets	174,990	86,437
Property and equipment, net	80,451	84,154
Goodwill	12,096	12,096
Intangible assets, net of accumulated amortization	320	3,556
Other assets	66	79
Total assets	<u>\$ 267,923</u>	<u>\$ 186,322</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Current portion of long-term debt	\$ --	\$ 5,909
Accounts payable:		
Trade	20,481	13,276
Retainage	778	389
Accrued liabilities	11,740	8,176
Taxes payable	353	--
Billings in excess of costs and estimated earnings	5,402	11,666
Total current liabilities	38,754	39,416
Long-term debt, less current portion	--	28,216
Other long-term liabilities	409	422
Deferred income taxes	11,383	12,286
Deferred revenue	330	371
Total liabilities	50,876	80,711
Commitments and contingencies		
Stockholders' equity:		
Common stock -- \$0.01 par value, 50,000,000 authorized, 26,788,368 issued; 26,776,722 outstanding at September 30, 2009; 21,577,366 issued; 21,565,720 outstanding at December 31, 2008	268	216
Treasury stock, 11,646 shares, at cost	--	--
Additional paid-in capital	150,748	55,388
Retained earnings	66,031	50,007
Total stockholders' equity	217,047	105,611
Total liabilities and stockholders' equity	<u>\$ 267,923</u>	<u>\$ 186,322</u>

See notes to unaudited condensed consolidated financial statements

**Orion Marine Group, Inc. and Subsidiaries**  
**Condensed Consolidated Statements of Income**  
(Unaudited)  
(In Thousands, Except Share and Per Share Information)

	<b>Three months ended September 30,</b>		<b>Nine months ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Contract revenues	\$ 81,466	\$ 62,897	\$ 222,259	\$ 182,558
Costs of contract revenues	65,468	50,297	173,112	150,056
Gross profit	15,998	12,600	49,147	32,502
Selling, general and administrative expenses	7,699	7,357	23,638	18,879
Income from operations.....	8,299	5,243	25,509	13,623
Interest (income) expense				
Interest income	(78)	(107)	(274)	(375)
Interest expense	88	365	525	855
Interest expense, net	10	258	249	480
Income before income taxes	8,289	4,985	25,260	13,143
Income tax expense	2,892	1,221	9,236	4,132
Net income	\$ 5,397	\$ 3,764	\$ 16,024	\$ 9,011
Basic earnings per share	\$ 0.22	\$ 0.18	\$ 0.71	\$ 0.42
Diluted earnings per share	\$ 0.22	\$ 0.17	\$ 0.70	\$ 0.41
Shares used to compute earnings per share:				
Basic	24,241,749	21,557,601	22,485,770	21,562,722
Diluted	24,678,251	21,833,327	22,896,150	21,840,370

See notes to unaudited condensed consolidated financial statements

**Orion Marine Group, Inc. and Subsidiaries**  
**Condensed Consolidated Statement of Stockholders' Equity**  
(Unaudited)  
(In Thousands, Except Share Information)

	<b>Common Stock</b>		<b>Treasury Stock</b>		<b>Additional Paid-In Capital</b>	<b>Retained Earnings</b>	<b>Total</b>
	<b>Shares</b>	<b>Amount</b>	<b>Shares</b>	<b>Amount</b>			
Balance, January 1, 2009	21,577,365	\$ 216	(11,646)	\$ --	\$ 55,388	\$ 50,007	\$ 105,611
Stock-based compensation	--	--	--	--	1,059	--	1,059
Stock issued upon exercise of options	375,198	4	--	--	1,872	--	1,876
Tax benefit on exercise of options	--	--	--	--	1,456	--	1,456
Issuance of restricted stock	5,805	--	--	--	--	--	--
Issuance of common stock, net of expenses	4,830,000	48	--	--	90,973	--	91,021
Net income	--	--	--	--	--	16,024	16,024
Balance, September 30, 2009	<u>26,788,368</u>	<u>\$ 268</u>	<u>(11,646)</u>	<u>\$ --</u>	<u>\$ 150,748</u>	<u>\$ 66,031</u>	<u>\$ 217,047</u>

See notes to unaudited condensed consolidated financial statements

**Orion Marine Group, Inc. and Subsidiaries**  
**Condensed Consolidated Statements of Cash Flows**  
(Unaudited)  
(In Thousands)

	Nine months ended September 30,	
	2009	2008
Cash flows from operating activities		
Net income	\$ 16,024	\$ 9,011
Adjustments to reconcile net income to net cash provided		
by operating activities:		
Depreciation and amortization	14,712	13,862
Deferred financing cost amortization	189	184
Non-cash interest expense	--	22
Bad debt expense	442	50
Deferred income taxes	(1,226)	(2,187)
Stock-based compensation	1,059	766
Gain on sale of property and equipment	(245)	(1,040)
Excess tax benefit from stock option exercise	(1,456)	--
Change in operating assets and liabilities:		
Accounts receivable	(4,956)	(5,701)
Income tax receivable	3,276	--
Note receivable	(765)	--
Inventory	(1,006)	(8)
Prepaid expenses and other	1,386	(3,282)
Costs and estimated earnings in excess of billings	(1,866)	2,930
Accounts payable	7,594	(991)
Accrued liabilities	3,551	3,357
Income tax payable	353	(6,540)
Billings in excess of costs and estimated earnings	(6,264)	5,988
Deferred revenue	(42)	(42)
Net cash provided by operating activities	<u>30,760</u>	<u>16,379</u>
Cash flows from investing activities:		
Proceeds from sale of property and equipment	673	3,581
Purchase of property and equipment	(8,389)	(11,715)
Acquisition of business (net of cash acquired)	--	(36,713)
Net cash used in investing activities	<u>(7,716)</u>	<u>(44,847)</u>
Cash flows from financing activities:		
Increase in loan costs	--	(80)
Borrowings on long-term debt	--	35,000
Payments on long-term debt	(34,125)	--
Proceeds from the sale of common stock	91,345	--
Expenses from the sale of common stock	(324)	(51)
Exercise of stock options	1,876	--
Tax benefit from stock option exercises	1,456	--
Net cash provided by financing activities	<u>60,228</u>	<u>34,869</u>
Net change in cash and cash equivalents	<u>83,272</u>	<u>6,401</u>
Cash and cash equivalents at beginning of period	25,712	12,584
Cash and cash equivalents at end of period	<u>\$ 108,984</u>	<u>\$ 18,985</u>
Supplemental disclosures of cash flow information:		
Cash paid during the period for:		
Interest	\$ 539	\$ 492
Taxes, net of refunds	\$ 6,831	\$ 12,405

See notes to unaudited condensed consolidated financial statements

**Orion Marine Group, Inc. and Subsidiaries**

**Notes to Condensed Consolidated Financial Statements**

**Three and Nine Months Ended September 30, 2009**

**(Unaudited)**

**(Tabular Amounts in thousands, Except for Share and per Share Amounts)**

**1. Description of Business and Basis of Presentation**

***Description of Business***

Orion Marine Group, Inc., and its wholly-owned subsidiaries (hereafter collectively referred to as “Orion” or the “Company”) provide a broad range of marine construction services on, over and under the water along the Gulf Coast, the Atlantic Seaboard and the Caribbean Basin. Our heavy civil marine projects include marine transportation facilities; bridges and causeways; marine pipelines; mechanical and hydraulic dredging and specialty projects. We are headquartered in Houston, Texas.

Although we describe our business in this report in terms of the services we provide, our base of customers and the geographic areas in which we operate, we have concluded that our operations comprise one reportable segment pursuant to Financial Accounting Standards Board (“FASB”) Accounting Standard Codification (“ASC”) Topic 280 – *Segment Reporting*. In making this determination, we considered that each project has similar characteristics, includes similar services, has similar types of customers and is subject to similar regulatory environments. We organize, evaluate and manage our financial information around each project when making operating decisions and assessing our overall performance.

***Basis of Presentation***

The accompanying unaudited condensed consolidated financial statements and financial information included herein have been prepared pursuant to the interim period reporting requirements of Form 10-Q. Consequently, certain information and note disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States have been condensed or omitted. Readers of this report should also read our consolidated financial statements and the notes thereto included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2008 (“2008 Form 10-K”) as well as Item 7 – *Management’s Discussion and Analysis of Financial Condition and Results of Operations* also included in our 2008 Form 10-K.

In the opinion of management, the accompanying unaudited condensed consolidated financial statements contain all adjustments considered necessary for a fair and comparable statement of the Company’s financial position, results of operations and cash flows for the periods presented. Such adjustments are of a normal recurring nature. Interim results of operations for the three and nine months ended September 30, 2009, are not necessarily indicative of the results that may be expected for the year ending December 31, 2009.

**2. Summary of Significant Accounting Principles**

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States (“U.S. GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Management’s estimates, judgments and assumptions are continually evaluated based on available information and experience; however, actual amounts could differ from those estimates. The Company’s significant accounting policies are more fully described in Note 2 of the Notes to Consolidated Financial Statements in the 2008 Form 10-K.

On an ongoing basis, the Company evaluates the significant accounting policies used to prepare its condensed consolidated financial statements, including, but not limited to, those related to:

- Revenue recognition from construction contracts;
- Allowance for doubtful accounts;
- Testing of goodwill and other long-lived assets for possible impairment;
- Income taxes;
- Self-insurance; and
- Stock based compensation

### ***Revenue Recognition***

The Company records revenue on construction contracts for financial statement purposes on the percentage-of-completion method, measured by the percentage of contract costs incurred to date to total estimated costs for each contract. This method is used because management considers contract costs incurred to be the best available measure of progress on these contracts. The Company follows the guidance of ASC 605-35– *Revenue Recognition, Construction-Type and Production-Type Contracts*, for its accounting policy relating to the use of the percentage-of-completion method, estimated costs and claim recognition for construction contracts. Changes in job performance, job conditions and estimated profitability, including those arising from final contract settlements, may result in revisions to costs and revenues and are recognized in the period in which the revisions are determined. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are determined. Revenue is recorded net of any sales taxes collected and paid on behalf of the customer, if applicable.

The current asset “costs and estimated earnings in excess of billings on uncompleted contracts” represents revenues recognized in excess of amounts billed, which management believes will be billed and collected within one year of the completion of the contract. The liability “billings in excess of costs and estimated earnings on uncompleted contracts” represents billings in excess of revenues recognized.

The Company’s projects are typically short in duration, and usually span a period of three to nine months. Historically, we have not combined or segmented contracts.

### ***Risk Concentrations***

Financial instruments that potentially subject the Company to concentrations of credit risk principally consist of cash and cash equivalents and accounts receivable.

The Company depends on its ability to continue to obtain federal, state and local governmental contracts, and indirectly, on the amount of funding available to these agencies for new and current governmental projects. Therefore, the Company’s operations can be influenced by the level and timing of government funding. Statutory mechanics liens provide the Company high priority in the event of lien foreclosures following financial difficulties of private owners, thus minimizing credit risk with private customers.

At September 30, 2009, 32.5% of our accounts receivable was due from two customers. No single customer accounted for more than 10% of total receivables at December 31, 2008. In the three months ended September 30, 2009 and 2008, one customer in each period generated revenues in excess of 10% of total revenues, representing 13.7% and 10.8% of total revenues, respectively. In the nine months ended September 30, 2009, one customer generated revenues of 14.5%. No single customer generated revenues in excess of 10% of total revenues in the nine months ended September 30, 2008.

### ***Cash and cash equivalents***

All cash and cash equivalents are stated at cost, which approximates market. The Company considers all highly liquid investments purchased with a maturity of three months or less to be cash equivalents. The Company maintains cash at various financial institutions that may exceed federally insured limits.

### ***Accounts Receivable***

Accounts receivable are stated at the historical carrying value, less write-offs and allowances for doubtful accounts. The Company writes off uncollectible accounts receivable against the allowance for doubtful accounts if it is



determined that the amounts will not be collected or if a settlement is reached for an amount that is less than the carrying value. In the second quarter of 2009, the Company increased its allowance for doubtful accounts by \$400,000 to fully reserve a receivable due to the bankruptcy filing of a customer. As of September 30, 2009 and December 31, 2008, the Company had an allowance for doubtful accounts of \$1.2 million and \$800,000, respectively.

