

Board of Harbor Commissioners

Crescent City Harbor District

1 August 2023

Regular Harbor Commission Meeting



Regular Meeting

Board of Harbor Commissioners of the Crescent City Harbor District

Wes White, President Harry Adams, Secretary
Rick Shepherd, Commissioner; Brian Stone, Commissioner; Gerhard Weber, Commissioner

AGENDA

- Date:** **Tuesday, August 1 2023**
- Time:** **Open Session 2:00 p.m., Closed Session follows**
- Place:** **101 Citizens Dock, Crescent City, CA, and via Zoom Webinar,**

VIRTUAL MEETING OPTIONS

TO WATCH (via online)

<https://us02web.zoom.us/j/6127377734>

TO LISTEN (via telephone)

Dial (669) 900-6833, please enter 612 737 7734# (meeting ID)
or, one tap mobile: +16699006833,,6127377734#

Call to Order

Roll Call

Pledge of Allegiance

Public Comment

This portion of the Agenda allows the public to comment to the Board on any issue not itemized on this Agenda, however, the Board may not take action or engage in discussion on any item that does not appear on the Agenda. Periods when public comments are allowed, Harbor Commissioners will allow attendees to submit questions and/or comments using the Zoom in-meeting chat function. The Harbor Commission asks that members of the public keep questions and comments succinct and relevant.

Regular Session

- 1. Consider and Vote to Approve Teleconference Participation for Commissioners Gerhard Weber and Brian Stone.**
- 2. Consent Calendar**
 - a. Approval of the Meeting Minutes of the July 18, 2023 Regular Meeting.**
- 3. Comptroller's Report, Review Balances**
- 4. New Business**
 - a. Review and Vote to Approve RFP Bid for South Beach Bathroom from W. Marshall Jones Construction.**
 - b. Review and Vote to Approve Space Rental Agreement with Port O' Pints Brewing Company.**
 - c. Review and Discuss License Agreement with Tesla, Inc.**
- 5. Unfinished Business**
 - a. Review and Vote to Approve Revised Lease for 250 Citizens Dock Rd (Sheriff's Building North Side) with Fishermen's Catch, Inc.**
 - b. Grants Update**

6. Communications and Reports

- a. CEO/Harbormaster Report**
- b. Ad Hoc Committee Reports (as needed)**
- c. Harbor Commissioner Reports**

7. Closed Session

a. CONFERENCE WITH LEGAL COUNSEL – ONGOING LITIGATION

(Government Code section 54956.9(d)(2))

Ongoing Litigation: One case based on correspondence with Renewable Energy Capital regarding lease terms.

b. CONFERENCE WITH LEGAL COUNSEL – ONGOING LITIGATION

(Government Code section 54956.9(d)(2))

Ongoing Litigation: One case based on correspondence with Fashion Blacksmith, Inc., regarding claim for damages.

8. Adjourn Closed Session

9. Report out of Closed Session

10. MEETING ADJOURNMENT

Adjournment of the Board of Harbor Commissioners will be until the next meeting scheduled for Tuesday, August 15, 2023, at 2 p.m. PST. The Crescent City Harbor District complies with the Americans with Disabilities Act. Upon request, this agenda will be made available in appropriate alternative formats to person with disabilities, as required by Section 12132 of the Americans with Disabilities Act of 1990 (42 U.S.C. §12132). Any person with a disability who requires modification in order to participate in a meeting should direct such request to (707) 464-6174 at least 48 hours before the meeting, if possible.



1. Consider and Vote to Approve Teleconference Participation for Commissioners Gerhard Weber and Brian Stone.

Pursuant to Gov. Code § 54953(b) – Address Disclosed

Commissioner Gerhard Weber

Days Inn Hotel, 527 E. Topaz Blvd., Delta, UT, 84624

Pursuant to Gov. Code § 54953(f) – Address Not Disclosed

Commissioner Brian Stone

Public Comment?



2. Consent Calendar

- a. Approval of the Meeting Minutes of the July 18, 2023 Regular Meeting.**

Public Comment?

**Regular Meeting Minutes of the
Board of Harbor Commissioners of the Crescent City Harbor District**

Harbor District Office, 101 Citizens Dock Road
Crescent City, CA 95531

July, 18, 2023
2:00 p.m.



Board of Harbor Commissioners of the Crescent City Harbor District

MINUTES

Open Session, Tuesday July 18, 2023, at 2:00 P.M.

CALL TO ORDER: **2:00 PM**

ROLL CALL:

PRESENT: *President* WES WHITE
 Commissioner RICK SHEPHERD
 Commissioner GERHARD WEBER

ABSENT: *Secretary* HARRY ADAMS
 Commissioner BRIAN STONE

QUORUM:

PLEDGE OF ALLEGIANCE:

PUBLIC COMMENT:

No members of the public commented.

1) CONSENT CALENDAR:

1A) Approval of Meeting Minutes from the June 20, 2023, Open Session.

Commissioner Shepherd **motioned** to approve the previous meeting's minutes; Commissioner Weber **seconded** the motion.

POLLED VOTE was called, **MOTION CARRIED:**
AYES: WHITE, WEBER, SHEPHERD // **NAYS:** NONE
ABSENT: STONE, ADAMS // **ABSTAIN:** NONE

2) COMPTROLLER’S REPORT/ REVIEW BALANCES

Comptroller Thomas Zickgraf reported that the Harbor’s combined accounts were down as of July 14th, which was driven by the harbor not receiving tax proceeds due to a temporary delay from Del Norte County. Comptroller Zickgraf gave a projected estimate of \$150,000 from tax proceeds.

Comptroller Zickgraf also reported that A/R bad debt had been turned over for the new fiscal year; stating that bad debt was still being collected, but that a more detailed tracking would be implemented for the new fiscal year. Zickgraf stated that he was focusing on closing out fiscal year 22-23, with the deadline set for August 15th; as well as moving forward with the Harbor’s audits from 2021 and 2022 with the auditor. Zickgraf also reported that audits for the commercial tenets were being worked on for both “poundage fees” and “gross receipts”.

Comptroller Zickgraf then reviewed balances and sales with the Board. Noting that boat slip reservations were slightly changed, highlighting reservations were now started/paid for the day the reservation was made; and transient boaters were being encouraged to utilize the website Dockwa for their reservations.

No members of the public commented.

3) NEW BUSINESS

3A) Discussion with Nathan Alldredge, Supervisor of the Santa Barbara Harbor Patrol

Lieutenant Nathan Alldredge shared a presentation with the Board highlighting the structure of Santa Barbara’s Harbor Patrol. Alldredge then opened a discussion with the Board and public, answering questions they had.

President White inquired about both start-up and liability costs. Lt. Alldredge was not able to provide a specific answer due to costs being reliant on the needs of the community; and Alldredge stated that the liability costs would depend on operational procedures and a multitude of other factors. Lt. Alldredge stated that their patrol was always receiving current training and certifications to reduce liability.

A member of the public inquired about the relationship between the Harbor Patrol and other local law enforcement agencies, to which Lt. Alldredge replied that the Harbor Patrol was complementary to other local enforcement and the Harbor Patrol provided unique maritime services.

3B) Review and Vote to Approve Resolution 2023-11 Requiring the Exclusion of Individuals with Specific Criminal Histories from Harbor Patrol Positions

Harbormaster Petrick presented **Resolution 2023-11** to the Board, which would give the Harbor the ability to pull and maintain criminal histories on Harbor Patrol applicants and allow the Harbor to receive reports directly from the FBI and California Dept. of Justice. Assistant

Harbormaster Mike Rademaker stated that the resolution was required by POST (Peace Officer Standards & Training) per their regulations. President White requested an edit to add specific language at the end of the resolution, so that it would exclusively apply to Harbor Patrol applicants and not every Harbor employee.

Commissioner Shepherd **motioned** to approve **Resolution 2023-11** with the added specific language, Commissioner Weber **seconded** the motion:

POLLED VOTE was called, **MOTION CARRIED:**
AYES: WHITE, WEBER, SHEPHERD // **NAYS:** NONE
ABSENT: STONE, ADAMS // **ABSTAIN:** NONE

No members of the public commented.

3C) Review and Vote to Approve Lease for 250 Citizens Dock Rd with Fisherman’s Catch

President White reported that this item was being pulled from the agenda as there wasn’t a majority of the Commissioners present.

4) UNFINISHED BUSINESS

4A) Grants Update

Mike Bahr shared updates for the current grants with the Board, highlighting PDIP and Coastal Conservancy grants which had RFP’s (Requests for Proposal) for environmental and design work needed for the new Citizens Dock; many bids requested an extension to August 14th due to the project’s complexity. There was also an RFP for the new South Beach Bathroom and Shower that was due the following week. Bahr also reported FEMA came back with questions for the Anchor Way grants and they were currently working on mitigation for the first of two Storm Mitigation grants.

Bahr also highlighted that the boat launching facility program grant was a rolling application that recently opened, and he planned to have it in by September. A recent meeting with the California Coastal Conservancy determined that the harbor needs to bundle projects due to project costs, and they intended on discussing those in the coming weeks.

A member of the public inquired about the boat the Sheriff’s department owns in relation to the patrol boat grant Bahr discussed for the Harbor District. No other members commented.

4B) Dredge Permitting Update

Harbormaster Petrick reported that engineer sampling results from the outer boat basin were expected to be ready in early August.

Petrick also reached out to four permitting agencies regarding the Fashion Blacksmith award, letting them know the dredging needed to be expedited to meet legal requirements.

Harbormaster Petrick also reported an update for the “Beneficial Use” permit, the harbor and city held more discussions about possible uses for dredging sediment. Petrick stated that the

engineers that did the walkthrough of Citizens Dock were interested in using that sediment to potentially raise the seawall.

A member of the public inquired whether the current dredging plan would all get done before the October 31st deadline set by an arbitration panel.

5) COMMUNICATIONS AND REPORTS

5A) CEO/Harbormaster Report

Harbormaster Petrick reported that recent meetings with FEMA went well, and they moved the Harbor to the next level of approval. FEMA was pushing to have work done that would mitigate future storm damage at the same time as construction was ongoing for storm repair.

Harbormaster Petrick also reported on restriping the boat launch ramp. Restriping of Anchor Way was cancelled in favor of using road reflectors (raised pavement markers) due to the option being more affordable and less vulnerable to the deteriorating condition of the road.

Harbormaster Petrick also reported that Fourth of July was successful, and cleanup went by more efficiently compared to last year.

Harbormaster Petrick also reported that the harbor made a short-term agreement with the business “La Capella’s” to put a fridge with grab and go sandwiches in the main harbor office.

5B) AD HOC Committee Reports

- a) Finance: Commissioner Weber reported that the Finance Committee was planning a meeting in the coming week.
- b) Tri-Agency: President White announce a joint Tri-Agency meeting on July 25th for the public.

5C) Harbor Commissioner Reports

- a) President White gave thanks to Comptroller Thomas Zickgraf for his accounting efforts over the past fiscal year.
- b) Commissioner Weber reported incremental improvement in the harbor.
- c) Commissioner Shepherd had nothing to report.