Balances billed to customers but not paid pursuant to retainage provisions in construction contracts generally become payable upon contract completion and acceptance by the owner. Retention at September 30, 2009 totaled \$11.2 million, of which \$1.7 million is expected to be collected beyond September 30, 2010. Retention at December 31, 2008 totaled \$5.7 million.

### ***Income Taxes***

The Company accounts for income taxes in accordance with FASB ASC 740, *Income Taxes*, which prescribes the use of the liability method whereby deferred tax asset and liability account balances are determined based on differences between the financial reporting and tax bases of certain assets and liabilities. These deferred tax assets and liabilities are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. The Company provides a valuation allowance, if necessary, to reduce deferred tax assets to their estimated realizable value.

FASB ASC 740-10 clarifies the accounting for income taxes, by prescribing a minimum recognition threshold that a tax position must meet before being recognized in the financial statements, and provides guidance on derecognition, measurement, and classification of uncertain tax positions, accounting for and disclosure of interest and penalties, and accounting in interim periods. Since adoption in 2007, the Company has not recorded a liability for uncertain tax positions.

### ***Self-Insurance***

The Company maintains insurance coverage for its business and operations. Insurance related to property, equipment, automobile, general liability, and a portion of workers' compensation is provided through traditional policies, subject to a deductible. A portion of the Company's workers' compensation exposure is covered through a mutual association, which is subject to supplemental calls. Effective July 1, 2009, the Company renewed its existing policies and increased retentions under its self-insurance programs.

Separately, the Company's employee health care is provided through a trust, administered by a third party. The Company funds the trust based on current claims. The administrator has purchased appropriate stop-loss coverage. Losses on these policies up to the deductible amounts are accrued based upon known claims incurred and an estimate of claims incurred but not reported. The accruals are derived from actuarial studies, known facts, historical trends and industry averages utilizing the assistance of an actuary to determine the best estimate of the ultimate expected loss.

### ***Stock-Based Compensation***

The Company recognizes compensation expense for equity awards based on FASB ASC 718 – *Compensation – Stock Compensation*. Compensation expense is recognized based on the fair value of these awards at the date of grant. The computed fair value of these awards is recognized as a non-cash cost over the period the employee provides services, which is typically the vesting period of the award.

Compensation is recognized only for share-based payments expected to vest. The Company estimates forfeitures at the date of grant based on historical experience and future expectations.

## ***Goodwill and Other Intangible Assets***

### ***Goodwill***

Goodwill represents the excess of costs over the fair value of the net tangible and intangible assets acquired. Goodwill and the cost of intangible assets with indefinite lives are not amortized, but are instead tested annually, in the fourth quarter of each fiscal year, for possible impairment (or more frequently if events occur or circumstances change that would more likely than not reduce the fair value of the reporting unit below its carrying value). The Company accounts for goodwill in accordance with ASC 350 – *Intangibles – Goodwill and Other*. No impairment resulted from the test performed in 2008.

### ***Intangible assets***

Intangible assets that have finite lives continue to be subject to amortization. In addition, the Company evaluates the remaining useful life in each reporting period to determine whether events and circumstances warrant a revision of the remaining period of amortization. If the estimate of an intangible asset's remaining life is changed, the remaining carrying value of such asset is amortized prospectively over that revised remaining useful life. As described more fully in Note 4, the Company acquired certain intangible assets as part of the acquisition of the assets of Subaqueous Services, Inc. in February 2008.

## ***Recently Issued Accounting Pronouncements***

On July 1, 2009, the FASB officially launched the FASB ASC 105 -- *Generally Accepted Accounting Principles*, which established the FASB Accounting Standards Codification ("the Codification"), as the single official source of authoritative, nongovernmental, U.S. GAAP, in addition to guidance issued by the Securities and Exchange Commission. The Codification is designed to simplify U.S. GAAP into a single, topically ordered structure. All guidance contained in the Codification carries an equal level of authority. The Codification is effective for interim and annual periods ending after September 15, 2009. Accordingly, the Company refers to the Codification in respect of the appropriate accounting standards throughout this document as "FASB ASC". Implementation of the Codification did not have any impact on the Company's consolidated financial statements.

### ***Accounting pronouncements adopted prior to Codification***

In June 2009, the FASB issued SFAS No. 167 -- *Amendments to FASB Interpretation No. 46R* (SFAS No. 167). SFAS 167 amends FIN 46R to require ongoing analysis to determine whether a company holds a controlling financial interest in a variable interest entity ("VIE"). The amendments include a new approach for determining who should consolidate a VIE, requiring a qualitative rather than a quantitative analysis. SFAS 167 also changes when it is necessary to reassess who should consolidate a VIE. Previously an enterprise was required to reconsider whether it was the primary beneficiary of a VIE only when specific events had occurred. The new standard requires continuous reassessment of an enterprise's interest in the VIE to determine its primary beneficiary. This statement will be effective for us in 2010. Early adoption is prohibited. We do not believe that the adoption of SFAS 167 will have a significant effect on the Company's consolidated financial statements. As of September 30, 2009, SFS 167 had not been added to the Codification.

The Company adopted the provisions of FASB ASC 855 – *Subsequent Events* as of June 30, 2009. FASB ASC 855 introduces new terminology, defines a date through which management must evaluate subsequent events, and lists the circumstances under which an entity must recognize and disclose events or transactions occurring after the balance-sheet date.

The Company discloses the fair value of its financial instruments in its interim financial statements, in accordance with FASB ASC 825 -- *Financial Instruments*, which it adopted in June 2009. Adoption of this section of the Codification did not have a material effect on our unaudited condensed consolidated financial statements. The appropriate disclosures related to adoption are included in Note 8, below.

The Company accounts for business combinations in accordance with FASB ASC 805 -- *Business Combinations*, which is effective for business combinations for which the acquisition date is after January 1, 2009. FASB ASC 805 had no effect on the Company's unaudited condensed consolidated financial statements for the three and nine months ended September 30, 2009.

The Company adopted the provisions of FASB ASC 260 -- *Earnings Per Share*, effective January 1, 2009, which required that all unvested share-based payment awards that contain nonforfeitable rights to dividends or dividend equivalents, whether paid or unpaid, be included in the basic Earnings Per Share (EPS) calculation. Prior-year EPS numbers have been adjusted retrospectively on a consistent basis with 2009 reporting. This standard did not affect earnings per share for any period presented.

The Company accounts for its intangible assets under the provisions of FASB ASC 350 -- *Intangibles – Goodwill and Other*, and, effective January 1, 2009, adopted provisions within that topic that clarify accounting for defensive intangible assets subsequent to initial measurement, and applies to acquired intangible assets which an entity has no intention of actively using, or intends to discontinue use of, the intangible asset but holds it to prevent others from obtaining access to it (i.e., a defensive intangible asset). Also effective January 1, 2009, the Company adopted provisions within FASB ASC 350 that amend the factors considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset, which requires a consistent approach between the useful life of a recognized intangible asset and the period of expected cash flows used to measure the fair value of an asset. Adoption of these provisions did not have a material impact on the Company's consolidated results of operations or financial condition.

The Company measures the fair value and discloses its fair value measurements in accordance with FASB ASC 820 -- *Fair Value Measurements and Disclosures*, and adopted provisions under FASB ASC 820 regarding the fair value measurement of nonfinancial assets and liabilities, except those that are recognized or disclosed at fair value on a recurring bases, and provisions under FASB ASC 820 that clarify the objective and method of fair value measurement even when there has been a significant decrease in market activity for the asset being measured. Adoption of these provisions did not have a material effect on our consolidated financial statements.

#### *Accounting Standard Updates ("ASU") issued after June 30, 2009*

*ASU No. 2009-12.* In September 2009, the FASB amended Subtopic 820-10 -- *Fair Value Measurements and Disclosures – Overall*, to allow a reporting entity to measure the fair value of an investment on the basis of net asset value per share, as of the reporting entity's measurement date, in certain limited conditions. The amendments in this update are effective for interim and annual periods ending after December 15, 2009. Early application is permitted in financial statements that have not been issued. Adoption of these amendments is not expected to affect the Company's consolidated financial statements.

### **3. Offering of Common Stock**

In August 2009, pursuant to a shelf registration statement on Form S-3, the Company completed a public offering of 4,830,000 million shares of its common stock at \$19.70 per share. The Company received proceeds, net of underwriting commissions, of \$91.3 million (\$18.91 per share), and paid approximately \$524,000 in related offering expenses. The underwriters contributed \$200,000 to offset a portion of the Company's expenses. A portion of the offering proceeds was used to repay the Company's outstanding debt of approximately \$29.9 million.

Proceeds received from the sale of securities	\$ 95,151
Less:	
Underwriters' commission	(3,806)
	91,345
Offering related expenses	(524)
Expense credit received from underwriters	200
Total proceeds, net of expenses	\$ 91,021
Use of proceeds:	
Repayment of outstanding debt	29,966
Balance retained in working capital, September 30, 2009	\$ 61,055

Proceeds are expected to be used for capital expenditures, possible future acquisitions and general corporate purposes.

#### 4. Acquisition of the Assets of Subaqueous Services, Inc.

In February 2008, a wholly-owned subsidiary of the Company purchased substantially all of the assets (with the exception of working capital) and related business (principally consisting of project contracts) of Subaqueous Services, Inc., a Florida corporation (“SSI”) for \$35 million in cash. Additionally, the Company paid approximately \$1.7 million for net under-billings and retained funds held under certain project contracts. The Company funded the acquisition using its acquisition line of \$25 million and a draw on its accordion facility of \$10 million, and cash on hand for the payments referenced above.

The Company accounted for the purchase of the assets of SSI as a business combination. The following represents the Company’s allocation of the purchase price to the assets acquired:

Property and equipment	\$ 18,500
Intangible assets	6,900
Goodwill	9,615
	<u>\$ 35,015</u>

The following pro forma condensed financial results of operations are presented as if the acquisition described above had been completed at the beginning of the first quarter of 2008:

	Nine months ended September 30, 2008
Revenue	\$ 185,336
Income before taxes	\$ 12,369
Net income	\$ 8,533
Earnings per share:	
Basic	\$ 0.40
Diluted	\$ 0.39

#### 5. Contracts in Progress

Contracts in progress are as follows at September 30, 2009 and December 31, 2008:

	September 30, 2009	December 31, 2008
Costs incurred	\$ 222,450	\$ 196,363
Estimated earnings	66,494	54,711
	\$ 288,944	251,074
Less: Billings to date	(285,252)	(255,512)
	<u>\$ 3,692</u>	<u>\$ (4,438)</u>
Included in the accompanying consolidated balance sheet under the following captions:		
Costs and estimated earnings in excess of billings	\$ 9,094	\$ 7,228
Billings in excess of costs and estimated earnings	(5,402)	(11,666)
	<u>\$ 3,692</u>	<u>\$ (4,438)</u>

Contract costs include all direct costs, such as materials and labor, and those indirect costs related to contract performance such as payroll taxes and insurance. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are determined. Changes in job performance, job conditions and estimated profitability may result in revisions to costs and income and are recognized in the period in which the revisions are determined. An amount equal to contract costs attributable to claims is included in revenues when realization is probable and the amount can be reliably estimated.

Costs and estimated earnings in excess of billings arise when revenue has been recognized, but the amounts have not, or cannot, by the terms of the contract, been billed to the customer. Billings in excess of costs and estimated earnings arise when amounts billed to the customer exceed revenue recognized on the project.

Costs and estimated earnings in excess of billings, net of billings in excess of costs and estimated earnings on completed contracts was \$144,212 and \$277,880 at September 30, 2009 and December 31, 2008, respectively.

## 6. Property and Equipment

The following is a summary of property and equipment at September 30, 2009 and December 31, 2008:

	September 30, 2009	December 31, 2008
Automobiles and trucks	\$ 1,301	\$ 1,472
Building and improvements	12,226	12,015
Construction equipment	90,853	88,063
Dredges and dredging equipment	44,533	42,458
Office equipment	1,593	1,123
	<u>\$ 150,506</u>	<u>145,131</u>
Less: accumulated depreciation	(79,359)	(69,092)
Net book value of depreciable assets	71,147	76,039
Construction in progress	4,075	2,886
Land	5,229	5,229
	<u>\$ 80,451</u>	<u>\$ 84,154</u>

For the three and nine months ended September 30, 2009, depreciation expense was \$4.0 million and \$11.7 million, respectively. Depreciation expense for the three and nine months ended September 30, 2008 was \$3.9 million and \$11.2 million, respectively. The assets of the Company are pledged as collateral under the Company's credit facility, which had been repaid in full at September 30, 2009. Debt outstanding at December 31, 2008 totaled \$34.1 million.

## 7. Inventory

Inventory at September 30, 2009 and December 31, 2008, of \$1.7 million and \$738,000, respectively, consists of parts and small equipment held for use in the ordinary course of business.

## 8. Fair Value of Other Financial Instruments

On June 30, 2009, we adopted changes issued by the FASB for fair value disclosures of financial instruments. This guidance requires quarterly fair value disclosures for financial instruments in addition to the annual disclosure. Due to their short term nature, we believe that the carrying value of our accounts receivables, other current assets, accounts payables and other current liabilities approximate their fair values. We have a note receivable in the amount of \$765,000 from a customer providing for payments over a ten month period. Due to the short-term payment schedule, we believe that the carrying value of the note receivable approximates its fair value.

The table below summarizes the carrying amount and fair value of our debt payable (including current maturities) at December 31, 2008. Our debt was repaid in full in August 2009.

	September 30, 2009	December 31, 2008
Carrying amount:		
Debt payable (including current maturities)	--	\$ 34,125
Fair value:		
Debt payable (including current maturities)	--	\$ 33,415

The fair value of the debt payable was based on borrowing rates available to the Company for bank loans with similar terms, average maturities and credit risk.

## 9. Non-monetary transaction

During the first quarter of 2009, the Company entered into a non-monetary exchange with an unrelated party, whereby the Company provides marine construction services, including dredging and sheet pile work in exchange for delivery of seven new pushboats to add to the Company's fleet. The total value of the work contracted and the fair value of the boats, when delivered to the Company, is approximately \$1.8 million. All work performed by the Company, and delivery of all push boats is to be completed by December 31, 2009. At September 30, 2009, the Company had performed work with a value of approximately \$1.2 million, had taken delivery of four pushboats, and construction was underway on the remaining three boats with an equivalent value expended.

## 10. Goodwill and Intangible Assets

### *Goodwill*

The table below summarizes changes in goodwill recorded by the Company during the periods ended September 30, 2009 and December 31, 2008:

	September 30, 2009	December 31, 2008
Beginning balance, January 1	\$ 12,096	\$ 2,481
Additions	--	9,615
Ending balance	<u>\$ 12,096</u>	<u>\$ 12,096</u>

### *Intangible assets*

The Company acquired certain finite-lived intangible assets as part of the acquisition of the assets of SSI, as described in Note 4, above. In the three months ended September 30, 2009, the Company recorded amortization expense of \$764,000 and in the three months ended September 30, 2008, the Company recorded amortization expense of \$1.2 million related to these assets. For the nine month periods the Company recorded amortization expense of \$3.0 million and \$2.6 million in 2009 and 2008, respectively. Amortization for the balance of 2009 is \$8,300, for 2010 is \$33,000 and for 2011 is \$5,600.

## 11. Accrued Liabilities

Accrued liabilities at September 30, 2009 and December 31, 2008 consisted of the following:

	September 30, 2009	December 31, 2008
Accrued salaries, wages and benefits.....	\$ 6,609	\$ 3,856
Accrual for self-insurance liabilities.....	2,452	2,143
Other accrued expenses.....	2,679	2,177
	<u>\$ 11,740</u>	<u>\$ 8,176</u>

## 12. Debt and Line of Credit

The Company has a credit agreement with several participating banks. In February 2008, the Company borrowed \$35 million to fund the purchase of the assets of SSI, and amended its credit facility to reflect the borrowing. In August 2009, the Company repaid the outstanding balance on the credit facility of \$29.9 million from proceeds received from its common stock offering (Note 3, above). The Company has available to borrow up to \$15 million under an acquisition term loan facility and up to \$8.5 million under a revolving line of credit. All provisions under the credit facility mature on September 30, 2010.

The revolving line of credit is subject to a borrowing base and availability on the revolving line of credit is reduced by any outstanding letters of credit. At September 30, 2009, the Company had outstanding letters of credit of \$910,000, thus reducing the balance available to the Company on the revolving line of credit to approximately \$7.6 million. The Company is subject to a monthly commitment fee on the unused portion of the revolving line of credit at a current rate of 0.20% of the unused balance. As of September 30, 2009, no amounts had been drawn under the revolving line of credit.

The credit facility is secured by the bank accounts, accounts receivable, inventory, equipment and other assets of the Company and its subsidiaries and places restrictions on the Company as to its ability to incur additional debt, pay dividends, advance loans, and engage in other actions. The credit facility also requires the Company to maintain certain financial ratios as follows:

- A minimum net worth in the amount of not less than the sum of \$40.0 million plus 50% of consolidated net income earned in each fiscal quarter ended after December 31, 2006 plus adjustments for certain equity transactions;
- A minimum fixed charge coverage ratio of not less than 1.30 to 1.0 from December 31, 2006 and each fiscal quarter thereafter; and
- A total leverage ratio not greater than 3.0 to 1.0 from December 31, 2006 and each fiscal quarter thereafter.

At September 30, 2009, the Company was in compliance with all its financial covenants with a sufficient margin as to not impair its ability to incur additional debt or violate the terms of its credit facility. Historically, the Company has not relied on debt financing to fund its operations or working capital.

The Company is in negotiations to renew its credit facility prior to the September 30, 2010 expiration.

## 13. Income Taxes

The Company's effective tax rate is based on expected income, statutory tax rates and tax planning opportunities available to it. For interim financial reporting, the Company estimates its annual tax rate based on projected taxable income for the full year and records a quarterly tax provision in accordance with the anticipated annual rate. The effective rate for the three and nine months ended September 30, 2009 was 34.9% and 36.6%, respectively, and differed from the Company's statutory rate primarily due to permanent differences and state income taxes.

	<u>Current</u>	<u>Deferred</u>	<u>Total</u>
Three months ended September 30, 2009:			
U.S. Federal	\$ 3,009	\$ (58)	\$ 2,951
State and local	248	(307)	(59)
	<u>\$ 3,257</u>	<u>\$ (365)</u>	<u>\$ 2,892</u>
Three months ended September 30, 2008:			
U.S. Federal	\$ 2,342	\$ (899)	\$ 1,443
State and local	60	(282)	(222)
	<u>\$ 2,402</u>	<u>\$ (1,181)</u>	<u>\$ 1,221</u>
	<u>Current</u>	<u>Deferred</u>	<u>Total</u>
Nine months ended September 30, 2009:			
U.S. Federal	\$ 9,786	\$ (986)	\$ 8,800
State and local	676	(240)	436
	<u>\$ 10,462</u>	<u>\$ (1,226)</u>	<u>\$ 9,236</u>
Nine months ended September 30, 2008:			
U.S. Federal	\$ 5,603	\$ (1,988)	\$ 3,615
State and local	716	(199)	517
	<u>\$ 6,319</u>	<u>\$ (2,187)</u>	<u>\$ 4,132</u>

The Company does not believe that its uncertain tax positions will significantly change due to the settlement and expiration of statutes of limitations prior to September 30, 2010.

## 14. Earnings Per Share

On January 1, 2009, the Company adopted changes issued by the FASB to the calculation of earnings per share. These changes state that unvested share-based payment awards that contain nonforfeitable rights to dividends or dividend equivalents (whether paid or unpaid) are participating securities and shall be included in the computation of earnings per share pursuant to the two-class method for all periods presented. Under our stock-based compensation programs, certain employees are granted stock and performance awards, which entitle those employees to receive nonforfeitable dividends during the vesting period on a basis equivalent to any dividends paid to holders of the Company's common stock. As such, these unvested stock and performance awards meet the definition of a participating security. Under the two-class method, all earnings, whether distributed or undistributed, are allocated to each class of common stock and participating securities based on their respective rights to receive dividends. Prior to the adoption of these changes, stock and performance awards were considered potential shares of common stock and were included only in the diluted EPS calculation under the treasury stock method as long as their effect was not anti-dilutive. EPS data for prior periods presented were revised to reflect these changes.

Basic earnings per share are based on the weighted average number of common shares outstanding during each period. Diluted earnings per share is based on the weighted average number of common shares outstanding and the effect of all dilutive common stock equivalents during each period. For the three months and nine months ended September 30, 2009, respectively, 26,677 and 209,848 common stock equivalents were not included in the diluted earnings per share calculation, as the effect of these shares would have been anti-dilutive. In each of the three and nine months ended September 30, 2008, 569,740 common stock equivalents were not included in the diluted earnings per share calculation, as the effect of these shares would have been anti-dilutive.

The following table reconciles the denominators used in the computations of both basic and diluted earnings per share:

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Weighted average number of common shares outstanding:	24,241,749	21,557,601	22,485,770	21,562,722
Weighted average number of potentially dilutive common stock equivalents:	436,502	275,726	410,380	277,648
Total weighted average shares outstanding assuming dilution	<u>24,678,251</u>	<u>21,833,327</u>	<u>22,896,150</u>	<u>21,840,370</u>

## 15. Stock-Based Compensation

The Compensation Committee of the Company's Board of Directors is responsible for the administration of the Company's two stock incentive plans (the "LTIP" and the "2005 Plan"). In general, the plans provide for grants of restricted stock and stock options to be issued with a per-share price equal to the fair market value of a share of common stock on the date of grant. Option terms are specified at each grant date, but generally are 10 years. Options generally vest over a three to five year period. Total shares of common stock that may be delivered under the LTIP and the 2005 Plan may not exceed 2,943,946.

### *Restricted stock*

As part of their 2009 compensation package, the independent directors of the Company each received an equity award of either restricted stock or options with a fair value on the date of grant of \$35,000. In June 2009, upon receipt of the award, three directors elected to receive stock, which is restricted from sale in total for a period of three years. One director elected to receive options, which grant is also restricted from exercise for a period of three years, and is included in the discussion of stock options below. Compensation related to the grants of restricted stock totaled \$105,000, which is expensed ratably over the three-year vesting period.

The table below summarizes the restricted stock activity under the LTIP and the 2005 Plan at September 30, 2009:

	Number of shares	Weighted Average Fair Value of Shares
Non-vested shares outstanding at January 1, 2009	64,287	\$ 1.65
Granted	5,805	\$ 18.09
Vested	(27,579)	\$ 0.02
Forfeited/repurchased shares	--	
Non-vested shares outstanding at September 30, 2009	<u>42,513</u>	<u>\$ 4.95</u>



### *Stock options*

During 2009, the Company granted options to purchase 26,677 shares of common stock to individual employees and as part of the compensation package to the independent directors of the Company. The Company uses the Black-Scholes option pricing model to estimate the fair value of its stock-based awards. The fair value of the options granted during 2009 was determined using the following weighted average assumptions:

Expected life of options	3 years
Expected volatility	67.8%
Risk-free interest rate	1.5%
Dividend yield	0.0%
Exercise price	\$19.89
Grant date fair value	\$9.06

In March 2008, the Company granted options to purchase 15,000 shares of common stock and used the Black-Scholes option pricing model to estimate the fair value of stock-based awards. The fair value of the awards granted in March 2008 was determined using the following assumptions:

Expected life of options	6 years
Expected volatility	36.7%
Risk-free interest rate	2.92%
Dividend yield	0.0%
Exercise price	\$13.20
Grant date fair value	\$5.35

Stock option activity during the nine months ended September 30, 2009 consists of the following:

	Number of Options	Weighted Average Exercise Price
Stock options outstanding at January 1, 2009	1,328,340	\$ 8.35
Granted	26,677	\$ 19.89
Exercised	(375,198)	\$ 5.00
Forfeited	(22,139)	\$ 11.26
Stock options outstanding at September 30, 2009	957,680	\$ 9.92
Stock options exercisable at September 30, 2009	316,799	\$ 13.07

As of September 30, 2009, the aggregate intrinsic value of stock options outstanding and stock options exercisable was \$10.2 million and \$2.4 million, respectively. The weighted average contractual term of outstanding options was 8.38 years and the weighted average remaining contractual term of the exercisable options was 7.77 years at September 30, 2009. Proceeds received by the Company for the exercise of stock options in the three and nine months ended September 30, 2009 was \$0.2 million and \$1.9 million, respectively. No options were exercised in the three and nine months ended September 30, 2008.