1) ADJOURN OPEN SESSION

ADJOURNMENT TO THE BOARD OF HARBOR COMMISSIONERS NEXT REGULAR MEETING SCHEDULED FOR TUESDAY, AUGUST 1ST, 2023, AT 2 P.M., VIA ZOOM WEB CONFERENCE AND IN-PERSON AT THE MAIN HARBOR OFFICE, LOCATED AT 101 CITIZENS DOCK ROAD.

Approved this ____ day of _____, 2023.

Wes White, President

Harry Adams, Secretary



3. Comptroller's Report, Review Balances

Public Comment?



4. New Business

- a. Review and Vote to Approve RFP Bid for South Beach Bathroom from W. Marshall Jones Construction.**

Public Comment?



Date: July 28, 2023

To: Crescent City Harbor District Board of Commissioners

From: Mike Bahr, Aislene Delane, Community System Solutions

Re: Recommendations on design and construction of new bathroom on Anchor Way:

- 1) Crescent City Harbor District award the design and construction contract for the bathroom at South Beach to W. Marshall Jones Construction
- 2) Focus permitting, design and construction activities on site #2 along Anchor Way.

Award of Contract

As the Board is aware, the Crescent City Harbor District received \$450,000 to construct a new bathroom along Anchor Way to serve users of South Beach.

The following process was conducted to seek a contractor to design and construct the new bathroom:

The Crescent City Harbor District released a Request for Proposals outlining the South Beach bathroom and shower project on Monday, June 26th, 2023.

The notice of the release of the RFP was published in The Triplicate, the Times-Standard, and the Oregonian. Additionally, it was posted on the CCHD website, and was sent to the Chamber of Commerce, where it was included on Commerce's weekly newsletter.

CCHD staff and CSS staff conducted a conference call on Thursday, July 6th to allow any potential bidders to ask questions regarding the RFP. Marshall Jones was in attendance as a potential bidder. There were no other attendees.

Following the RFP conference call, an addendum was posted on the CCHD website on Friday, July 7th. That addendum made it clear the responder would not be legally liable if the Coastal Commission did not issue a permit for the restroom.

As per the RFP, a site tour was held on Thursday, July 13th for any potential bidders to review the site. County permitting staff were invited and attended the site visit. There were no interested bidders at the site visit.

The bidding period closed on Monday, July 24th at 5:00 PM.

The only bid response received was from W. Marshall Jones Construction.

The bid response is attached.

The bid is within budget, is responsive to what was requested, and W. Marshall Jones Construction meets the business and insurance requirements listed in the bid document.

As per the RFP, an interview was conducted with Mr. Jones on July 27, 2023. Among his responses, he said he will work with the Harbor District to create a final design that meets the harbor's needs for a restroom with showers; and identify items in his bid which could be performed by the harbor district, like trenching and road work, in order to potentially reduce costs of the project.

Attached to the bid response is an artist rendering of the type of building design Mr. Jones will design and construct. This is not the final design, but an inspiration of what could be at this site. Once the final footprint of the building is established a final design will be created.

Mr. Jones will be at the Harbor District Board of Commissioners meeting to answer any questions the board may have.

Recommendation: Crescent City Harbor District award the design and construction contract for the bathroom at South Beach to W. Marshall Jones Construction.

Potential Change of Location for Restroom:

The Harbor team met with the County of Del Norte permitting staff. Mr. Jones also met with County staff and utility providers. After those meetings, it is clear the initial site (Site 1 on the below picture) will have numerous permitting issues, which may be insurmountable.

The County Road right of way at that spot is 66 feet wide, leaving only 12 feet to the top of sand berm and rip rap. 12 feet is not enough room for the required building setback from the edge of the road. Building on that site would require a variance from the County.

The permit would also require Coastal Commission approval to build up to the rip rap. Other items built along Anchor Way, like the benches, have required a setback from the rip rap.

If the construction permit was approved with those variances, the building modifications needed to fit onto that space would result in a narrow 10-foot building 40 feet long. There would be no space for a walkway around the building. There would also be no room for ADA adjacent parking.

At the Harbor teams' suggestion, Mr. Jones looked at the site on the other side of the memorial benches (site 2 on the picture). That site is larger, and the County does not have a right of way at that spot. Constructing a building that is no closer to the rip rap than the present concrete platform would allow for a building that is sized correctly, has

a walkway around it and includes an adjacent ADA space, and is probably more permissible from the Coastal Commission as it would be the same distance from the rip rap from other items that have received their approval.

Since the project is mostly funded from the Coastal Conservancy, the CSS team talked to the Coastal Conservancy grant manager, and he said the Conservancy would have no issue if the bathroom was relocated to that site.

Recommendation: Focus permitting and design activities at site #2.



W. MARSHALL JONES CONSTRUCTION

GENERAL ENGINEERING & CONSTRUCTION CONTRACTOR

Lic. CA781031 Bonded & insured
190 Church Tree Road, Crescent City, CA 95531
707-951-3455

July 24, 2023

Crescent City Harbor District
101 Citizens Dock Road
Crescent City, CA 95531

Response to Request for Proposal, South Beach Bathroom and Shower Facility.
Owner: Crescent City Harbor District.

Introduction: Jones Construction (W. Marshall Jones Construction) is a licensed General Engineering and General Construction contractor located locally in Crescent City. We specialize in designing and building organically designed homes and small commercial buildings. Examples of our work are located throughout our lovely rural County, including the Comet House and Prince Island Home, numerous nautical themed custom beach homes, the neighborhood of Smuggler's Cove, as well as many commercial projects for California Department of Fish and Game, Del Norte County Unified School District and others.

We enjoy completing ground-up design and construction, and have teamed up with Lee Tromble Civil Engineering to complete a fully engineered design, as well as regular inspection of construction progress. As a local resident, Mr. Tromble has provided professional civil engineering services to our community for decades.

Marshall Jones will provide project lead. In addition to the design and construction of the proposed restroom, as a licensed General Engineering Contractor he will be responsible for the installation of new water and sewer mains, as well as new secondary power utilities.

Jones Construction is a local business serving our community for nearly 30 years. We shall comply with required insurance coverage, payment and performance bonds, wage reports for prevailing wage standards and CalOsha job site safety requirements.

Suggested design: The proposed location of the restroom is dramatic; the breaking waves of South Beach are only feet away. The inner boat basin with associated tourist-oriented businesses sits immediately to the West and North. Highway 101 traffic will catch glimpses of the facility as they visit our community. This structure will immediately greet all visitors. With these considerations in mind, I propose to design and furnish a commercial restroom utilizing hybrid construction that will be engineered for the tsunami-risk designated location, but include some fun organic design. The exterior walls would look fantastic cast in place using local distressed Douglas Fir forms for a driftwood feel, with cast in place base-relief breaking waves; all exposed framed surfaces interior and exterior would be Sierra wood grain reinforced cement board With a scrubbable scuff-resistant painted surface. All trims would be 316 stainless steel and Azek weather proof products anchored with stainless steel fasteners. Vent screening would be expanded stainless steel.

As part of the fascia design, we would like to incorporate some refractive aqua blue art glass; it is maintenance free, and would reflect the beauty of the surroundings.

All fixtures within the structure would be commercial stainless steel. Commercial fiberglass doors are recommended vs steel due to corrosive location. 316 Stainless steel doors could be substituted for fiberglass for the difference in materials cost. The facility would be entirely CalDAG compliant.

Our proposal includes the complete design and plans, engineered for the unique location, by a licensed Civil Engineer. Permit fees shall be included, issued by the Del Norte County Community Development Department. Inspections shall be carried out by this agency plus the Civil Engineer of record.

****CRITICAL NOTE****

The Del Norte County Planning Department was consulted and researched the proposed area. A 60' road easement exists that cannot be encroached upon by the facility. The easement strip could obviously include walking surfaces, but no part of the structure. A variance would have to be attained allowing construction adjacent to the easement with no set-back, so this is an unknown variable. If a variance can be granted, I propose a 12' deep restroom facility that would utilize the narrow space between the road easement and edge of the exposed rip-rap sea wall. The length of useable space is approximately 48'. This would still require the removal of approximately 3' of ice plant along the edge of the rip-rap, but not compromise the embankment with construction activity. Parking would have to remain to the West of the existing seating area, with ADA compliant walking surfaces to the facility.

The City of Crescent City was also consulted regarding sewer and water services. A new sewer lateral must be installed from the facility into the existing manhole in the center of the intersection. A new 2" water main must be installed from the facility and tapped into the existing main located in the center of the intersection. Regarding the sewer lateral, we must budget a small basin/ grinder pump as the water mains in the street appear to conflict with a gravity-drop lateral from the facility. The City has provided a quote of approximately \$13,000 for sewer and water connection fees and meter installation, these charges are included in our proposal. Pacific Power has recommended an equipment budget of \$9,000 for providing secondary power, and the contractor is responsible for all installation. These costs are also included in our proposal.

The small available footprint at this location makes this project very challenging. The permitting agencies, along with the Harbor District and builder will need to be flexible in order for the construction of this facility to be a success.

Summary of included items in proposal:

***Design and engineering.**

***Required bonding and insurance.**

***Complete commercial restroom facility, within an approximate 12' x 48' foot print, in compliance with the description in the proposal.**

***IN THE EVENT THE NARROW FOOTPRINT DOES NOT ALLOW THE SHOWERS TO BE POSITIONED ON THE WALLS OF THE FACILITY, we propose: (2) commercial stainless steel shower towers with multiple stations. (1) commercial stainless steel shower tower fully CalDAG compliant.**

***48' concrete entrance sidewalk with cast-in-place sea art.**

***100 sq. ft. of concrete walking surface serving showers with cast-in-place sea art.**

***New 4" sewer main from road manhole to facility.**

***New 2" water main from existing main in the roadway to the facility.**

***Del Norte County permit fees.**

***New sewer and water connections/ meter installation fees.**

***Improvement of (4) parking spaces to West of monument seating, unless a better immediate location can be identified. This would include a pave-over and striping plus transition panel to existing seating area.**

Our price cost structure is based upon 18% profit and overhead, plus 5% bonding/ insurance premium requirements. **PLEASE NOTE Under item 15:b, Automobile Liability, ii Code 1 (any auto) is no longer available, although we do carry appropriate auto insurance. Also, under item 15:d:i, Pollution/ Asbestos Legal Liability, this line will not apply.**

Stainless steel art work in-lays for pathways and base relief concrete impression art shall be donated.

Proposed price, design and engineering: \$31,168.00

(Includes engineering for sewer and water main installation, parking and access improvements to facility, design and development of working plans, permit application process)

Proposed price, construction: \$554,545

(Includes construction permit fees, sewer and water main construction, sewer and water connection and meter fees, secondary power installation, facility construction)

Thank you,



**Marshall Jones
Design/ build contractor**



Turlock

License #0649647
600 E. Main St. Ste. 200
P.O. Box 1845
Turlock, CA 95381
(209) 634-9031
(800) 660-1024
FAX (209) 667-5234

07/24/2023

Crescent City Harbor District
101 Citizens Dock Road
Crescent City, CA 95531

RE: South Beach Bathroom and Shower Facility

To Whom it May Concern:

William Marshall Jones has the ability to meet all of the required insurance and bonding requirements.

If you have any questions please don't hesitate to contact me.