For the three and nine months ended September 30, 2009, compensation expense related to equity awards for the periods was \$350,000 and \$1.1 million, respectively, and for the comparable periods in 2008 was \$258,000 and \$766,000.

At September 30, 2009, there was \$1.9 million of unrecognized compensation cost, net of estimated forfeitures, related to the Company's non-vested equity awards, which is expected to be recognized over a weighted average period of 1.48 years.

## 16. Commitments and Contingencies

From time to time the Company is a party to various lawsuits, claims and other legal proceedings that arise in the ordinary course of business. These actions typically seek, among other things, compensation for alleged personal injury, breach of contract, property damage, punitive damages, civil penalties or other losses, or injunctive or declaratory relief. With respect to such lawsuits, the Company accrues reserves when it is probable a liability has been incurred and the amount of loss can be reasonably estimated. The Company does not believe any of these proceedings, individually or in the aggregate, would be expected to have a material adverse effect on results of operations, cash flows or financial condition.

The Company has been named as one of a substantial number of defendants in numerous individual claims and lawsuits brought by the residents and landowners of New Orleans, Louisiana and surrounding areas in the United States District Court for the Eastern District of Louisiana. These suits have been classified as a subcategory of suits under the more expansive proceeding, *In re Canal Breaches Consolidation Litigation*, Civil Action No: 05-4182, (E.D. La, 2005), which was instituted in late 2005. While not technically class actions, the individual claims and lawsuits are being prosecuted in a manner similar to that employed for federal class actions. The claims are based on flooding and related damage from Hurricane Katrina. In general, the claimants state that the flooding and related damage resulted from the failure of certain aspects of the levee system constructed by the Corps of Engineers, and the claimants seek recovery of alleged general and special damages. The Corps of Engineers has contracted with various private dredging companies, including us, to perform maintenance dredging of the waterways. In accordance with a court ruling (*In re Canal Breaches Consolidation Litigation*, Civil Action No: 05-4182, "Order and Reasons," March 9, 2007 (E.D. La, 2007)), we believe that we have no liability under these claims unless we deviated from our contracted scope of work on a project. In September of 2007, however, the plaintiffs appealed this decision to the United States Court of Appeals for the Fifth Circuit, where the appeal is currently pending. Additionally, plaintiffs in other cases included in this subcategory of suits continue to seek trial court determinations contrary to those reached in the "Order and Reasons" described above.

## 17. Enterprise Wide Disclosures

The Company is a heavy civil contractor specializing in marine construction, and operates as a single segment, as each project has similar characteristics, includes similar services, has similar types of customers and is subject to the same regulatory environment. The Company organizes and evaluates its financial information around each project when making operating decisions and assessing its overall performance.

The following table represents concentrations of revenue by type of customer for the three and nine months ended September 30, 2009 and 2008.

	Three months ended September 30,				Nine months ended September 30,			
	2009	%	2008	%	2009	%	2008	%
Federal.....	\$ 8,316	10%	\$ 7,183	11%	\$ 36,373	17%	\$ 22,427	12%
State.....	2,946	4%	9,825	16%	20,158	9%	24,529	14%
Local.....	28,628	35%	13,593	22%	65,009	29%	51,303	28%
Private.....	41,576	51%	32,296	51%	100,719	45%	84,299	46%
	<u>\$ 81,466</u>	<u>100%</u>	<u>\$ 62,897</u>	<u>100%</u>	<u>\$ 222,259</u>	<u>100%</u>	<u>\$ 182,558</u>	<u>100%</u>

Revenues generated from projects located in the Caribbean Basin totaled 18.5% and 14.6%, and 3.4% and 2.4% of total revenues for the three and nine months ended September 30, 2009 and 2008, respectively.

The Company's long-lived assets are substantially located in the United States.

## **18. Subsidiary Guarantors**

The Company filed a registration statement on Form S-3 which became effective August 7, 2009, and registered certain securities described therein, including debt securities, which may be guaranteed by certain of the Company's subsidiaries and are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933. Orion Marine Group, Inc., as the parent company, has no independent assets or operations. The Company contemplates that if it offers guaranteed debt securities pursuant to the registration statement, all guarantees will be full and unconditional and joint and several, and any subsidiaries of the Company other than the subsidiary guarantors will be minor. In addition, there are no restrictions on the ability of Orion Marine Group, Inc. to obtain funds from its subsidiaries by dividend or loan. Finally, there are no restricted assets in any subsidiaries.

## **19. Subsequent Events**

The Company evaluated its September 30, 2009 financial statements for subsequent events through November 6, 2009, the date the financial statements were available to be issued. The Company is not aware of any subsequent events which would require recognition or disclosure in the financial statements.

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

### CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

*Unless the context otherwise indicates, all references in this quarterly report to "Orion," "the company," "we," "our," or "us" are to Orion Marine Group, Inc. and its subsidiaries taken as a whole.*

Certain information in this Quarterly Report on Form 10-Q, including but not limited to Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A"), may constitute forward-looking statements as such term is defined within the meaning of the "safe harbor" provisions of Section 27A of the Securities Exchange Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended.

All statements other than statements of historical facts, including those that express a belief, expectation, or intention are forward-looking statements. The forward-looking statements may include projections and estimates concerning the timing and success of specific projects and our future production, revenues, income and capital spending. Our forward-looking statements are generally accompanied by words such as "estimate," "project," "predict," "believe," "expect," "anticipate," "potential," "plan," "goal" or other words that convey the uncertainty of future events or outcomes.

We have based these forward-looking statements on our current expectations and assumptions about future events. While our management considers these expectations and assumptions to be reasonable, they are inherently subject to significant business, economic, competitive, regulatory and other risks, contingencies and uncertainties, most of which are difficult to predict and many of which are beyond our control. These and other important factors, including those described under "Risk Factors" in Item 1A of the Company's Annual Report on Form 10-K for the year ended December 31, 2008 ("2008 Form 10-K") may cause our actual results, performance or achievements to differ materially from any future results, performance or achievements expressed or implied by these forward-looking statements. The forward-looking statements in this quarterly report on Form 10-Q speak only as of the date of this report; we disclaim any obligation to update these statements unless required by securities law, and we caution you not to rely on them unduly.

MD&A provides a narrative analysis explaining the reasons for material changes in the Company's (i) financial condition since the most recent fiscal year-end, and (ii) results of operations during the current fiscal year-to-date period and current fiscal quarter as compared to the corresponding periods of the preceding fiscal year. In order to better understand such changes, this MD&A should be read in conjunction with the Company's fiscal 2008 audited consolidated financial statements and notes thereto included in its 2008 Form 10-K, Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations included in our 2008 Form 10-K and with our unaudited financial statements and related notes appearing elsewhere in this quarterly report.

#### Overview

We are a leading marine specialty contractor serving the heavy civil marine infrastructure market. We provide a broad range of marine construction and specialty services on, over and under the water along the Gulf Coast, the Atlantic Seaboard and the Caribbean Basin. Our customers include federal, state and municipal governments, the combination of which accounted for approximately 49% of our revenue in the three months ended September 30, 2009, as well as private commercial and industrial enterprises. We are headquartered in Houston, Texas.

Our contracts are obtained primarily through competitive bidding in response to "requests for proposals" by federal, state and local agencies and through negotiation with private parties. Our bidding activity is affected by such factors as backlog, current utilization of equipment and other resources, ability to obtain necessary surety bonds and competitive considerations. The timing and location of awarded contracts may result in unpredictable fluctuations in the results of our operations.

Most of our revenue is derived from fixed-price contracts. There are a number of factors that can create variability in contract performance and therefore impact the results of our operations. The most significant of these include the following:

- completeness and accuracy of the original bid;
- increases in commodity prices such as concrete, steel and fuel;
- customer delays and work stoppages due to weather and environmental restrictions;
- availability and skill level of workers; and
- a change in availability and proximity of equipment and materials.

All of these factors can impose inefficiencies on contract performance, which can impact the timing of revenue recognition and contract profitability. We plan our operations and bidding activity with these factors in mind and they have not had a material adverse impact on the results of our operations in the past.

**Recent Developments.** In August 2009, we completed a public offering of the sale of over 4.8 million common shares at a price of \$19.70 per share. Net of offering expenses, we received proceeds of \$91.0 million, and repaid all of our debt outstanding in the amount of approximately \$30.0 million.

On April 17, 2009, the U.S. Environmental Protection Agency (“EPA”) concluded that carbon dioxide and five other greenhouse gases, are a danger to public health and welfare, thus providing a basis for EPA regulation and control of emissions of such gases. The EPA finding is subject to public comment before an official ruling is made. Further, on September 26, 2009, the House of Representatives passed a climate change bill to reduce United States greenhouse gas emissions.

As more fully discussed in our 2008 Form 10-K, passage of climate control legislation or adoption of regulations that restrict emissions of greenhouse gases could have an adverse effect on our operations and demand for our services. The Company will continue to monitor the impact of EPA’s actions, the House bill referenced above, and subsequent legislative actions on its business as more information as to the type and nature of potential regulation becomes available.

In addition to its proposed rule regarding safety hazards related to the operation of hoisting equipment, such as cranes, discussed in more detail in our 2008 Annual Report on Form 10-K, the US Occupational Safety and Health Administration (“OSHA”) is expected to promulgate a rule which will impose stricter and more OSHA standards on certain of the Company’s marine operations, including standards on the control of hazardous energy, so-called “lock-out, tag-out”. While the Company does not currently expect that OSHA’s final rule will materially, adversely impact its operations or financial condition, we are continuing to monitor potential impacts as OSHA’s promulgation of the rule progresses.

**Outlook.** We continue to see good bidding opportunities in our end markets as the economy begins to stabilize. Sources of bid opportunities available to us include:

- Gulf Coast and Southeast Atlantic ports, which are expected to continue with expansion plans, with supplemental funding available from the American Recovery and Reinvestment Act (the “Stimulus package”).
- Bridge maintenance, alterations, and construction, which should be a priority for states, with funding from highway transportation programs and through the Stimulus package.
- Funds available from the civil works budget and Stimulus package of the US Army Corps of Engineers.
- The continuation of the highway transportation program for highway construction, including bridges over water.

The proceeds received in the August 2009 common stock offering will allow us to pursue our core business strategies; expand and fill in our service areas; pursue strategic acquisitions and reinvest in our business through additions to and redevelopment of our equipment fleet.

During the nine months ended September 30, 2009, our operations provided cash from operations of \$30.8 million and our cash position at September 30, 2009 exceeded \$108.9 million. Our operations are not currently dependent on external short-term funding and we have not utilized the \$7.6 million available to us under our revolving credit facility.

## Consolidated Results of Operations

Three months ended September 30, 2009 compared with three months ended September 30, 2008

	Three months ended September 30,			
	2009		2008	
	Amount	Percent	Amount	Percent
Contract revenues	\$ 81,466	100.0%	\$ 62,897	100.0%
Costs of contract revenues	65,468	80.4	50,297	80.0
Gross profit	15,998	19.6	12,600	20.0
Selling, general and administrative expenses	7,699	9.4	7,357	11.7
Income from operations	8,299	10.2	5,243	8.3
Interest (income) expense				
Interest (income)	(78)	(0.0)	(107)	(0.2)
Interest expense	88	0.1	365	0.6
Interest expense, net	10	0.1	258	0.4
Income before income taxes	8,289	10.1	4,985	7.9
Income tax expense	2,892	3.5	1,221	1.9
Net income	\$ 5,397	6.6%	\$ 3,764	6.0%

**Contract Revenues.** Revenues are driven by the progress schedules, size, composition, scope, and number of projects under contract at any given time. In the three months ended September 30, 2009, revenues increased approximately 29.5% as compared with the same period last year. Contract revenue generated from government agencies, including federal, state and local municipalities represented 49% of total revenues in the third quarter of 2009, with projects in the private sector comprising 51% of revenue, which was similar in composition with the third quarter of 2008. In the current year quarter, we benefitted from favorable conditions, including the acceleration of progress schedules on certain projects. In the third quarter of 2008, construction was impacted by an active hurricane season, which shut down all projects at some time in the three month period, and resulted in a shift of revenue into later periods.

**Gross Profit.** Gross profit increased approximately \$3.4 million, or 27.0%, in the third quarter of 2009 as compared with the corresponding period last year. Gross margins between the two periods were essentially even, at 19.6% and 20%, in 2009 and 2008, respectively. The improvement in gross profit was due primarily to the increase in revenues. The change in gross margin was due principally to a larger component of outside subcontracting costs and material purchases, such as concrete and steel, resulting from the mix of projects in our portfolio of contracts during the period.

**Selling, General and Administrative Expense.** Selling, general and administrative expenses increased \$0.3 million in the three months ended September 30, 2009 as compared with the prior year period, primarily related to overhead costs for additional personnel.

**Income Tax Expense** Our effective rate for the three months ended September 30, 2009 was 34.9% and differed from the Company's statutory rate of 35% primarily due to state income taxes, to other permanent differences, and to the reconciliation to our federal tax return. Our effective rate for the three months ended September 30, 2008 was 24.5% and differed from the Company's statutory rate of 35% primarily due to the benefit of the domestic production activities deduction on the Company's tax return and to true-ups of federal and state deferred taxes.

Nine months ended September 30, 2009 compared with Nine months ended September 30, 2008

	Nine months ended September 30,			
	2009		2008	
	Amount	Percent	Amount	Percent
Contract revenues	\$ 222,259	100.0%	\$ 182,558	100.0%
Costs of contract revenues	173,112	77.9	150,056	82.2
Gross profit	49,147	22.1	32,502	17.8
Selling, general and administrative expenses	23,638	10.6	18,879	10.3
Income from operations	25,509	11.5	13,623	7.5
Interest (income) expense				
Interest (income)	(274)	(0.1)	(375)	(0.2)
Interest expense	525	0.2	855	0.5
Interest expense, net	249	0.1	480	0.3
Income before income taxes	25,260	11.4	13,143	7.2
Income tax expense	9,236	4.2	4,132	2.3
Net income	\$ 16,024	7.2%	\$ 9,011	4.9%

**Contract Revenues.** Revenues for the nine months ended September 30, 2009 increased approximately 21.7% as compared with the same period last year. The increase, as compared with last year, was attributable, in part, to our expansion late in the first quarter of 2008 of our dredging and other construction capabilities along the Atlantic Seaboard, and to favorable conditions which allowed us to accelerate certain progress schedules. Contract revenue generated from government agencies, including federal, state and local municipalities represented 55% of total revenues in the first nine months of 2009, with projects in the private sector comprising 45% of revenue, as compared with the nine months of 2008, when the mix of customers included 54% from government agencies and 46% from the private sector.

**Gross Profit.** Gross profit increased approximately \$16.6 million, or 51.2%, in the first nine months of 2009 as compared with the corresponding period last year. The improvement in gross profit was due to the increase in revenues, as well as our ability to release certain cost contingencies, resulting from improved project execution and performance. Gross margin for the nine months ended September 30, 2009 was 22.1%, as compared with 17.8% in the prior year period. In the prior year period, unforeseen site conditions on two dredging projects in the first half of 2008 resulted in project delays and adversely affected gross profit and margins. We self-performed approximately 89% of our work in the current year period, as compared with 87% in the comparable period of 2008.

**Selling, General and Administrative Expense.** Selling, general and administrative expenses increased \$4.7 million in the nine months ended September 30, 2009 as compared with the prior year period. The increase in expense was due to overheads and amortization of intangible assets related to the acquisition of the assets of Subaqueous Services, Inc. in February 2008, and to an increase in our reserve for doubtful accounts. In the nine months ended September 30, 2008, we recovered in full a previously reserved receivable and benefitted from lower group medical and workers' compensation expenses.

**Income Tax Expense** Our effective rate for the nine months ended September 30, 2009 was 36.6% and differed from the Company's statutory rate of 35% primarily due to the impact of certain permanent deductions available on our federal tax return, offset by increases in state income taxes. Our effective rate for the nine months ended September 30, 2008 was 31.4% and differed from the Company's statutory rate of 35% primarily due to the benefit of the domestic production activities deduction on the Company's tax return in that year and to true-ups of federal and state deferred taxes.

#### Liquidity and Capital Resources

Our primary liquidity needs are to finance our working capital, invest in capital expenditures, and pursue strategic acquisitions. Historically, our source of liquidity has been cash provided by our operating activities and borrowings under our credit facility.

Our working capital position fluctuates from period to period due to normal increases and decreases in operational activity. At September 30, 2009, our working capital was \$136.2 million compared to \$47.0 million at December 31, 2008, of which \$61 million was related to the balance of the proceeds received from the sale of common stock in August 2009. As of September 30, 2009, we had cash on hand and availability under our revolving credit facility of \$116.5 million.

At September 30, 2009, our operations provided cash from operations of \$30.8 million. Our operations are not currently dependent on external short-term funding, and we have not utilized our available borrowing of \$7.6 million under our revolving credit facility.

We expect to meet our future internal liquidity and working capital needs, and maintain our equipment fleet through capital expenditure purchases and major repairs, from funds generated in our operating activities, and from the proceeds received from our common stock offering, for at least the next 12 months. We believe our cash position, combined with the capacity available under our revolving credit facility, is adequate for our general business requirements.

The following table provides information regarding our cash flows for the nine months ended September 30, 2009 and 2008 (unaudited):

	Nine months ended September 30,	
	2009	2008
Cash flows provided by operating activities.....	\$ 30,760	\$ 16,379
Cash flows used in investing activities.....	\$ (7,716)	\$ (44,847)
Cash flows provided by financing activities.....	\$ 60,228	\$ 34,869

**Operating Activities.** During the nine months ended September 30, 2009, our operating activities provided \$30.8 million of cash as compared with \$16.4 million for the nine months ended September 30, 2008. The change of \$14.4 million was due to a \$5.0 million increase in net income, increases in non-cash items affecting net income, such as depreciation and amortization expense associated with the equipment and intangible assets acquired from SSI, and an increase in non-cash stock-based compensation related to grants of options during 2008, which aggregated \$8.1 million. The balance of the \$14.4 million change between periods was primarily due to decreases in prepaid items and taxes payable.

**Investing Activities.** Our capital asset additions totaled \$8.4 million in the nine months ended September 30, 2009, as compared with \$11.7 million in the prior year period. In February 2008, we purchased substantially all of the assets of SSI for a total purchase price of \$35 million, plus \$1.7 million related to the acquisition of projects under contract by SSI, for total cash related to the acquisition of \$36.7 million.

**Financing Activities.** In August 2009, we completed our public offering of common stock, receiving proceeds, net of expenses, of approximately \$91.0 million. With a portion of the proceeds, we repaid the outstanding balance on our credit facility. In addition, we received proceeds from stock option exercises, including the related excess tax benefits. Cash provided by financing activities in the prior year period was attributable to our borrowing of \$35.0 million under of line of credit to fund the assets purchased from SSI.



## Sources of Capital

In addition to our cash balances and cash provided by operations, we have a credit facility available to us to finance capital expenditures and working capital needs.

The Company has a credit agreement with several participating banks. In February 2008, the Company borrowed \$35 million to fund the purchase of the assets of SSI, and amended its credit facility to reflect the borrowing. In August 2009, the Company repaid the outstanding balance on the credit facility of \$29.9 million from proceeds received from its common stock offering (Note 3, above). The Company has the availability to borrow up to \$15 million under an acquisition term loan facility and up to \$8.5 million under a revolving line of credit. All provisions under the credit facility mature on September 30, 2010.

The revolving line of credit is subject to a borrowing base and availability on the revolving line of credit is reduced by any outstanding letters of credit. At September 30, 2009, the Company had outstanding letters of credit of \$910,000, thus reducing the balance available to the Company on the revolving line of credit to approximately \$7.6 million. The Company is subject to a monthly commitment fee on the unused portion of the revolving line of credit at a current rate of 0.20% of the unused balance. As of September 30, 2009, no amounts had been drawn under the revolving line of credit.

The credit facility is secured by the bank accounts, accounts receivable, inventory, equipment and other assets of the Company and its subsidiaries and places restrictions on the Company as to its ability to incur additional debt, pay dividends, advance loans, and engage in other actions. The credit facility also requires the Company to maintain certain financial ratios as follows:

- A minimum net worth in the amount of not less than the sum of \$40.0 million plus 50% of consolidated net income earned in each fiscal quarter ended after December 31, 2006 plus adjustments for certain equity transactions;
- A minimum fixed charge coverage ratio of not less than 1.30 to 1.0 from December 31, 2006 and each fiscal quarter thereafter; and
- A total leverage ratio not greater than 3.0 to 1.0 from December 31, 2006 and each fiscal quarter thereafter.

At September 30, 2009, the Company was in compliance with all its financial covenants with a sufficient margin as to not impair its ability to incur additional debt or violate the terms of its credit facility. Historically, the Company has not relied on debt financing to fund its operations or working capital.

The Company is in negotiations to renew its credit facility prior to the September 30, 2010 expiration.

## Bonding Capacity

We are generally required to provide various types of surety bonds that provide additional security to our customers for our performance under certain government and private sector contracts. Our ability to obtain surety bonds depends on our capitalization, working capital, past performance and external factors, including the capacity of the overall surety market. At September 30, 2009, we believe our capacity under our current bonding arrangement was in excess of \$400 million, of which we had approximately \$188 million in surety bonds outstanding. Despite the prevailing economic conditions, we believe our strong balance sheet and working capital position will allow us to continue to access our bonding capacity. During the quarter ended September 30, 2009, approximately 49% of projects, measured by revenue, required us to post a bond.

**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

Management is actively involved in monitoring exposure to market risk and continues to develop and utilize appropriate risk management techniques. Our exposure to significant market risks includes outstanding borrowings under our floating rate credit agreement and fluctuations in commodity prices for concrete, steel products and fuel. An increase in interest rates of 1% would have increased interest expense by approximately \$42,000 for the three months ended September 30, 2009 and \$208,000 for the nine month period. Although we attempt to secure firm quotes from our suppliers, we generally do not hedge against increases in prices for concrete, steel or fuel. Commodity price risks may have an impact on our results of operations due to the fixed-price nature of many of our contracts.

As of September 30, 2009, we had no outstanding debt drawn under our credit agreement and there were no borrowings outstanding under our revolving credit facility; however, there were letters of credit issued in the amount of \$910,000 which lower the amount available to us on the revolving facility to approximately \$7.6 million.

**Item 4. Controls and Procedures**

- (a) *Evaluation of Disclosure Controls and Procedures.* As required, the Company's management, with the participation of its Chief Executive Officer and Chief Financial Officer, have conducted an evaluation of the effectiveness of disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this quarterly report. Based on that evaluation, such officers have concluded that the disclosure controls and procedures are effective.
- (b) *Changes in Internal Controls.* There have been no changes in our internal controls over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

## **PART II – Other Information**

### **Item 1. Legal Proceedings**

For information about litigation involving us, see Note 16 to the condensed consolidated financial statements in Part I of this report, which we incorporate by reference into this Item 1 of Part II.