Los Banos

License #0649647
810 W. K St.
Los Banos, CA 93635
(209) 826-5667
(800) 942-4430
FAX (209) 826-8545

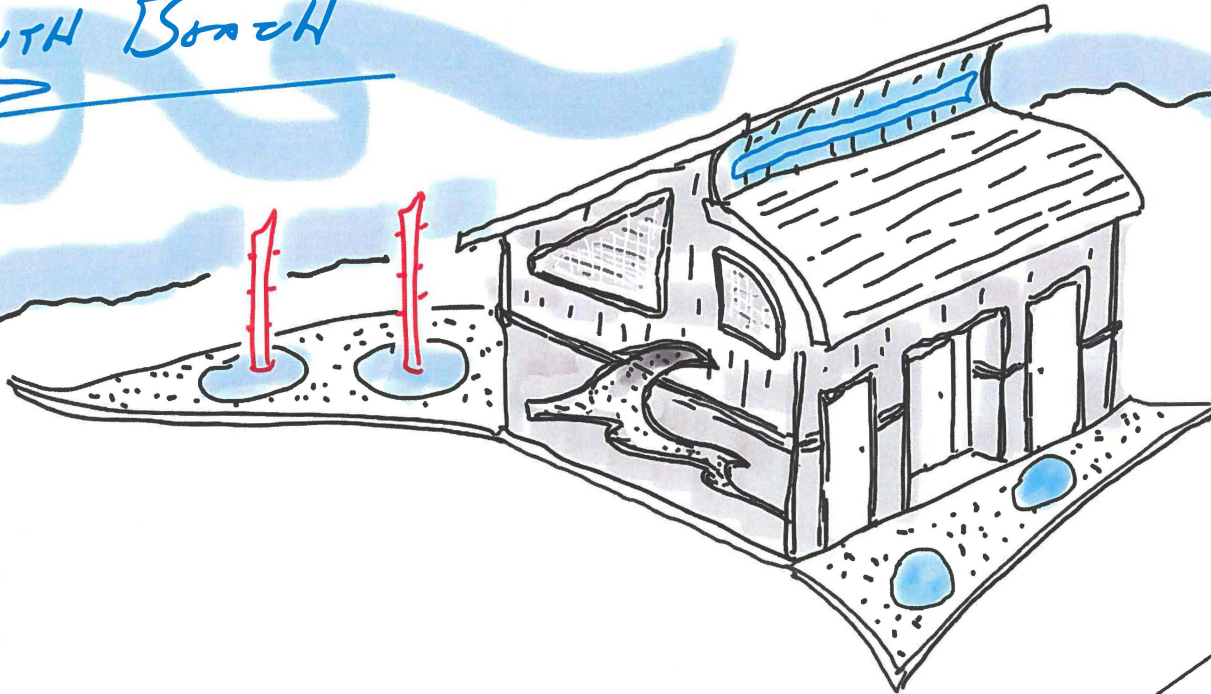
Thank you,

Robyn Holt

Crescent City

License #0649647
1090 3rd Street
Crescent City, CA 95531
(707) 465-5999
FAX (707) 465-4600

SOUTH BEACH



Existing Parking

Existing Parking

Ramp

Hwy 101



4. New Business

b. Review and Vote to Approve Space Rental Agreement with Port O' Pints Brewing Company.

Public Comment?

TRUCK SPACE RENTAL AGREEMENT

This Truck Space Rental Agreement (“Agreement”) dated August 1, 2023 (the “Commencement Date”) is entered into by and between **Crescent City Harbor District** (“CCHD”), with its principal business address located at 101 Citizens Dock Rd, Crescent City, CA 95531, and **Port O’ Pints Brewing Company, LLC** (“Vendor”), a California limited liability company with its principal business/ mailing address located at 1215 Northcrest Dr., Crescent City, CA 95531), for the purpose of establishing the terms and conditions by which Vendor can lease time and space to sell beer, wine, and other drinks permitted through its ABC license (as described in greater detail in Section 5 below) on CCHD’s Crescent City, CA property. Each party is individually referred to herein as a “Party” and collectively as the “Parties.”

In consideration of the mutual covenants set forth below, the parties agree as follows:

1. **Term of the Agreement:** Upon complete execution by both Parties and with all necessary documentation supplied pursuant to Section 3 of this Agreement, the term of this Agreement (“Term”) shall begin on the Commencement Date and continue for a period of two (2) years, expiring on July 31, 2025 (the “Term”).
2. **Termination of this Agreement:** CCHD may terminate this Agreement prior to the end of the Term, with or without cause, at CCHD’s sole discretion, without any penalty whatsoever. If CCHD terminates this Agreement prior to the conclusion of the Term, any pre-paid rental fees shall be prorated by CCHD after Vendor has completely vacated the Premises.
3. **Vendor Documentation:** Vendor shall provide CCHD with true and correct copies of any business documentation required by law or requested by CCHD, including but not limited to: business licenses, ABC licenses, permits, sales tax certificates, certificates of authority, certificates of insurance (including endorsements listing CCHD), and/or applicable waivers.
4. **Rental Fees:** Rent shall be paid on the first day of each month during the Term in the amount of Five Hundred and 00/100 Dollars (\$500) per month. Additional Rent includes 6% of all Vendor gross revenues realized on the Premises. Rental Fees are subject to change at the discretion of CCHD. Except as set forth in Section 2, once paid, the Rental Fee is non-refundable regardless of whether Vendor remains on the Premises during the term of this Agreement or not.
5. **Truck Space Utilization and Standards.**
 - a. CCHD will assign Vendor a parking space or area measuring 40’ x 10’ at the property commonly known as the Food Truck Pavilion (the “Premises”) further described in Exhibit “A” attached to this Agreement, to be accessed only via the route(s) designated by CCHD (“Vendor’s Space”), to be used exclusively for drink service. Vendor shall not serve anything other than beer, wine, and other drinks that are permitted through its “tied house” type ABC license (the “ABC License”), including but not necessarily limited to food or merchandise.

The sale of alcoholic beverages by Vendor on the Premises is expressly subject to the restrictions of the ABC License granted by the ABC. Vendor shall not use or permit the use of the Premises for any other use or purpose without the prior written consent of CCHD, which consent may be withheld in CCHD's sole discretion. Vendor shall not otherwise be on CCHD's property.

- b. Vendor, and its patrons and guests, shall be permitted access to an additional 1,500 square foot seating area ("Seating Area") on the Premises, which it will share equal rights and responsibilities to with other District authorized vendors.
- c. CCHD reserves the right to change or move Vendor's Space without notice or consent at any time.
- d. **ABC License:** Vendor agrees to provide CCHD with a true and correct copy of the Liquor License Approval issued by the ABC prior to the sale of any alcoholic beverages on the Premises, to keep such license in full force and effect, and to comply with all rules and regulations issued by the ABC and any local authority regarding the sale of liquor on the Premises.
- e. **Exclusive use of Parking Space or Area:** Vendor shall not transfer, assign, sublet, or otherwise share Vendor's Space without prior written approval of CCHD.
- f. **Utilities:** CCHD will make water and power connections available at Vendor's Space for Vendor's use. Vendor is responsible for paying all utility charges, fees and costs associated with said use.
- g. **Display:** CCHD has the final say on how Vendor's Space is used and Vendor's vendor truck presents to the general public.
- h. **Utilization of Personal Property:** Vendor may place tables, chairs or other items of personal property within the perimeter or "footprint" of Vendor's assigned parking space or area only. Vendor shall not utilize any other space or area on CCHD's premises for this purpose without CCHD's prior, written consent. Vendor may construct a semi-permanent structure consisting of a covered deck with a propane fire pit and seating. Prior to construction, Vendor shall provide CCHD with a rendering, schematics or other plans which CCHD may approve at its sole discretion. At the end of the Term or earlier termination of this Agreement for any reason, Vendor shall remove all personal property and/or structures in Vendor's Space at Vendor's expense, unless prior written approval is given by CCHD.
- i. **Ownership and Use of Vendor Improvements:** Any improvements to the Vendors Space constructed during the Term of this Agreement shall remain upon the Premises at the expiration or earlier termination of this Agreement and become the property of CCHD unless CCHD elects, upon written demand by CCHD, that Vendor shall, forthwith and with all due diligence, at Vendor's sole cost and expense, remove any alterations, additions or improvements made by Vendor and designated by CCHD to be removed and repair any damage to the Premises caused by such removal. Vendor's obligations under this Paragraph 5(h) shall survive the expiration or earlier termination of the Agreement.
- j. **Responsibility for Garbage:** From time to time during its hours of operation and upon the close of operation for the day, Vendor shall clean up any garbage

on Vendor's Space, area or beyond, which originated from its operation. Garbage shall then be removed from the Premises by Vendor at the close of operation for the day.

6. **Risk & Indemnification.**

- a. **Limitation on Liability:** In no event shall CCHD, its affiliates, officers, trustees, commissioners, employees, agents, representatives, successors, or assigns be liable to Vendor and/or its affiliates and/or respective managers, members, officers, employees, agents, representatives or customers for any loss, liability, theft, damage, claim, demand, including but not limited to, theft or damage to Vendor's property, furnishings, and equipment that Vendor or its customers may incur arising out of Vendor's operations at the Premises, whether caused by the negligence of CCHD or otherwise. In no event shall CCHD be liable to Vendor or its customers for any consequential, special, indirect, incidental or punitive damages, costs, expenses or losses (including without limitation lost profits, loss of business, anticipatory profits and opportunity costs). Under no circumstances shall any CCHD property or asset be subject to levy, execution or other enforcement procedure for satisfaction of any judgment or remedy under this Agreement.
- b. **Indemnity:** To the fullest extent permitted by the laws of California, Vendor and its owner(s), if it is not a sole proprietorship or partnership, shall indemnify, defend and hold harmless CCHD, its affiliates, officers, trustees, commissioners, employees, agents, representatives, successors, or assigns from and against any and all losses, lawsuits, judgments, causes of action, costs, damages, claims (actual or alleged) and expenses resulting from any and all claims arising out of this Agreement and Vendor's use of the Premises and the Seating Area, including but not limited to claims for nuisance, bodily injury, tort, death, property destruction, and/or property damages arising out of or incident in any way resulting from the acts or omissions, whether negligent or otherwise, of Vendor, its employees, subcontractors, sublicenses, subtenants, owners, partners, investors or agents, if any, in the performance of this Agreement and/or the use of the Premises.
- c. **Insurance:** Vendor shall procure and keep in force, at its expense, comprehensive general liability insurance coverage with minimum policy limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury and property damage and against any risk as described above. In addition, Vendor shall procure and keep in force, at its expense, liquor liability coverage with a limit of not less than Two Million Dollars (\$2,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate. CCHD shall be named as an additional insured party on such policies. Vendor shall provide a true and correct copy of all valid policies and/or certificates of insurance to CCHD upon request.

- 7. **Video and Photography Release:** Vendor hereby grants to CCHD the irrevocable and unlimited right and permission to use photographs and/or video recordings of Vendor's truck business operation on each of CCHD's social media and other internet properties,

promotional flyers, marketing materials, derivative works, or for any other similar purpose, without compensation or permission from Vendor. Vendor hereby releases, acquits and forever discharges CCHD from any and all claims, demands, rights, promises, damages, and/or liabilities arising out of or in connection with the use or distribution of said photographs and/or video recordings, including but not limited to any claims for invasion of privacy, appropriation, likeness, or defamation. Vendor hereby warrants that Vendor and each of its employees and subcontractors is eighteen (18) years of age or older.

8. **Legal Compliance:** Vendor shall be solely responsible for ensuring that its use of the Premises and Vendor's Space is in compliance with all federal, state and local laws, ordinances and regulations.
9. **Waiver of Civil Code Sections:** Vendor waives the benefit of the provisions of California Civil Code sections 1932(2) and 1933(4) (or their successor provisions) with respect to any damage to or destruction of the Premises.
10. **Transfer of CCHD's Interest:** In the event of a sale or conveyance by CCHD of CCHD's interest in the Premises or Vendor's Space, other than a transfer for security purposes only, CCHD shall be relieved from and after the date of such transfer of all obligations and liabilities accruing thereafter on the part of the CCHD, provided that any funds in the hands of the CCHD at the time of transfer in which Vendor has an interest shall be delivered to the successor of CCHD. This Agreement shall not be affected by any such sale and Vendor agrees to attorn to the purchaser or assignee provided all CCHD's obligations hereunder are assumed in writing by the transferee.
11. **Holding Over:** Any holding over by Vendor after expiration of this Agreement shall not be construed as a renewal of extension and shall not give Vendor any rights in or to the Premises except as expressly provided in this Agreement. Any holding over after expiration of this Agreement without the consent of CCHD shall be construed as a tenancy at sufferance from month-to-month (requiring at least 30 days advance written notice from either party to the other prior to termination), at 150 percent of the Rent in effect immediately prior to such holding over, and on the same terms and conditions set forth in this Agreement. In the event Vendor fails to vacate the Premises and fulfill all of its obligations hereunder at the end of the term, Vendor shall be liable for all damages incurred by CCHD by reason of the latter's inability to deliver possession of the Premises or any portion thereof to any other person. In the event of any unauthorized holding over, Vendor shall indemnify CCHD against all claims for damages by any other tenant/vendor to whom CCHD may have leased all or any part of the Premises effective upon the date this Agreement terminates
12. **Hazardous Materials:** Vendor agrees to comply with all applicable federal, state, and local laws, rules and regulations relating to the presence of Hazardous Materials on the Premises during the term of this Agreement, and in connection with any permit requirements under such laws, to seek written approval of CCHD to the introduction of Hazardous Materials onto the Premise requiring a permit, which approval may be unreasonably withheld.

Vendor shall not:

- a.** Make, or permit to be made, any use of the Premises, or any portion thereof, which emits, or permits the emission of dust, sweepings, dirt, cinders, fumes, or odors into the atmosphere, the ground, or any body of water whether natural or artificial or;
- b.** Discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any liquids, solid, or gaseous matter, or any combination thereof, into the atmosphere, the ground, or any body of water, which matter, as reasonably determined by CCHD or any governmental entity, does, or may, pollute or contaminate the same, or is or may become, radioactive or does, or may, adversely affect (1) the health or safety of persons wherever located, whether on the Premises or anywhere else, (2) the condition, use, or enjoyment of the Premises or any other real or personal property, whether on the Premises or anywhere else, or (3) the Premises, the Premises, or any of the improvements, including Premises, foundations, pipes, utility lines, landscaping, or parking areas.
- c.** Vendor shall not use, store, dispose of, or permit to remain on the Premises, the Premises, or the underlying or adjacent property any solid, liquid, or gaseous matter, or any combination thereof, which is, or may become, hazardous, toxic, or radioactive including, but not limited to, those materials listed in Sections 66680 through 66685 of Title 22 of the California Administrative Code, Division 4, Chapter 30 (as may be amended from time to time) or any material which, if discharged, leaked, or emitted, or permitted to be discharged, leaked or emitted into the atmosphere, the ground, or any body of water, does or may (i) pollute or contaminate the same, or (ii) adversely affect (1) the health or safety of persons, whether on Premises or anywhere else, (2) the condition, use, or enjoyment of the Premises or anywhere else, or (3) the Premises, the Premises, or any of the improvements (all of the foregoing collectively referred to herein as "Hazardous Materials").
- d.** As used herein, the term "hazardous material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "hazardous material" includes, without limitation, any material or substance which is (1) defined as a "hazardous waste" under Sections 25515, 25117, or 25122.7 or listed pursuant to Section 25140 of the California Health & Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health & Safety Code, Division 2, Chapter 6.8 (Carpenter-Presly-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health & Safety Code, Division 20, Chapter

6.95 (Hazardous Substances); (iv) petroleum; (v) asbestos; (vi) listed under Article 9 and defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (vii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1317); (viii) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903); or (ix) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42, U.S.C. Section 9601, et seq. (42 U.S.C. Section 9601).

13. **Notices:** All notices given or required to be given under the terms hereof shall be in writing and shall be deemed to have been properly given only if sent by United States registered or certified mail, postage prepaid, addressed to CCHD:

Crescent City Harbor District
101 Citizens Dock Rd,
Crescent City, CA 95531
Telephone: (707) 464-6174
Attn: Tim Petrick

and addressed to Vendor:

Port O'Pints Brewing Company, LLC
1215 Northcrest Dr,
Crescent City, CA 95531
Telephone: (707) 460-1154
Attn: John Kirk

14. **Miscellaneous:** This Agreement constitutes the entire agreement between the Parties and no other agreements, oral or written, are binding upon the Parties. This Agreement may only be modified by written agreement signed by both Parties. If any term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each provision of this Agreement shall be valid and shall be enforceable to the extent permitted by law. This Agreement shall be governed by, and construed in accordance with laws of the state of California, and the venue for all disputes arising under this Agreement shall be in the courts of Del Norte County, CA. This Agreement may be executed in any number of counterparts and in electronic format, each of which when so executed and delivered (whether electronically or otherwise) shall be taken to be an original; but such counterparts shall together constitute one and the same document.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement and intend to be bound as of the Commencement date stated above.

CRESCENT CITY HARBOR DISTRICT

Tim Petrick, CEO/Harbormaster

Date: _____

Port O’Pints Brewing Company, LLC

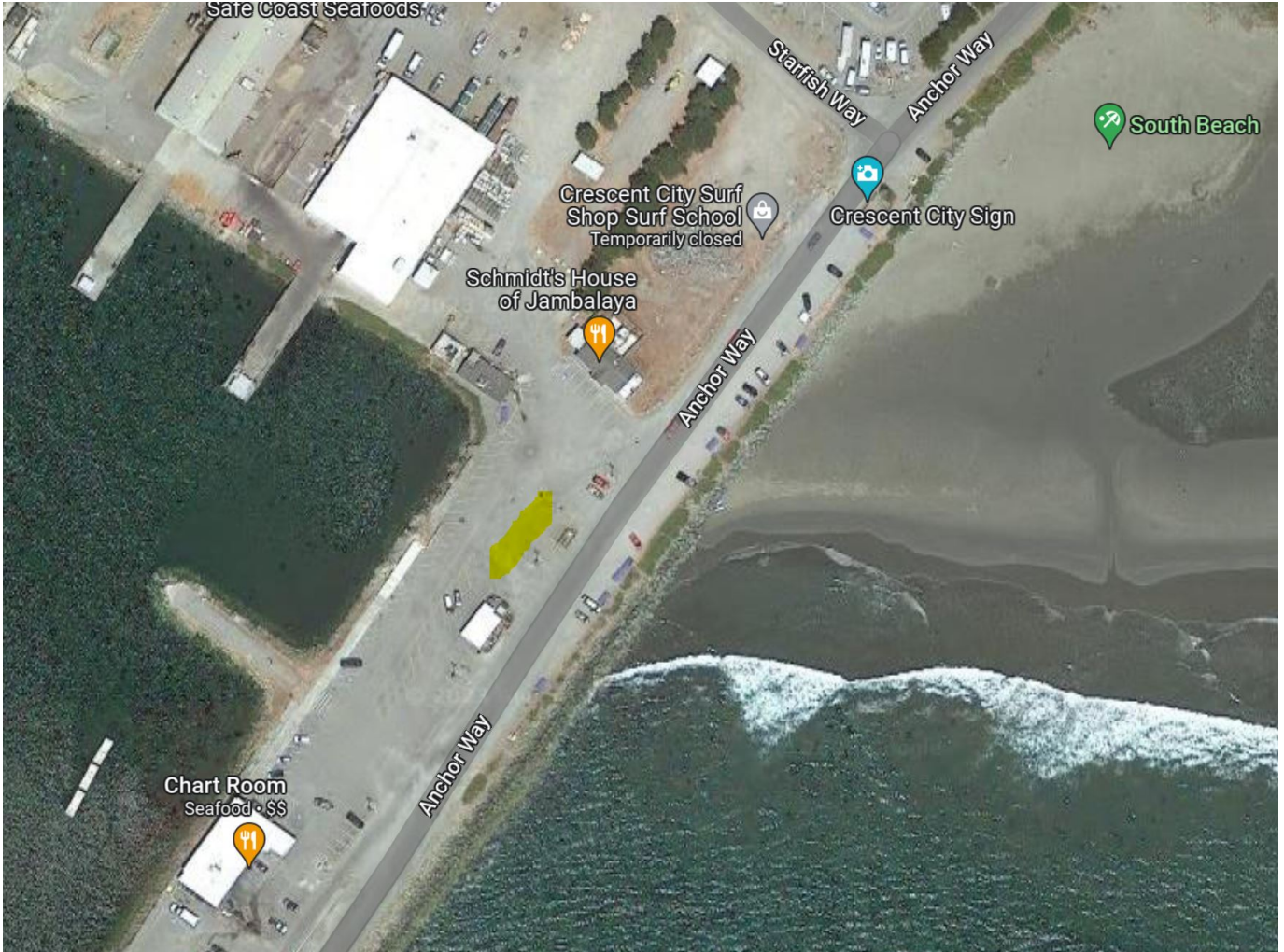
By: _____

Name: _____

Title: _____

Date: _____

Exhibit A





4. New Business

c. Review and Discuss License Agreement with Tesla, Inc.

Public Comment?

SUPERCARGER LICENSE AGREEMENT

This License Agreement (this “License”) is effective as of the date it is fully executed (the “Effective Date”) by and between Licensor (as defined below) (“Licensor”) and Tesla, Inc., a Delaware corporation (“Licensee”). Licensor and Licensee are each referred to herein as a “Party” and collectively as the “Parties.” Clause references are to clauses in the Key Terms, and section references are to sections in the General Terms and Conditions (Exhibit B). Exhibit A and Exhibit B are incorporated by reference in this License. In the event of a conflict between the Key Terms and Exhibit B, the Key Terms shall prevail.

Key Terms

- (a) **Licensor** Crescent City Harbor District, a special district organized pursuant to the California Harbors and Navigation Code.
- (b) **Property**
(Section 1) Parking area north of the intersection of Starfish Way and Citizens Dock Road, more particularly described in Exhibit A, (the “Property”).
- (c) **Licensed Area**
(Section 1) Sixteen (16) parking spaces, five (5) feet of additional parking width to provide disability access and approximately four hundred (400) square feet of space for equipment on the Property, all as depicted on Exhibit A (the “Licensed Area”).
- (d) **Charging Stalls**
(Section 1) Sixteen (16) charging stalls.