### **Item 1A. Risk Factors**

There have been no material changes to the risk factors previously disclosed in our 2008 Form 10-K

### **Item 4. Submission of Matters to a Vote of Security Holders**

None

### **Item 6. Exhibits**

- 10.24\* Lease Agreement dated May 14, 2009 by and between Orion Marine Group, Inc. and Aerospace Operating Associates, LP.
- 10.25\* Amendment to Lease Agreement dated April 8, 2009 by and between Orion Construction, LP and Signet Maritime Corporation.
- 10.26\* Schedule of Changes to Compensation of Non-employee Directors, effective for 2009
- 31.1\* Certification of the Chief Executive Officer Pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 31.2\* Certification of the Chief Financial Officer Pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1\* Certification of the Chief Executive Officer and the Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

\*filed herewith

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

### ORION MARINE GROUP, INC.

November 6, 2009

By: /s/ J. Michael Pearson  
J. Michael Pearson  
President and Chief Executive Officer

November 6, 2009

By: /s/ Mark R. Stauffer  
Mark R. Stauffer  
Executive Vice President and Chief Financial Officer

**LEASE**

**LEASE AGREEMENT** effective as of the \_\_\_\_\_ day of July 2009, between **F. Miller Construction, LLC** (ID No. \_\_\_\_\_) as lessee ("Lessee") and **Reeves Commercial, LLC** referred to as lessor ("Lessor").

**WITNESSETH:****ARTICLE I****LEASED PREMISES**

Lessor does hereby demise and lease unto. Lessee, and Lessee does hereby hire and take from Lessor those certain premises (the "Leased Premises") described as follows: 825 Ryan Street 2<sup>nd</sup> Floor, Lake Charles, LA 70601, which is said to be approximately 6,500 square feet, and Lessee does hereby grant and convey to Lessee all leasehold and similar rights and interest therein or thereto appertaining.

Lessor has full right and authority to enter into this Lease and to grant to Lessee the estate and all rights purported to be herein granted, free and clear of all liens and other encumbrances, without the prior authorization, consent or approval of any third party. Lessor's entering into and performing this Lease will not contravene, conflict with, or result in a default or event of default under any law, rule or regulations or any agreement, document or instrument affecting Lessor or the Lease Premises.

**ARTICLE II****TERM**

The primary term of this Lease shall commence October 15, 2009 and shall continue until October 15, 2014, subject to all other provisions of this Lease. Lessee shall have the option to renew this Lease on a YEAR to YEAR basis, if Lessee gives Lessor written notice by certified or registered mail of its intention to renew at least ninety (90) days prior to the expiration of the primary term, or renewal term, as applicable, of this Lease. If Lessee timely exercises the option to renew granted in this Lease, then this Lease shall continue upon the same terms with exception to rent. RENT SHALL INCREASE BY THREE (3%) PERCENT FOR EVERY RENEWAL AFTER THE PRIMARY TERM.

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### ARTICLE III

#### RENT

(a) Amount. For the first 12 months of the lease agreement, rental shall be paid as follows:

FIFTY-ONE THOUSAND DOLLARS (\$51,000) is due at lease signing, and THREE THOUSAND THREE HUNDRED AND THIRTY-THREE DOLLARS (\$3,333) paid monthly for the first twelve months of the lease agreement.

FOR MONTHS 13-60, The Lessee shall pay to Lessor, or as Lessor shall direct, an advance monthly rental during each month of the 48 remaining MONTHS the sum of SEVEN THOUSAND FIVE HUNDRED EIGHTY THREE (\$7,583 US\$) DOLLARS paid on the 15th of every month.

If rent is not received within 5 days of the due date, there shall be assessed a late payment penalty of ten (10%) percent of the rent due for each month in which the rent remains unpaid. The late payment penalty shall be due when the late rent is paid.

#### Right of Refusal

**IN THE EVENT THAT THE LESSOR/OWNER ELECTS TO SELL THIS PROPERTY, LESSOR/OWNER HEREBY GRANTS THE LESSEE THE RIGHT OF FIRST REFUSAL FOR FIVE BUSINESS DAYS FROM DATE OF SUCH NOTICE. TO EXERCISE THIS RIGHT OF FIRST REFUSAL, THE LESSEE MUST MEET ALL TERMS OF THE NEGOTIATED PURCHASE AGREEMENT. THIS INCLUDES BUT IS NOT LIMITED TO TIME FRAMES, CONTINGENCIES, AND PRICE. THIS RIGHT OF FIRST REFUSAL SHALL END WITH THE TERMINATION OF THIS LEASE.**

(b) Address for Payment: Each rental payment shall be made payable to the following person and delivered to it at the following address:

Reeves Commercial , LLC  
825 Ryan St. 2<sup>nd</sup> Floor  
Lake Charles, LA 70601

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Each person may change the address for payment by notice to Lessee delivered on or before thirty (30) days prior to the rent due date.

**ARTICLE IV**  
**UTILITIES**

Lessor agrees to pay for all of the utility expenses, including gas, electrical, which are related to the Leased Premises.

**ARTICLE V**  
**MAINTENANCE AND REPAIR**

(a) Lessee's Duties. By entry hereunder, Lessee acknowledges that the Leased Premises and appurtenances are in good, clean and sanitary order and repair, and accepts the Leased Premises in the condition delivered. Lessee shall, solely at its cost and expense, maintain the entire Leased Premises.

(b) Lessor's Duties. The Lessor shall not be responsible for any maintenance of the Leased Premises; provided that Lessor shall be responsible for maintenance and repair of the building in which the Lease Premises are contained. If a repair or replacement, not occasioned by a casualty, is required and will exceed \$10,000 in cost, Lessor shall have the option to make that repair or replacement or cancel and terminate this lease as of the end of the month in which it is required to be made; provided that, prior to any such cancellation or termination, Lessee shall have the option, exercisable at any time within five business days after notice from Lessor, to provide such repairs and replacement, in which event this Lease shall continue in full force and effect in accordance with its terms.

(c) No representation or Warranties. Lessor has made no representations or promises with respect to this Lease, with respect to the Leased Premises or with respect to any matter related thereto, other than as expressly set forth herein.

(d) Indemnity. Lessee hereby agrees to hold Lessor harmless and otherwise indemnify Lessor for any liability to persons or property arising from all defects other than latent defects in the Leased Premises and/or completed or incomplete repairs which are the obligation of Lessee to undertake.

(e) Access. Lessor shall have the right to reasonable access to the Leased Premises throughout the term of this Lease for the purposes of repair or inspection.

(f) Casualty or Expropriation. If as a result of a casualty to or expropriation of the Leased Premises, the Leased premises cannot reasonably be occupied and used by Lessee, Lessee may cancel and terminate this Lease on thirty (30) days advance written notice to Lessor.

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**ARTICLE VI**  
**INSURANCE**

Lessee shall, at its own cost, and expense, keep and maintain in full force during the term of this Lease, insurance as follows:

(a) Against public liability claims (including Workmen's Compensation Claims), against Lessor and Lessee, and all other claims against Lessor and Lessee as owners and/or landlords resulting from any accident occurring at, on or in any other way related to the Leased Premises, or any part thereof; said insurance to provide coverage covering property damage, bodily injuries, including death resulting therefrom, to the extent of \$1,000,000.00 per accident and \$1,000,000.00 per person and liability for damage to property of others caused thereby to the extent of \$1,000,000.00 per accident;

(b) Against the perils of fire, flood and hazards ordinarily included under the standard extended coverage endorsements cover the full insurable value of the Leased Premises, which the parties recognize is \$750,000 on the date hereof; and,

(c) The Lessor shall be named as an additional insured in any policy maintained pursuant to this Lease, and each such policy shall contain provisions against cancellation except upon thirty (30) days prior notice to Lessor. Policies and/or certificates' of such insurance coverage shall be provided at Lessor's request.

**ARTICLE VII**  
**USE OF LEASED PREMISES**

Lessee shall use the Leased Premises exclusively as a construction company office, and Lessee is bound not to use the leased premises for any purpose that is unlawful or that tends to injure or depreciate the property.

Lessee shall comply with all federal, state and/or local laws, rules, regulations and/or orders with respect to the storage, use, discharge and/or removal of any chemical substances, including any "Hazardous Substances," "Pollutants", or "Contaminants" (as such terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA")» in connection with its use of the Leased Premises. The Lessee shall be responsible for the removal of any Hazardous Substances, Pollutants or Contaminants stored in or on the Leased Premises by Lessee during the term of this Lease and/or if required by any federal, state and/or local laws, rules, regulations and/or orders resulting from the Lessee's use of the Leased Premises.

Lessee shall immediately notify Lessor, in writing, of any violation or suspected violation of any federal, state and/or local law, rule, regulation and/or order dealing with Hazardous Substances, Pollutants or Contaminants.

Lessor and Lessee acknowledge and agree that the Leased Premises have heretofore been occupied by Lessor or an affiliate of Lessor. Notwithstanding any provision to the contrary contained herein, in no event shall Lessee be liable for any acts or omissions of Lessor or any prior tenant or occupant, nor for the presence at the Leased Premises of any Hazardous Substances, Pollutants or Contaminants if not stored in or on the Leased Premises by Lessee during the term of this Lease or if not resulting from the Lessee's use of the Leased Premises.

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## ARTICLE VIII

#### **INDEMNIFICATION**

Lessee covenants that it will hold and save Lessor harmless from any and all loss, cost, liability, damage or expense, including without limitation, attorney's fees and disbursements, caused by or arising from or in connection with the injury or death to persons or damage to property in, upon or about the Leased Premises or caused by or arising from or in connection with activities conducted thereon, or any act or omission of Lessee, its agents, employees, contractors, licensees and invitees, including without limitation, injury or death of Lessee's agents, employees, licensees, and invitees and damage to their property; provided, however, that Lessee shall be required to indemnify Lessor only for the negligence of the Lessee, its agents, employees, licensees and invitees, and Lessee shall not be required to indemnify Lessor for any damage or injury of any kind arising out of the negligence of third parties, the Lessor, its agents or employees.

All properties of Lessee and others, placed or allowed to remain on the Leased Premises by Lessee or with its consent, shall remain on the Leased Premises at the sole risk of Lessee and Lessor shall not have any responsibility therefore or obligation to Lessee or any other party with respect thereto, except to the extent occasioned by Lessor's breach of this Lease or gross negligence. Lessee shall comply with **all** applicable insurance and fire prevention regulations.

The obligations of indemnity and assumption of responsibility on the part of Lessee set forth herein shall, to the extent of the obligations therein expressed, shall constitute an assumption of responsibility for the Leased Premises with the meaning of LSA-R.S. 9:3221 or other applicable law.

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**ARTICLE X**  
**ASSIGNMENT**

Lessee has the right to sublease with prior consent of Lessor which shall not be unreasonably withheld.

**ARTICLE XI**  
**SUBORDINATION**

This Lease and all of Lessee's rights, title and interest in and under this Lease shall be subject, subordinated and inferior to the lien of any and all mortgages which now exist or which Lessor may in the future place upon the Leased Premises; however, Lessee's quiet enjoyment of the Leased Premises shall not be disturbed provided that Lessee is not in default under this Lease and agrees to attorn to Lessor's successor in title in the event of a foreclosure. If requested by Lessee, the Mortgagor, Lessor and Lessee shall enter into an agreement reflecting the subordination, non-disturbance and attornment provisions of this paragraph.

**ARTICLE XII**

**DEFAULT AND REMEDIES THEREFOR**

(a) Default. Any of the following shall constitute a default by Lessee:

(1) Failure to pay any rental that is due and owing, provide the insurance required for this lease or to pay the other expenses or obligations assumed under this Lease within fifteen (15) days after the due date.

(2) Any violation at any time of any other condition of this Lease if such violation continues for thirty (30) days after written notice of such violation is mailed by Lessor to Lessee.

(3) The filing in any court of a petition in bankruptcy, receivership, reorganization, for respite, or for any other debtor's proceedings by or against Lessee.

(4) Any seizure of Lessee's interest in this Lease under any writ of seizure of execution.

(b) Remedies. If any default shall occur, then, in addition, to any other rights which Lessor may have under law or under the provisions of this Lease, Lessor shall have the following options:

(1) To proceed for past due installment only, reserving its rights to proceed later for the remaining installments and to exercise any other option granted by this Lease.