Parking spaces in the Licensed Area shall be outfitted for charging as follows: (a) twelve (12) with DC charge posts (“Superchargers”) that shall serve as dedicated charging stalls, and (b) four (4) with AC chargers (“Wall Connectors”) that allow for general parking.
- (e) **Due Diligence Period** (Section 2) 365 days following the Effective Date (“Due Diligence Period”).
- (f) **Commencement Date** (Section 4) Within 365 days following the end of the Due Diligence Period.
- (g) **Base Term**
(Section 5) Ten years from the last day of the month in which the Commencement Date occurs (the “Base Term”).
- (h) **Renewal Term**
(Section 5) Periods of five years (each a “Renewal Term”).
- (i) **Termination Notice**
(Section 5) At least eighteen (18) months (the “Notice Period”).
- (j) **Special Terms and Conditions** None.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have each caused an authorized representative to execute this License as of the date signed below.

LICENSOR:

Crescent City Harbor District,
a special district organized pursuant to the California
Harbors and Navigation Code.

LICENSEE:

Tesla, Inc.
a Delaware corporation

By: _____

Name: Tim Petrick

Title: CEO / Harbormaster

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

E-mail for notices:

tpetrick@ccharbor.com

E-mail for notices:

superchargerhost@tesla.com

Phone number for urgent issues:

707-464-6174

Phone number for urgent issues:

725-223-2400

EXHIBIT A
Licensed Area

TBD

(Example area only)



Exhibit B
General Terms and Conditions

1. **Licensed Area.** Licensor hereby grants to Licensee the right to use the Licensed Area pursuant to Section 6, to install, operate and maintain a Supercharger Station (defined below), together with the right of ingress and egress to the Licensed Area. This License shall not create any leasehold interest in the Property.

The “Supercharger Station” shall consist of: (a) Superchargers, Wall Connectors (if indicated in Clause (d)), signage and power electronics equipment to provide charging to the charging stalls described in Clause (d) and other trade fixtures determined by Licensee that may include, without limitation, a canopy, solar panels, an energy storage system and fence or other visual barriers (collectively, the “Trade Fixtures”); and (b) necessary utility infrastructure, which may include, without limitation, a utility transformer, metering equipment, switchgear, conduit, wiring and foundations (collectively, the “Infrastructure”).

2. **Due Diligence Period.** Licensee shall have the option to terminate this License within the Due Diligence Period in the event that: (a) Licensee is unable to obtain all permits and approvals required by applicable governing bodies; or (b) Licensee, in its reasonable business judgment, determines that it would incur substantial unanticipated costs to complete Licensee’s Work (defined in Section 3) or that there is insufficient demand for charging to justify building the Supercharger Station. In the event that Licensee terminates the License pursuant to this Section 2, Licensee shall deliver written notice of termination to Licensor and this License shall be of no further force or effect.
3. **Alterations.** Licensee shall, at its’ sole cost, make alterations to the Licensed Area to install the Supercharger Station (“Licensee’s Work”). Licensee’s Work shall only occur after: (a) Licensor has approved the plans and specifications in writing; and (b) Licensee has obtained all permits and approvals required by applicable governing bodies. Once Licensee’s Work begins, it shall proceed with diligence and continuity until complete. Licensee may upgrade or replace its Trade Fixtures in its sole discretion during the Term, provided that any other alterations to the Supercharger Station shall be approved in advance by Licensor. Licensor’s approval of the plans and specifications shall not be unreasonably withheld, conditioned or delayed. Licensee shall promptly repair any damage to the Property caused by Licensee, its agents, contractors and employees (collectively, “Licensee Parties”) while performing Licensee’s Work.
4. **Commencement Date.** The Supercharger Station shall be operational (the “Commencement Date”) within the time period specified in Clause (f) of the Key Terms, provided that such time shall be extended to the extent a delay is due to permitting, utility, or other requirements beyond Licensee’s control. Licensee shall deliver written notice to Licensor promptly following the Commencement Date to confirm such date as the start of the Base Term for recordkeeping purposes.
5. **Term and Termination.** The term of this License shall begin on the Commencement Date and shall expire at the end of the Base Term. Upon expiration of the Base Term, this License shall automatically renew for successive Renewal Terms (Renewal Term(s) together with the Base Term, the “Term”), subject to termination pursuant to this Section 5. Either Party, in its sole discretion and without cause, may terminate this License during any Renewal Term by delivering advance written notice of termination to the other Party specifying a termination date that follows the Notice Period and occurs during a Renewal Term.
6. **Use.** Licensee may use and occupy the Licensed Area during the Term to install, operate and maintain a Supercharger Station and for incidental purposes, which may include generating photovoltaic electricity and operating an energy storage system, and for any other lawful use (the “Permitted Use”). Licensee is authorized to operate and collect payment for use of the Supercharger Station year round, twenty-four (24) hours per day and seven (7) days per week.

7. **Removal.** On or before the final day of the Term, Licensee shall, at its' sole cost, remove the Trade Fixtures, leave the Infrastructure in a safe condition, and restore the Licensed Area to the condition that existed as of the first day of the Term, subject to exceptions for reasonable wear and tear. Licensor agrees that the Trade Fixtures are and shall remain the property of Licensee, and the Infrastructure shall become the property of Licensor upon termination of this License (except that Infrastructure upstream of the meter is and shall remain the property of the utility).
8. **Utilities.** Licensee agrees to arrange and pay the charges for all Licensee-related utility services provided or used in or at the Licensed Area during the Term. Licensee shall pay directly to the utility company the cost of installation of any and all such Licensee-related utility services and shall arrange to have the utility service separately metered. Licensor shall not be responsible for any damages suffered by Licensee in connection with the quality, quantity or interruption of utility service, unless the cause of the disruption or damage was Licensor's gross negligence or intentional misconduct.
9. **Maintenance.** Licensee shall be responsible for maintaining the Supercharger Station at its' sole cost (including repair and replacement of equipment, as necessary). Notwithstanding the foregoing, Licensor's normal responsibility to maintain the common areas of the Property shall also apply to the Licensed Area, such as for trash removal, snow removal, repaving and restriping, and Licensor agrees to coordinate with Licensee on maintenance that will prevent the use of the Supercharger Station. If Licensee determines that the Licensed Area needs additional trash cans, or if Licensor requests additional trash cans, Licensee shall provide such trash cans to Licensor at Licensee's sole cost.
10. **Licensor Covenants.** Licensor represents that: (a) it owns or leases the Property and has the power and authority to enter into this License; (b) it has obtained any required consents to enter into this License; (c) the Property is not subject to any conditions, restrictions or covenants incompatible with the Permitted Use; (d) this License does not violate any agreement, lease or other commitment by which Licensor is bound; (e) it will not lease, license or commit the parking spaces within the Licensed Area to any third party during the Term; and (f) it will not perform or allow excavation in the Licensed Area during the Term without Licensee's advance written consent, other than superficial repaving.
11. **Default.** It shall be an "Event of Default" under this License if either Party fails to perform or observe any material term or condition of this License and such failure continues for a period of thirty (30) days after receipt of written notice thereof from the other Party, provided, however, that if the nature of such default is such that it cannot reasonably be cured within such thirty (30) day period and the defaulting Party commences to cure within the thirty (30) day period and proceeds with diligence and continuity, then such Party shall have additional time to cure as is reasonably required.
12. **Remedies.** The Parties acknowledge and agree that, if an Event of Default by the other Party has occurred and is continuing, the non-defaulting Party may: (a) terminate this License upon thirty (30) days advance written notice; or (b) exercise any other remedy available at law or in equity.
13. **Exclusions.** Notwithstanding anything herein to the contrary, each Party expressly releases the other from any claims for speculative, indirect, consequential or punitive damages, including, without limitation, any lost sales or profits.
14. **Indemnification.** Except to the extent a claim arises from any negligence or willful misconduct of an Indemnified Party, or any breach or alleged breach of Section 24 by Licensor, Licensee hereby agrees to indemnify, hold harmless and defend Licensor, its directors, officers, managers, members, employees, agents and representatives (each an "Indemnified Party") from all losses and liabilities, including court costs and reasonable attorneys' fees, on account of or arising out of or alleged to have arisen out of any third party claim directly related to: (i) Licensee's use of the Licensed Area;

- (ii) Licensee's breach of this License; or (iii) bodily injury or damage to real or tangible personal property caused by the use of the Trade Fixtures.
15. **Insurance.** Through the duration of this License, Licensee shall maintain commercial general liability insurance with limits of not less than Two Million Five Hundred Thousand US Dollars (\$2,500,000 USD) per occurrence and Four Million US Dollars (\$4,000,000 USD) aggregate for combined single limit for bodily injury or third party property damage. The total limits above may be met by any combination of primary and excess liability insurance. A certificate evidencing such insurance shall be delivered to Licensor upon the execution of this License and upon reasonable request by Licensor. Licensee shall include Licensor as additional insured on its commercial general liability and, if applicable to meet limit requirements, umbrella and/or excess insurance policies, with respect to liability for services provided under this License. Licensee will maintain worker's compensation insurance in accordance with state and federal law. This requirement may be waived by Licensee if Licensee is a qualified self-insured in the state where the Licensed Area is located. Insurance shall be maintained with responsible insurance carriers with a Best Insurance Reports rating of "A-" or better or through a formal self-insurance mechanism that has either (a) a Best Insurance Reports rating of "A-" or better; or (b) a financial size category of "VI" or higher, provided, that if such self-insurance program does not meet either (a) or (b), then Licensee's use of self-insurance for the required coverages shall be subject to Licensor's approval, not to be unreasonably withheld, conditioned or delayed.
16. **Environmental Matters.** Licensor represents and warrants that, to the best of its knowledge, the Licensed Area shall be delivered free of contamination that violates any applicable environmental law. Notwithstanding any provision in this License to the contrary, Licensor agrees that it will indemnify and hold Licensee harmless from all costs from, and Licensee shall have no liability for, any contamination of the Property, unless caused by Licensee Parties. Licensor is responsible for remediating to the extent required by applicable environmental law any contamination not caused by Licensee Parties, including any contamination encountered by Licensee Parties during construction.
17. **Confidentiality.** The Parties agree that the terms of this License and any non-public, confidential or proprietary information or documentation provided to one Party by the other Party in connection with this License are confidential information, and the Parties agree not to disclose such confidential information to any person or entity during the Term and for a period of three (3) years thereafter. Notwithstanding the foregoing, the Parties may disclose information (i) to their respective Affiliates, subcontractors, lenders, employees, financial, legal and space planning consultants, in each case that have a "need to know" such confidential information and have committed to treat the information as confidential under terms no less protective than the terms of this Section 17, provided that the Party disclosing such confidential information shall be liable for any disclosure by such authorized recipients, (ii) as permitted in Section 20, and (iii) as required by law. "Affiliate" of a Party is an entity that controls, is controlled by or is under common control with that Party, where "control" means possessing, directly or indirectly, the power to direct or cause the direction of the management, policies or operations of an entity, through ownership of voting securities, by contract or otherwise.
18. **Publicity.** Neither Party will use the other Party's name, trademark or logo without obtaining the other Party's prior written consent.
19. **Notices.** All notices, demands and approvals shall be in writing and shall be delivered to the electronic mail addresses provided on the signature page, and shall be deemed given on proof of transmission. Either Party may change their respective address for notices by giving written notice of such new address in accordance with this Section 19.