(2) To cancel this Lease and to proceed for past due installments.

(3) To accelerate the rental for unexpired term of the Lease.

However, Lessor agrees that in the event of any default other than the default described in (a) (1) above, Lessor will provide the Lessee with written notice of the default, and Lessee shall have thirty (30) days thereafter within which to correct the default.

Lessee waives any putting in default for any such breach, except as expressly required by this Lease. Failure strictly and promptly to enforce the conditions set forth above shall not operate as a waiver of Lessor's rights. The acceptance of rent by Lessor shall not waive any preceding breach by Lessee of any term or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of Lessor's knowledge of the preceding breach at the time of the acceptance of such rent. Receipt by Lessor of a partial rental payment, even with special endorsement thereon, shall not constitute a waiver of any of Lessor's rights hereunder. The waiver by Lessor or Lessee of any breach of this Lease shall not be deemed a waiver of any subsequent breach of the same or any other term or condition of this Lease. In the event of the failure of the Lessee to perform any of its obligations under this Lease, Lessor may, but shall not be obligated to, cause such obligations to be performed and shall have the right to collect such sums of money as may be expended by Lessor therefore from Lessee, together with interest at the rate of ten (10%) percent per annum until paid. Such performance by the Lessor shall not constitute a waiver of any default occasioned by Lessee's non performance. If Lessor employs an attorney to collect rent or any other sum due by Lessee, or if suit is brought to recover possession of the Leased Premises, or because of the breach of this Lease by Lessee (and a breach shall be established), Lessee shall pay to Lessor all expense reasonably incurred therefor, including a reasonable attorney's fees for such suit or collection.

(c) Default by Lessor. In the event Lessor fails to fulfill any of its obligations under this Lease, Lessee agrees to provide Lessor, and any Mortgagee of the Leased Premises of which Lessee has been notified, with notice of the default and shall allow Lessor, or Mortgagee at Mortgagee's option, twenty (20) days within which said default may be cured. In the event said default is not cured during this period, Lessee shall have the right to enforce any and all remedies granted by this Lease Agreement or by law against Lessor.

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**ARTICLE XIII**  
**TERMINATION AND HOLDING OVER**

Upon termination, Lessee shall deliver the Leased Premises in good condition, ordinary wear and tear accepted. In the event the Lessee holds the Lease over, upon the termination or expiration of this Lease, the holding over shall operate to extend the Lease on a month to month basis and shall thereafter constitute this Lease a lease from month to month. In the event the Lessee does elect to hold the Lease over, either party shall have the right during the holdover period to terminate the continuation of the holding over by giving the other party thirty (30) days written notice. All the other terms and conditions of this Lease shall remain in effect during the holding over period. During the term of this Lease, the Lessor shall have the right to show the Leased Premises for sale, or rent.

**ARTICLE XIV.**  
**NOTICES**

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed as follows:

If to the Lessor:

Charles Reeves, Jr

Reeves Commercial, LLC  
825 Ryan St. 2<sup>nd</sup> Floor  
Lake Charles, LA 70601

If to the Lessee:

F. Miller Construction, LLC  
Attn: Mr. Mark Stauffer, Vice-President  
12550 Fuqua  
Houston, TX 77034

Attn: Mr. Mark Korkowski  
F. Miller New Address  
Lake Charles, LA 70601

**ARTICLE XV**

**BINDING EFFECT**

This Lease shall inure to the benefit of and shall be binding upon the Lessor, the Lessee and their respective successors and assigns, subject, however, to the limitations contained in Article XI hereof.

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**ARTICLE XVI**  
**SEVERABILITY**

If any clause, paragraph or part of this Lease, for any reason, be finally adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Lease but Shall be' confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which such judgment has been rendered. The unconstitutionality, invalidity or ineffectiveness of anyone or more provisions or covenants contained in this Lease shall not relieve the Lessee from liability to make the payments of rental provided for in this Lease.

**ARTICLE XVII**  
**CAPTIONS**

The captions or headings in this Lease are for convenience only and in no way define, limit or described the scope or intent of any provision of this Lease.

**ARTICLE XVIII**  
**EXECUTION OF COUNTERPARTS**

This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one of the same instrument.

**ARTICLE XIX**

**LAW GOVERNING CONSTRUCTION OF AGREEMENT**

This Lease is prepared and entered into with the intention that the law of the State of Louisiana shall govern its construction

**ARTICLE XX**  
**NET LEASE**  
INTENTINALLY OMMITTED

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**ARTICLE XXI**  
**Other conditions**

Attached hereto is a list of office equipment, furniture internet system, phone system, etc. that the Lessee has agreed to purchase from the Lessor. Payment shall be made in full within thirty (30) days after the acceptance of this agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be duly signed on the dates shown below.

**WITNESSES:**

**LESSOR:**

/s/ Michael Hopkins  
Print Name: Michael Hopkins

/s/ Charles W. Reeves, Jr.  
Charles W. Reeves, Jr.

**Date:** 7/16/09

**LESSEE:**  
**F. MILLER CONSTRUCTION, LLC**

/s/ Mark Korkowski  
Print Name:

**By: /s/ Mark Stauffer**  
Mark Stauffer, Vice President

**Date:** 7/16/09

\_\_\_\_\_  
Print Name:

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**SOLIDARY GUARANTEE**

The undersigned, Orion Marine Group Inc. *I* herewith guarantees the performance of all of Lessee's obligations under the foregoing Lease, including the payment of all amounts of rent, taxes, maintenance expenses and insurance, solidarily, binding itself in solido, unconditionally and as original promissor.

This 16 day of July, 2009.

**ORION MARINE GROUP, INC,**

**By: /s/ Mark Stauffer**

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ACKNOWLEDGMENT

**STATE OF TEXAS**  
**COUNTY OF HARRIS**

**BEFORE ME**, the undersigned Notary Public, duly commissioned and qualified in and for the aforesaid Parish and State, personally came and appeared *Mark Stauffer*, who by me being sworn, deposed and said that he witnessed the execution of the foregoing instrument by Mark Stauffer, Vice-President of F. Miller Construction, LLC, who in his official capacities executed the foregoing instruments of their own free will, act and deed on behalf of those entities for the uses, purposes and considerations therein expressed.

Mark Stauffer

Sworn to and subscribed before me,

this *16* day of July 2009.

Rose Mary Perez  
Notary Public



## LEASE

LEASE AGREEMENT effective as of the *1st* day of September, 2009, between F. MILLER CONSTRUCTION, L.L.C. (Fed. Tax Id. No.205538311) **as lessee ("Lessee") and WEST CALCASIEU PORT referred to as lessor ("Lessor") ..**

## WITNESSETH

ARTICLE I  
LEASED PREMISES

**Lessor does hereby demise and lease until Lessee, and Lessee does hereby hire and take from Lessor those certain premises (the "Leased Premises")** described in Exhibit "A" attached hereto and made a part hereof. Lessor has full right and authority to enter into this Lease and to grant to Lessee the estate and all rights purported to be herein granted without prior consent or approval of any third party.

ARTICLE II  
TERM

The primary term of this Lease shall commence the *1<sup>ST</sup> DAY OF September, 2009*, and shall continue until the *1<sup>st</sup> day of September, 2014*, subject to all other provisions of this Lease. Lessee shall have the option to renew this Lease for five (5) additional successive renewal terms of one (1) year each, if Lessee give Lessor written notice by certified or registered mail of its intention to renew at least ninety (90) days prior to the expiration of the primary term, or renewal term, as applicable, of this Lease. If Lessee timely exercises the options to renew granted in this Lease, then this Lease shall continue upon the same terms and provisions contained in this Lease.

ARTICLE III  
RENT

(a) Amount. Lessee shall pay rent to the Lessor as follows, to-wit:

- (1) An initial payment of Twenty-five Thousand and no/100 (\$25,000.00) Dollars to be paid at the commencement of this lease;
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- (2) The amount of Eight Thousand and no/100 (\$8,000.00) Dollars per month for the first twenty-four (24) months of this lease;
- (3) The amount of Nine Thousand and no/100 (\$9,000.00) Dollars for the twenty-fifth (25th) month of this lease;
- (4) The amount of Ten Thousand and no/100 (\$10,000.00) Dollars per month for the remaining thirty-five (35) months of the primary term of this lease; and
- (5) As additional consideration for this lease, Lessee shall make certain improvements to the leased premises, the waterfrontage of the leased premises and the adjacent water body as set forth in Exhibit "B" attached hereto and made a part hereof. Such improvements shall be completed by Lessee during the first thirty-six (36) months of the primary term of this lease.
- (b) Lessor's Duties. The Lessor shall not be responsible for any maintenance of the Leased Premises. If a repair or replacement, not occasioned

(b) Address for Payment: Each rental payment shall be made payable to the following person and delivered to it at the following address:  
West Calcasieu Port  
c/o Ms. Darla Perry, CPA  
514 West Napoleon Street  
Sulphur, Louisiana 70663

Each person may change the address for payment by notice to Lessee delivered on or before thirty (30) days prior to the rent due date.

#### **ARTICLE IV UTILITIES**

Lessee agrees to pay for all of the utility expenses, including electrical, water and waste collection, which are related to the Leased Premises. Lessee agrees all utilities will be listed in the name of the Lessee and billed to Lessee.

#### **ARTICLE V MAINTENANCE AND REPAIR**

- (a) Lessee's Duties. By entry hereunder, Lessee acknowledges that the Leased Premises and appurtenances are in good, clean and sanitary order and repair, and accepts the Leased Premises in the condition delivered. Lessee shall, solely at its cost and expense, maintain the entire Leased Premises.
- (b) Lessor's Duties. The Lessor shall not be responsible for any maintenance of the Leased Premises. If a repair or replacement, not occasioned by a casualty, is required and will exceed Ten Thousand and no/100 (\$10,000.00) Dollars in cost, Lessor shall have the option to make that repair or replacement or cancel and terminate this lease as of the end of the month in which it is required to be made.
- (c) No Representations or Warranties. Lessor has made no representations or promises with respect to this Lease, with respect to the Leased Premises or with respect to any matter related thereto, other than as expressly set forth herein.
- (d) Indemnity. Lessee hereby agrees to hold Lessor harmless and otherwise indemnify Lessor for any liability to persons or property arising from all defects other than latent defects in the Leased Premises and/or completed or incomplete repairs which are the obligation of Lessee to undertake.
- (e) Access. Lessor shall have the right to reasonable access to the Leased Premises throughout the term of this Lease for the purposes of **repair or inspection**.
- (f) Casualty or Expropriations. If, as a result of a casualty to or expropriation of the Leased Premises, the Leased premises cannot reasonably be occupied and used by Lessee, Lessee may cancel and terminate this Lease on thirty (30) days advance written notice to Lessor.

#### **ARTICLE VI INSURANCE**

Lessee shall, at its own costs, and expense, keep and maintain in full force during the term of this lease, insurance as follows:

- (a) Against public liability claims (including Workmen's compensation Claims), against Lessor and Lessee, and all other claims against Lessor and Lessee as owners and/or landlords resulting from any accident occurring at, on or in any other way related to the Lease Premises, or any part thereof; said insurance to provide coverage covering property damage, bodily injuries, including death resulting therefrom, to the extent of \$1,000,000.00 per accident and \$1,000,000.00 per person and liability for damage to property of others caused thereby to \$1,000,000.00 per accident, and excess/umbrella liability coverage in the amount of \$1,000,000.00;
-

presence at the Leased Premises of any Hazardous Substances, Pollutants or Contaminants if not stored in or on the Leased Premises by Lessee during the term of this Lease or if not resulting from the Lessee's use of the Leased Premises.

#### ARTICLE VIII INDEMNIFICATION

Lessee covenants that it will hold and save Lessor harmless from any and all loss, cost, liability, damage or expense, including without limitation, attorney's fees and disbursements, caused by or arising from or in connection with the injury or death to persons or damage to property in, upon or about the Leased Premises or caused by or arising from or in connection with activities conducted thereon, or any act or omission of Lessee, its agents, employees, contractors, licensees, and invitees, including without limitation, injury or death of Lessee's agents, employees, licensees and invitees and damage to their property; provided however, that Lessee shall be required to indemnify Lessor only for the negligence of the Lessee, its agents, employees, licensees and invitees and Lessee shall not be required to indemnify Lessor for any damage or injury of any kind **arising out of the negligence of third parties, the Lessor, its agents or employees.** Lessor shall not be liable for any damage to property or persons caused by, or arising out of water coming from the roof, water pipes, boilers, heating pipes, plumbing fixtures, waste pipes or any other source whatsoever whether within or without the Leased Premises.

All properties of Lessee and others, placed or allowed to remain on the Leased Premises by Lessee or with its consent, shall remain on the Leased Premises at the sole risk of Lessee and Lessor shall not have any responsibility therefore or obligation to Lessee or any other party with respect thereto. Lessee shall comply with all applicable insurance and fire prevention regulations. The obligations of indemnity and assumption of responsibility on the part of the Lessee set forth herein shall, to the extent of the obligations therein expressed, constitute an assumption of responsibility for the Leased Premises within the meaning of LSA-R.S. 9:3221 or other applicable law.

(b) Against the perils of fire, flood and hazards ordinarily included under the standard extended coverage endorsements cover the full insurable value of the Leased Premises, which the parties recognize is \$150,000.00 on the date hereof; and

(c) The Lessor shall be named as an additional insured in any policy maintained pursuant to this Lease, and each such policy shall contain provisions against cancellation except upon thirty (30) days prior notice to Lessor.

**Policies and/or certificates of such insurance coverage shall be provided at Lessor's request.**

#### ARTICLE VII USE OF LEASED PREMISES

**Lessee shall use the Leased Premises exclusively as a construction** company office, yard and maintenance facility and Lessee is bound not to use the Leased Premises for any purpose that is unlawful or that tends to injure or depreciate the property. Lessee shall comply with all federal, state and/or local laws, rules, regulations and/or orders with respect to the storage, use, discharge and/or removal of any chemical substances, including any "Hazardous Substances", "Pollutants", or "Contaminants" (as such terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended "CERCLA") in connection with its use of the Leased Premises. The Lessee shall be responsible for the removal of any Hazardous Substances, Pollutants or Contaminants stored in or on the Leased Premises by Lessee during the term of this Lease and/or if required by any federal, state and/or local laws, rules, regulations and/or orders resulting from the Lessee's use of the Leased Premises.

Lessee shall immediately notify Lessor, in writing, of any violation or suspected violation of any federal, state or local law, rule, regulation and/or order dealing with Hazardous Substances, Pollutants or Contaminants.

Lessor and Lessee acknowledge and agree that the Lease Premises have heretofore been occupied by Lessor or its assigns. Notwithstanding any provision to the contrary contained herein, in no event shall Lessee be liable for any acts or omissions of Lessor or an prior tenant or occupant, nor for the

#### ARTICLE X ASSIGNMENT

**Lessee has the right to sublease the Leased Premises only with the prior written consent of Lessor.**

#### ARTICLE XI SUBORDINATION

This Lease and all of Lessee's rights, title and interest in and under this Lease shall be subject, subordinated and inferior to the lien of any and all mortgages which now exist or which Lessor may in the future place upon the Leased Premises; however, Lessee's quiet enjoyment of the Leased Premises shall not be disturbed provided that Lessee is not in default under this Lease and agrees to attorn to Lessor's successor in title in the event of a foreclosure. If requested by Lessee, the Mortgagor, Lessor and Lessee shall enter into an agreement reflecting the subordination, non-disturbance and attornment provisions of this paragraph.

#### ARTICLE XII DEFAULT AND REMEDIES THEREFOR

(a) Default. Any of the following shall constitute a default by Lessee:

(1) Failure to pay any rental, provide the insurance required for this lease or to pay the other expenses or obligations assumed under this Lease within fifteen

(15) days after the due date.

(2) Any violation at any time of any other condition of this Lease, if such violation continues for thirty (30) days after written notice of such violation is mailed by Lessor to Lessee.

(3) The filing in any court of a petition in bankruptcy, receivership, reorganization, for respite, or for any other debtor's proceedings by or against Lessee.

(4) Any seizure of Lessee's interest in this Lease under any **writ of seizure of execution**.

(b) Remedies. If any default shall occur, then, in addition, to any other rights which Lessor may have under law or under the provisions of this Lease, Lessor shall have the following options:

(1) To proceed for past due installment only, reserving its rights to proceed later for the remaining installments and to exercise any other option granted by this Lease;

(2) To cancel this Lease and to proceed for past due installments; and/or

(3) To accelerate the rental for the unexpired term of the Lease.

However, Lessor agrees that in the event of any default other than the default described in (a)(1) above, Lessor will provide the Lessee with written notice of the default, and Lessee shall have thirty (30) days thereafter within which to correct the default.

**Lessee waives any putting in default for such breach, except as** expressly required by this Lease. Failure strictly and promptly to enforce **the conditions set forth above shall not operate as a waiver of Lessor's rights.**

The acceptance of rent by Lessor shall not waive any preceding breach by Lessee of any term or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of Lessor's knowledge of the preceding breach at the time of the acceptance of such rent. Receipt by Lessor of a partial rental payment, even with special endorsement thereon, shall not constitute a waiver of any of Lessor's rights hereunder. The waiver by Lessor or Lessee of any breach of this Lease shall not be deemed a waiver of any subsequent breach of the same of any other term or condition of this Lease. In the event of the failure of the Lessee to perform any of its obligations under this Lease, Lessor may, but shall not be obligated to, cause such obligations to be performed and shall have the right to collect such sums of money as may be expended by Lessor therefore from Lessee, together with interest at the rate of ten (10%) per cent per annum until paid. Such performance by the Lessor shall **not constitute a waiver of any default occasioned by Lessee's non-performance.**

If Lessor employs an attorney to collect rent or any other sum due by Lessee, **or if suit is brought to recover possession of the Leased Premises, or because** of the breach of this Lease by Lessee (and a breach shall be established), Lessee shall pay to Lessor all expense reasonably incurred therefor, including a reasonable attorney's fees for such suit or collection.

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(c) Default by Lessor. In the event Lessor fails to fulfill any of **its obligations under this Lease, Lessee agrees to provide Lessor, and any** Mortgagee of the Leased Premises of which Lessee has been notified, with notice of the default and shall allow Lessor, or Mortgagee at Mortgagee's option, twenty (20) days within which said default may be cured. In the event said default is not cured during this period, Lessee shall have the right to enforce any and all remedies granted by this Lease Agreement or by law against **Lessor**.

#### **ARTICLE XIII TERMINATION AND HOLDING OVER**

**Upon termination, Lessee shall deliver the Leased Premises in good condition, ordinary wear and tear accepted. In the event the Lessee holds** the Lease over, upon termination or expiration of this Lease, the holding over shall operate to extend the Lease on a month to month basis and shall thereafter constitute this Lease a lease from month to month. In the event the Lessee does elect to hold the Lease over, either party shall have the right during the holdover period to terminate the continuation of the holding over by giving the other party thirty (30) days written notice. All the other terms and conditions of this Lease shall remain in effect during the holding over period. During the term of this Lease, the Lessor shall have the right to show the Leased Premises for sale, or rent.

#### **ARTICLE XIV NOTICES**

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed as follows:

If to the Lessor:

West Calcasieu Port  
514 West Napoleon Street  
Sulphur, Louisiana 70663

If to the Lessee:

F. Miller Construction, LLC  
Attn: Mr. Mark Stauffer  
Vice President  
12550 Fuqua  
Houston, Texas 77034

and

F. Miller Construction, LLC  
Attn: Mr. Mark Korkowski  
825 Ryan Street  
Lake Charles, LA 70601

#### **ARTICLE XV BINDING EFFECT**

This Lease shall inure to the benefit of and shall be binding upon **the Lessor, the Lessee and their respective successors and assigns, subject, however, to the limitations contained in Article XI hereof.**

#### **ARTICLE XVI SEVERABILITY**

If any clause, paragraph or part of this Lease, for any reason, be finally adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Lease but shall be confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which such judgment has been rendered. The unconstitutionality, invalidity or ineffectiveness of anyone or more provisions or covenants contained in this Lease shall not relieve the Lessee from liability to make the payments of rental provided in this Lease.

#### **ARTICLE XVII CAPTIONS**

The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Lease.

#### **ARTICLE XVIII EXECUTION OF COUNTERPARTS**

**This Lease may be executed in several counterparts, each of which** shall be an original and all of which shall constitute but one of the same instrument.

#### **ARTICLE XIX LAW GOVERNING CONSTRUCTION OF AGREEMENT**

This Lease is prepared and entered into with the intention that the law of the state of Louisiana shall govern its construction.

## **ARTICLE XX NET LEASE**

**This agreement shall be deemed and construed to be a "net lease" and** the Lessee shall pay absolutely net during the Lease Term and rent and all other payments required hereunder, free of any deductions, without abatement, diminution or set-off other than those herein expressly provided.

## **ARTICLE XXI RENT ADJUSTMENT**

(a) In the event of the renewal of this Lease by Lessee, the rent shall increase over the amount paid during the previous lease period by a **percentage equal to the percentage increase in the Consumer Price Index (CPI)** between the day of the beginning of the previous period and the day of **beginning of the renewal period. If a consumer price index number is not available** for any such day, the number to be used shall be the number on the last preceeding day on which it was available provided the CPI still is being published and calculated in the same way as at the effective date of this Lease.

(b) CPI shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the United states Department of Labor, Bureau of Labor Statistics, for the Chicago, Illinois area, sUbgrouP All Items (19821984=100) •

(c) If the manner in which the CPI is determined by the Bureau of Labor Statistics shall be substantially revised, including without limitation, a change in the base index year, an adjustment shall be made by the Lessor in such revised index which would produce results equivalent, as nearly as possible, to those which would have been obtained if such COP had not been so revised. If the CPI should become unavailable to the public because publication is **dis continued, or otherwise, Lessor shall select a substitute index that most** closely approximates the above referenced index, as reasonably determined by Lessor.

## **ARTICLE XXII USE AND MAINTENANCE OF PORT ROAD**

Lessee shall have the non-exclusive use of the Port road that runs through the Leased Premises. Lessee covenants to use its best efforts to avoid damage to the road and understands that it will be responsible for any damage caused by its negligence. With the exception of any damage caused by Lessee's negligence. Lessor shall be responsible for the maintenance of the road. Lessor shall have the right to extend the road eastward in order to **access the Lessor's property on the east side of the Leased Premises.**

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**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be duly signed on the dates shown below:

WITNESSES:

/s/ Glen A. James

/s/ Cheryl M. McLeod

WEST CALCASIEU PORT

/s/ Brent Clement, President

Date: 9/3/09

WITNESSES:

/s/ Mark Korkowski

/s/ Nannette LaFleur

F. MILLER CONSTRUCTION, L.L.C.

/s/ Mark Stauffer, Vice President

Date: 9/8/09

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO RULE 13a – 14(a)/15d – 14(a)  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, J. Michael Pearson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Orion Marine Group, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)), and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November 6, 2009

By: s/ J. Michael Pearson

J. Michael Pearson  
President and Chief Executive Officer





**CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO RULE 13a – 14(a)/15d – 14(a)  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Mark R. Stauffer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Orion Marine Group, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)), and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November 6, 2009

By: /s/ Mark R. Stauffer

Mark R. Stauffer

Executive Vice President and Chief Financial Officer

**SECTION 1350 CERTIFICATIONS  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Orion Marine Group, Inc. (the "Company") on Form 10-Q for the quarter ended September 30, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, J. Michael Pearson and Mark R. Stauffer, Chief Executive Officer and Chief Financial Officer, respectively, of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that to our knowledge:

- 1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

November 6, 2009

By: /s/ J. Michael Pearson

J. Michael Pearson  
President and Chief Executive Officer

November 6, 2009

By: /s/ Mark R. Stauffer

Mark R. Stauffer  
Executive Vice President and Chief Financial Officer