20. **Incentives.** Licensor agrees that Licensee shall own and receive the benefit of all Incentives derived from the construction, ownership, use or operation of the Supercharger Station, including, without limitation, from electricity delivered through, stored at or generated by the Supercharger Station. Licensor will cooperate with Licensee in obtaining all Incentives, provided that Licensor is not obligated to incur any out-of-pocket costs in doing so unless reimbursed by Licensee. If any Incentives are paid directly to Licensor, Licensor agrees to immediately pay such amounts over to Licensee. “Incentives” means (a) electric vehicle charging or renewable energy credits or certificates, carbon credits and any similar environmental or pollution allowances, credits or reporting rights, (b) rebates or other payments based in whole or in part on the cost or size of equipment, (c) performance-based incentives paid as periodic payments, (d) tax credits, grants or benefits, and (e) any other attributes, commodities, revenue streams or payments, in each of (a) through (e) under any present or future law, standard or program and whether paid by a utility, private entity or any governmental, regulatory or administrative authority. Licensor agrees that Licensee may disclose a redacted copy of this License if necessary to obtain Incentives.
21. **Governing Law.** This License shall be construed and enforced in accordance with the laws of the state in which the Licensed Area is located.
22. **Entire Agreement.** Each Party acknowledges and agrees that it has read and understood this License, and that it represents the entire agreement and understanding of the Parties with respect to the subject matter herein and supersedes all prior agreements, communications, or understandings, whether oral or written, with respect to the subject matter herein.
23. **Assignment.** Licensee shall not assign this License nor sublicense the Premises without the prior written consent of Licensor, which shall not be unreasonably withheld, conditioned or delayed; provided that the foregoing prohibition shall not limit Licensee’s ability to transfer this Agreement to a Licensee Affiliate.
24. **Miscellaneous.** This License may be executed in counterparts, each of which shall be deemed an original and all of which together will constitute one agreement. Electronic signatures and other signed copies transmitted electronically in PDF or similar format shall be treated as originals. If any provision of this License is invalid or unenforceable, the remainder of this License shall not be affected, and each provision shall be valid and enforceable to the fullest extent permitted by law. Any outstanding payment obligations and the terms of Section 17 shall survive termination of this License. This License shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. Unless this License is terminated as expressly provided herein, this License shall survive any sale or transfer of Licensor’s interest in the Property or Licensed Area. Each Party shall comply with all applicable codes, laws and ordinances in fulfilling its respective obligations under this License. Licensee shall promptly remove or bond any liens placed on the Property as a result of any claims for labor or materials furnished to Licensee at the Licensed Area. This License is subject and subordinate to all ground or superior leases and to all mortgages which may now or hereafter affect such leases or the Property, and to all renewals, modifications, consolidations, replacements and extensions thereof; provided that Licensee’s rights under this License shall not be disturbed by such subordination so long as no Event of Default by Licensee exists beyond all notice and cure periods. LICENSOR AND LICENSEE EACH WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON OR RELATED TO, THE SUBJECT MATTER OF THIS LICENSE.



5. Unfinished Business

- a. Review and Vote to Approve Revised Lease for 250 Citizens Dock Rd (Sheriff's Building North Side) with Fishermen's Catch, Inc.**

Public Comment?

**LEASE BY AND BETWEEN THE
CRESCENT CITY HARBOR DISTRICT AND
FISHERMEN'S CATCH, INC.**

This lease ("**Lease**") is executed this ___ day of August, 2023 by and between the **CRESCENT CITY HARBOR DISTRICT**, a special district organized pursuant to the California Harbors and Navigation Code ("**Landlord**"), with its principal business address located at 101 Citizens Dock Rd, Crescent City, California 95531, and **FISHERMEN'S CATCH, INC.**, a California corporation¹ ("**Tenant**"), whose address is 1951 Windward Point, Discovery Bay, California 94505, under the following terms and conditions:

1. Basic Terms

1.1 Leased Premises. The leased premises ("Premises"), located at 250 Citizen's Dock Road, Crescent City, California are shown on **Exhibit A** and consist of all of the following:

(a) A building ("Building") of approximately 3,300 of square feet of warehouse and commercial space and the footprint of the building;

(b) A surrounding area ("Surrounding Area") of approximately 11,120 square feet immediately outside the Building; and

(c) The square footage of the Surrounding Area and the Additional Surrounding Area are approximate and Exhibit A shall control to the extent there is discrepancy.

1.2 Rental. The monthly rental is: \$2,000.00.

1.3 Rent Commencement Date. On the earlier of August 1, 2023 or the date on which Tenant commences operations from the Premises.

1.4 Use. Warehouse use, including offloading and processing of food, including but not limited to, fish.

1.5 Term. Five (5) years.

1.6 Option to Extend. One (1) option to extend the Term for an additional five (5)-year period, subject to the consent of Landlord as specified in Section 2.3.

1.7 Tenant's Insurance. Tenant shall furnish public liability property damage insurance, fire and casualty insurance, pollution legal liability insurance, and worker's compensation insurance pursuant to Section 6 with the following limits: \$2,000,000 per person and \$2,000,000 per occurrence public liability and \$2,000,000 property damage.

¹ **NTD: Tenant to confirm entity name, business structure, address, and state of organization.**

2. Premises, Use, Compliance with Laws, and Responsibility for Permits

2.1 Leased Premises. Landlord hereby leases to Tenant and Tenant hires from Landlord on the terms, conditions and covenants hereinafter set forth the premises of the Crescent City Harbor District listed in Section 1.1 and outlined or described on **Exhibit A** attached hereto and incorporated herein by reference (the "**Premises**"). The Premises shall be those that are in place as of the date this Lease is executed, in their AS-IS, WHERE-IS, condition WITH ALL FAULTS, subject to Tenant's Work as defined in Section 2.11, below. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of the Premises or with respect to the suitability of either for the conduct of Tenant's business. The taking of possession of the Premises by Tenant shall establish that the Premises and the Building were at such time in satisfactory condition and that Tenant has accepted the condition of the Premises and the Building in their AS-IS, WHERE-IS, condition WITH ALL FAULTS.

2.2 Term. The Term of this Lease shall be as set forth in Section 1.5 unless terminated pursuant to Section 4.

2.3 Option To Extend. Provided Tenant is not in default and has not been served with more than one (1) notice of default in the previous twenty-four (24) months prior to the exercise thereof, Tenant shall have one (1) option to extend the Term of this Lease for an additional period of five (5) years.

(a) Tenant's exercise of its option to extend shall be by written notice no earlier than nine (9) and no later than six (6) months prior to the expiration of the initial Term hereof. The option to extend granted herein shall be personal to Tenant, and may not be assigned, voluntarily or involuntarily, separate from or as part of the Lease.

(b) If Tenant elects to exercise the option to extend the Term, Tenant shall exercise said option only by written notice actually received by Landlord. The burden of actual delivery of such notice is on the Tenant. The parties shall thereafter promptly meet and endeavor to agree upon a revised rental value of the Leased Premises and the modification of any other terms and conditions as may be desirable to either party.

(c) Landlord has the sole right to approve or disapprove the extension of the Term, taking into consideration prospective new tenants and/or alternative uses of the premises that may increase revenue, or any other consideration that is advantageous to Landlord in the sole opinion of Landlord. In the event that Landlord disapproves the extension of the Term, Landlord must notify Tenant no later than ninety (90) days prior to the expiration of the initial Term hereof. Landlord is not required to provide a reason for disapproving the extension of the Term.

2.4 Use. Tenant shall use the Premises only for the purpose specified in Section 1.4 and shall not use the premises for any other purpose without prior written consent of Landlord thereto.

2.5 Compliance with Law and Responsibility for Permits. Tenant shall, at its own cost and expense, conduct its business on the Premises in accordance with all applicable federal, state, county and municipal statutes, ordinances, rules and regulations. Tenant shall be responsible for

obtaining any and all governmental permits required in connection with Tenant's Work, and Tenant shall bear all costs and expenses associated with obtaining such permits, shall assume any and all liability for any failure to obtain required permits, and shall indemnify, defend, and hold Landlord harmless from and against all claims, demands, actions, damages, liability, and expense including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of Tenant's failure to comply with any applicable statutes, ordinances, rules, and regulations, and/or failure to obtain any required governmental permit. This includes, but is not limited to, the following responsibilities of Tenant:

(a) Tenant shall, at its sole cost and expense, comply with the State Water Resources Control Board Order NPDES No. CAS000001, *National Pollution Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities*, as it currently exists or may hereafter be amended or reissued (the "Industrial General Permit"). Tenant shall keep itself and all subcontractors, staff, and employees fully informed of, adequately trained in, and in compliance with all local, state, and federal laws, rules and regulations that may impact, or be implicated by the Use the Premises authorized by Section 2.4, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq.*); and any and all regulations, ordinances, policies, or permits issued pursuant to any such authority.

(b) Tenant shall procure coverage under the Industrial General Permit to the extent required by law, shall prepare, update, and implement a Storm Water Pollution Prevention Plan, implement all other provisions, and monitoring and reporting requirements set out in the Industrial General Permit.

(c) Failure to comply with the Industrial General Permit may be a violation of federal and state law. Tenant hereby agrees to indemnify and hold harmless Landlord, its officials, officers, agents, employees, and authorized volunteers from and against any and all claims, demands, losses, or liabilities of any kind or nature which Landlord, its officials, officers, agents, employees, and authorized volunteers may sustain or incur for noncompliance with the laws, regulations, ordinances, Industrial General Permit, and other regulatory mechanisms and permits referenced in this Section arising out of or in connection with Tenant's use of the Premises in accordance with Section 6.

(d) In addition to any other remedy provided herein for a default, Landlord reserves the right to terminate this Lease for a violation this Section and to defend any enforcement action or civil action brought against the Landlord for Tenant's failure to comply with any applicable law, regulation, or policy required in connection with Tenant's Work. Tenant hereby agrees to be bound by, and to reimburse the Landlord for the costs associated with, any settlement reached between the Landlord and any relevant enforcement entity. This Section survives Termination of the Lease.

2.6 Hazardous Materials. Tenant may operate its business so long as the use or presence of Hazardous Materials is strictly and properly monitored according to all applicable governmental requirements. As a material inducement to Landlord to allow Tenant to use Hazardous Materials, defined below, in connection with its business, Tenant agrees to deliver to

Landlord prior to the Commencement Date a list identifying each type of Hazardous Materials to be present on the Premises and setting forth any and all governmental approvals or permits required in connection with the presence of Hazardous Materials on the Premises ("**Hazardous Materials List**"). Tenant shall deliver to Landlord an updated Hazardous Materials List at least once a year and shall also deliver an updated list before any new Hazardous Materials are brought onto the Premises or on or before the date Tenant obtains any additional permits or approvals. In connection with any Hazardous Materials utilized by Tenant on the Premises, Tenant shall be responsible, at its sole cost and expense, for making any necessary modifications or Improvements either to Premises or Tenant's equipment as required by applicable laws, or any governmental agency, Landlord's insurance company, Landlord's lender(s), Landlord's consultant(s), or prospective purchaser(s). Tenant will, at its sole cost and expense, promptly upon receipt of written notice from Landlord complete such Improvements. If such work is not promptly undertaken and completed, Landlord shall have the right, but not the obligation, to complete such work and to charge such amounts to Tenant as additional Rent under this Lease.

(a) Hazardous Materials and Hazardous Materials Laws Defined. The term "**Hazardous Materials**" shall mean those substances (i) defined as "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes," "extremely hazardous wastes" or "restricted hazardous wastes;" (ii) stated to be known to cause cancer or reproductive toxicity; or (iii) defined in similar terms as matters which are hazardous to the environment under (a) the laws of the United States, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Section 1317 et seq., and the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., (b) the laws of the State of California including, without limitation, Sections 25117 and 25316 of the California Health and Safety Code, and (c) any of the regulations adopted and publications promulgated pursuant to said laws described in (a) and (b) above, all as they may be amended from time to time ("**Hazardous Materials Laws**").

(b) Compliance With Hazardous Materials Laws. Tenant at Tenant's sole cost and expense, shall comply (and cause sublessees to comply) with all Hazardous Materials Laws pertaining to any Hazardous Materials which are used, generated, stored or disposed on, under or about the Premises by Tenant, its sublessees and invitees, or other persons and entities that are under the control of or at the direction of Tenant.

(c) Tenant's Indemnity Obligations. Tenant shall indemnify, defend, and hold Landlord harmless from and against all claims, demands, actions, damages, liability, and expense including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage or disposal by Tenant, its sublessees, and invitees of any or all of them, of Hazardous Materials, including, without limitation, the cost of any required or necessary repair, clean up or detoxification and the preparation of any closure or other required plans, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage or disposal of Hazardous Materials.

2.7 Homeland Security. Tenant shall, at Tenant's sole cost and expense, comply with all laws and regulations, including, but not limited to, those of the United States Coast Guard and

Landlord applicable to the Crescent City Harbor District insofar as they pertain to Tenant and Tenant's use of the Premises.

2.8 Harbor Regulations. This Lease is subject to the rules and regulations governing the operation of the Crescent City Harbor District. Such rules and regulations and such changes as may subsequently be made or added thereto are incorporated herein by reference.

2.9 Inspection. Landlord or its duly authorized representative shall have the right to enter the Premises at reasonable times with reasonable advance notice during business hours to inspect the condition or the operations of Tenant conduct thereon.

2.10 Inspection by Certified Access Specialist. Landlord discloses that the Premises have not undergone inspection by a Certified Access Specialist as referenced in California Civil Code Section 1938 subsection (e) which provides: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." Pursuant to the foregoing Section 1938(e), Tenant acknowledges and agrees that, if Tenant wishes to have the Premises inspected by a CASp: (i) Tenant must notify Landlord on or before the date when Tenant executes this Lease pursuant to the election below; (ii) the inspection will be at Tenant's sole cost and expense; (iii) the inspection must be scheduled through Landlord and in coordination with the Building's property manager; (iv) any repairs or modifications necessary to correct any violation of construction-related accessibility standards that is noted in the CASp report shall be Tenant's responsibility; and (v) Tenant must provide a copy of the CASp report to Landlord on completion. By initialing below, Tenant represents that:

Tenant wishes to have a CASp inspection of the Premises Initials: _____

Tenant waives its right to have a CASp inspection of the Premises Initials: _____

2.11 Tenant Improvements. Tenant, at Tenant's expense, shall be responsible for all improvements to the Premises ("**Tenant's Work**") necessary for Tenant to utilize the Premises for the use set forth in Section 1.6. Tenant's Work shall be constructed in compliance with all applicable laws and Tenant shall be responsible for obtaining any and all permits required in connection with Tenant's Work. Tenant's Work shall be constructed in accordance with the terms and conditions of the Work Letter attached hereto as **Exhibit B**.

3. Rent

3.1 Rent. Tenant shall pay Landlord in advance without notice, demand, or setoff, a monthly rental during the Term hereof in the total amount determined at the rates specified in Section 1.2 for the area leased (the "**Rent**"). All Rent is payable in advance on the first day of each month. If the Term of this Lease commences on a day other than the first day of the month,

Rent for the first month of the Term shall be pro-rated based on the number of days in the month in which the commencement date occurs.

3.2 Rent Adjustment. Beginning on the first anniversary of the Rent Commencement Date, Rent shall increase annually at the end of each 12-month period by any increase in the Consumer Price Index (“CPI”) as determined by the U.S. Bureau of Labor Statistics for all Urban Consumers for the West Region over the previous year. Should the CPI be discontinued, the index used for comparison shall be a comparable index as designated by the Bureau. It is recognized by both parties that the CPI for any month is not published for approximately two (2) months. Tenant shall, therefore, continue to pay the current Rent paid by Tenant until such time as the new Rent is calculated and, at that time, Tenant shall pay within ten (10) days of notice of the new Rent the new amount plus arrearages. In no event shall Rent ever decrease below the prior year’s Rent even if the CPI is negative. In such event, the Base Rent shall remain the same. The Rent, as specified in Section 1.2 together with the Rent Adjustment and any other amounts payable to Landlord pursuant to Sections 3.3 through 3.8, below shall be referred to herein as (the “Rent”).

3.3 Late Charge. Tenant acknowledges that late payment by Tenant to Landlord of Rent or other charge will cause Landlord to incur costs not contemplated by this Lease. If any installment of Rent, or any other payment due to Landlord, due from Tenant is not received by Landlord within fifteen (15) days after such payment is due, it shall be considered late, and Tenant shall pay to Landlord an additional sum of the greater of \$100 or 6% of the overdue amount as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the other rights and remedies available to Landlord.

3.4 Document Fee. Tenant must pay to Landlord a clerical and legal fee for entering or modifying a lease with the Landlord. The current amount of that fee is Five Hundred Dollars (\$500) for each document submitted for approval by the Harbor Master or Board of Commissioners of the Harbor (“Board”), provided, however, that the amount of the fee specified in this section will be superseded by the amount of such fees specified in the Service Fee Schedule adopted by the Board. The fee for entering into or modifying a lease must be remitted for payment prior to the approval of such documents by the Board.

3.5 Taxes. Tenant shall pay, before the same become delinquent, all taxes assessed upon the Premises, appurtenances or improvements thereto or upon any interest of Tenant therein. Tenant hereby recognizes and understands that this Lease may create a possessory interest subject to property taxation under California Revenue and Tax Code Section 107.6, and that Tenant may be subject to the payment of property taxes levied on such interest. Any such imposition of a possessory interest tax shall be a tax liability of Tenant solely, and shall be paid for by Tenant; and any such tax payment shall not reduce any Rent due to Landlord. Tenant shall also pay all interest and penalties any government entity assesses for late payment of any possessory interest taxes that this Lease requires Tenant to pay. Tenant shall within a reasonable time after written notice from Landlord give Landlord reasonable proof that Tenant has paid any possessory interest taxes that this Lease requires Tenant to pay. Nothing herein shall prohibit Tenant from the right to challenge any assessment of possessory interest tax in accordance with the procedures set forth by the taxing authority and where applicable withhold any overcharge by such taxing authority until the disputed

matter is resolved. Landlord is a non-taxable entity and any taxes assessed against the Property as a result of Tenant's occupancy shall be Tenant's responsibility.

3.6 Utilities. Landlord is not obligated to furnish utilities or services to the Premises. Tenant shall pay for all utilities and services supplied to said Premises including all installation and connection charges. If utilities or services are furnished by Landlord for use of Tenant, Tenant shall on demand reimburse Landlord for the cost thereof attributable to Tenant. Landlord shall not be liable to Tenant for any failure or interruption of any utilities or other services being furnished to the Premises and no such failure or interruption shall entitle Tenant to abate payment of Rent or to terminate the Lease, unless such failure or interruption is the result of the gross negligence or intentional misconduct of the Landlord.

3.7 Refuse Collection and Janitorial Service. Tenant shall provide, or obtain, a refuse collection service for the Premises at Tenant's sole cost and expense. Tenant shall provide janitorial service to the Premises at Tenant's cost and expense if Tenant desires such services.

3.8 Poundage Rent Increase.

(a) In addition to any poundage fees assessed against Tenant Pursuant to the provisions of Landlord's Fee Schedule referenced in Section 3.9, below, in the event Tenant processes more than two (2) million pounds of seafood in any twelve (12) month period during the Term or any extension hereof, a fee of \$6,000.00 shall be due, an additional fee of \$6,000.00 for every additional million pounds of seafood processed in any twelve (12) month period. For example, if Tenant processes (3) million pounds of seafood in a twelve (12) month period, there will be a \$12,000 fee due in addition to the regular monthly rent.

(b) No later than thirty (30) days following the end of any calendar month, and no later than sixty (60) days following the end of any calendar year, Tenant shall provide Landlord with a statement evidencing the number of pounds of seafood processed during such calendar month or calendar year, as applicable. Such statements shall be subject to audit by Landlord at any time upon written notice to Tenant.

(c) Any Rent adjustment under this Section 3.8 shall continue in effect for the remainder of the Term, as such Term may be extended, provided and any annual adjustments pursuant to Section 3.2 shall be made taking after taking into account any adjustment in Rent required by this Section 3.8. Rent, as adjusted by this Section, shall not decrease in the event Tenant processes fewer pounds of seafood in any subsequent twelve (12) month period.

3.9 Poundage Fees. The monthly Rent payable under this Lease shall be in addition to and shall not include any poundage fees for product offloads that may be assessed against Tenant pursuant to the provisions of Landlord's Fee Schedule.

4. Termination

4.1 Termination. This Lease shall terminate on the date said written notice of termination is served on Tenant in the manner provided by Section 11.1 of this Lease.

5. Remedies Upon Default

5.1 Events of Default. The following shall constitute an "Event of Default":

(a) Monetary Default. Except as otherwise provided herein, should Tenant default in the performance of any covenant or provision herein with reference to the payment of Rent or other payment of money, including, without limitation, Poundage Fees, or the furnishing of the public liability and property damage insurance required by Section 6, and such default continues for five (5) business days after service on Tenant of a written notice from Landlord of such default, or

(b) Non-monetary Default. Should Tenant default in the performance of any other covenant or provision herein other than payment of money, other than those stated in subsections (c) below, and such default, if curable, is not cured within thirty (30) days after service upon Tenant of a written notice thereof from Landlord, or, if not curable within thirty (30) days, a cure is not commenced within thirty (30) days and diligently prosecuted to completion.

(c) Insolvency, Receivership or Bankruptcy. It shall constitute an Event of Default under this Lease and Landlord, at its option and upon giving written notice of termination to Tenant, may immediately terminate this Lease if any of the following events occur:

(i) The appointment of a receiver to take possession of all or substantially all of the assets of Tenant;

(ii) A general assignment for the benefit of creditors by Tenant;

(iii) The filing of a petition in bankruptcy by or against Tenant and the Lease is not assumed with approval of the Bankruptcy Court within the time prescribed by the Bankruptcy Code;

(iv) Any other action taken or suffered by Tenant because of insolvency.

5.2 Landlord's Remedies.

(a) Upon an Event of Default, Landlord shall have the following remedies in addition to all other rights and remedies provided by law or equity, to which Landlord may resort cumulatively or in the alternative.

(i) Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice of such intention to terminate. In the event that Landlord shall so elect to terminate this Lease, then Landlord may recover from Tenant:

(1) The worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus

(2) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided; plus

(3) The worth at the time of award of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(4) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom; and

(5) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

As used in Subparagraphs (1) and (2) above of this Section, the "worth at the time of award" is computed by allowing interest at the maximum rate an individual is permitted by law to charge. As used in subparagraph (3) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(ii) In the event of the vacation or abandonment of the Premises by Tenant, or in the event that Landlord shall elect to reenter as provided herein or shall take possession of the Premises pursuant to legal proceeding or pursuant to any notice provided by law, then Landlord shall have the remedy specified by Civil Code Section 1951.4, in which Landlord may from time to time recover all Rent as it becomes due or relet the Premises or any part thereof for the account of Tenant on such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, with the right to make alterations and repairs to the Premises. In the event that Landlord shall elect so to relet, then rentals received by Landlord from such reletting shall be applied first, to the payment of any indebtedness, other than Rent due hereunder, owed by Tenant to Landlord; second, to the payment of any cost (including commissions) of such reletting; third, to the payment of the cost of any alterations and repairs to the Premises; fourth, to the payment of Rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future Rent as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of Rent hereunder, be less than the Rent payable during that month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord upon demand. Tenant shall also pay to Landlord, as soon as ascertained, any and all costs and expenses incurred by Landlord in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting.

(b) No reentry or taking possession of the Premises by Landlord pursuant to this Section shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction.

5.3 No Waiver. Efforts by Landlord to mitigate the damages caused by Tenant's breach of this Lease shall not waive Landlord's right to recover damages under this Section 5. For the purpose of Section 5.2 above, the following shall not constitute a termination of Tenant's right to possession:

(a) Acts of maintenance of preservation or efforts to relet the property.

(b) Appointment of a receiver upon initiative of Landlord to protect Landlord's interest under the Lease.

5.4 Re-entry. Upon an Event of Default of Tenant not cured within the time specified in Section 5.1 or if Tenant vacates or abandons the premises, Landlord shall have the right to re-enter the Premises, take corrective action as needed, and take possession thereof with or without terminating this Lease upon giving notice of re-entry required by law.

5.5 Remedies Cumulative. All of Landlord's rights, privileges and elections or remedies are cumulative and not alternative, to the extent permitted by law and except as otherwise provided herein.

6. Indemnification and Insurance

6.1 Indemnification. Tenant agrees to indemnify, defend (with counsel selected by Landlord at Tenant's expense), protect and hold harmless Landlord, its employees, agents, officers, legal counsel, assigns, public officials, any successor or successors to Landlord's interest in the Premises and any future owners of the Premises to whom this Lease is assigned (hereinafter collectively referred to as the "Indemnitees") from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, remedial costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses arising out of any damage to any person or property occurring in, on, from, or about the Premises, except for any acts of gross negligence or intentional misconduct by any Indemnitee. Landlord shall not be liable to Tenant for any damage by or resulting from any act or negligence of any other tenant of property adjoining the Premises or by the owner or occupant of any adjoining or contiguous property. The preceding provisions shall not be construed to relieve any Indemnitee from any liability any Indemnitee may have to Tenant, or third persons, by reason of the California Government Claims Act or resulting from any liability resulting from the gross negligence or willful misconduct of any Indemnitee.

6.2 Insurance.

(a) Tenant shall furnish to Landlord a certificate of insurance, duplicate policy, or other evidence satisfactory to Landlord that Tenant has obtained the insurance required by Section 1.7. Each policy shall also provide for at least thirty (30) days' written notice by the insurer to Landlord prior to the cancellation thereof. If such insurance is to be cancelled, Tenant shall promptly notify Landlord of such proposed cancellation. All insurance obtained by Tenant pursuant to this Section shall be with a company licensed by the Insurance Commissioner of the State of California to do business within the State of California. All insurance shall name Landlord, its Board of Harbor Commissioners, its officers, agents and employees as additional insured in such policies, and shall include a waiver of subrogation in favor of Landlord.

(b) Waiver of Subrogation. The parties release each other, and their respective authorized representatives, from any claims (for damage to any person or to the Premises and/or the building in which the Premises are located, and to the fixtures, personal property, Tenant's

improvements, and alterations of either Landlord or Tenant in or on the Premises and/or the building in which the Premises are located) that are caused by or result from risks which are insured against under any insurance policies carried by the parties and in force at the time of any such damage and to the full extent of any proceeds paid under said policies.

(c) Public Liability Insurance. Tenant shall carry and maintain in full force during the Term of this Lease an insurance policy for public liability and property damage in an amount not less than the amount set forth in Section 1.6 insuring any liability arising, or alleged to arise, on account of the death or injury to any person, or loss or damage to property occurring on the Premises, or as a result of the activities of Tenant on or off the Premises, or resulting from the use of the premises by Tenant under this Lease, or resulting from the negligence or intentional acts of Tenant, its employees, agents, or contractors. The public liability and property damage insurance policies obtained by Tenant pursuant to this paragraph shall be primary policies and any public liability and property damage insurance carried by Landlord shall be excess and noncontributing.

(d) Fire and Casualty Insurance. Except for fixtures, trade fixtures, or personal property installed or placed on the Premises by Tenant, fire and extended coverage casualty insurance on the Premises shall be the sole responsibility of Landlord. However, no use except that which is expressly provided in this Lease shall be made of the Premises nor acts done which will increase the existing rate of fire or extended coverage insurance on the Premises or any part thereof, nor shall Tenant sell or permit to be kept, used or sold in and about said premises any article that is prohibited by the standard form of fire insurance policy. Tenant shall, at Tenant's sole cost and expense, comply with any and all requirements pertaining to the Premises of the insurance company providing the fire insurance with a standard extended coverage casualty endorsement covering the Premises.

Fire and extended coverage casualty insurance on fixtures, trade fixtures or personal property installed or placed on the Premises by Tenant shall be the sole responsibility of Tenant at Tenant's sole cost and expense.

(e) Pollution Legal Liability. At all times during the Term of this Lease, the Tenant shall maintain Pollution Legal Liability insurance. Tenant's employees, agents, and contractors, who have a reasonable probability of coming into contact with hazardous materials, shall be adequately trained to comply with and shall comply with all laws and regulations relating to the care and protection of the environment for the duration of the term of this Lease.

(f) Worker's Compensation Insurance. At all times during the Term of this Lease, including, Tenant shall maintain or cause to be maintained with regard to its employees, Workers' Compensation Insurance as required by law.

7. Maintenance and Alterations

7.1 Repair and Maintenance. Tenant shall keep the Premises in good condition and repair and free from dirt and accumulation of waste, normal wear and tear excepted. Tenant at its own cost and expense shall repair any damage to the interior of the Premises, including, but not limited to windows, doors, glass, floor coverings, HVAC system, electrical equipment and

plumbing and sprinkler systems, if any; and any damage to the exterior of the Premises (including parking area, roof and structural members) resulting from Tenant's use of the Premises under this Lease including, without limitation, any damage resulting from Tenant's (or tenant's agent's) negligence or willful misconduct.

7.2 Installations, Alterations and Improvements. Tenant shall not make any alterations, additions, improvements or changes to the Premises without the prior written approval of Landlord. All fixtures installed on the Premises (other than all trade fixtures) shall immediately become a part of the realty and belong to Landlord and shall not be removed therefrom by Tenant without the prior written consent of Landlord to such removal.

Tenant may, at Tenant's own cost and expense, install or place such furniture, equipment and machinery or other personal property in or upon the Premises as may be necessary for Tenant's use of the Premises for the purpose for which they are leased. Tenant shall have the right to remove any furniture, equipment and machinery, or other personal property (including without limitation, all trade fixtures) installed or placed in or upon the Premises at Tenant's own expense at any time prior to the expiration or termination of this Lease. In the event of termination of this Lease on less than thirty (30) days' notice as provided in this Lease, Tenant shall have a reasonable time not to exceed thirty (30) days from the date of service of the notice of termination to make such removal. All personal property not removed by Tenant following the expiration or termination of this Lease within the time allowed for removal shall be deemed abandoned by Tenant and may be used or disposed of by Landlord in the manner prescribed by law without any liability to Tenant therefor. Such abandonment shall in no way reduce the obligation of Tenant to make restoration under Section 8.2 of this Lease.

In the event that during the Term of this Lease any alteration, addition or change of any nature to the Premises or to any portion thereof is required by law, regulation or rule (other than a law, regulation or rule of Landlord), the same shall be made by Tenant at Tenant's own cost and expense.

Before making any alteration, addition, improvement or change to the Premises with the prior written consent of Landlord, Tenant shall obtain all approvals and permits as may be required by law, including but not limited to, those of the California Coastal Commission. All such permits and approvals shall be obtained by Tenant at Tenant's sole cost and expense. Tenant also agrees that if any construction projects on the Premises are paid for by Landlord's funds, including offsets, then such construction projects will comply with the same legal requirements applicable to the Landlord (including, but not limited to, competitive bidding requirements, prevailing wage requirements, and public works bonding requirements.)

8. Surrender, Restoration, Holdover

8.1 Surrender. Upon expiration of this Lease or its prior termination, Tenant shall quietly and peacefully vacate the Premises and surrender possession thereof to Landlord.

8.2 Restoration. Prior to the expiration of this Lease (and only to the extent directed by Landlord) Tenant shall restore the Premises to the condition in which received, ordinary wear and tear and acts of God excepted, or to such improved condition as may have resulted from

improvements made thereon by Landlord or Tenant. In the event this Lease is terminated on less than thirty (30) days' notice, Tenant shall be allowed a reasonable period of time not to exceed thirty (30) days from the date of service of the notice of termination within which to complete restoration.

8.3 Holding Over. Tenant may only hold over after the expiration or earlier termination of the term hereof with the express prior written consent of Landlord. Acceptance of Rent is not Landlord's consent to holdover. Without Landlord's express consent Tenant shall become a tenant at sufferance only at a rental rate equal to two hundred percent (200%) of the Rent in effect upon the date of such expiration. Acceptance by Landlord of Rent after such expiration or earlier termination shall not constitute a holdover hereunder or result in a renewal. The foregoing provisions of this Section 8.3 are in addition to and do not affect Landlord's right of re-entry or any rights of Landlord hereunder or as otherwise provided by law. If Tenant fails to surrender the Premises upon the expiration of this Lease, Tenant shall indemnify, protect, defend and hold Landlord harmless from all loss or liability, including without limitation, any claim made by any succeeding tenant founded on or resulting from such failure to surrender. Such indemnity shall survive the expiration of this Lease.

9. Assignment and Subletting

9.1 Assignment and Subletting. Tenant shall not permit the Premises to be occupied or used by any person other than Tenant, its agents and employees without Landlord's prior written consent to such operation or use. This Lease may not be assigned nor the Premises sublet by Tenant without the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall not be released from any obligations under this Lease due to any assignment or subletting.

10. Destruction of Premises, Condemnation

10.1 Destruction.

(a) Total Destruction. In the event the Premises or a substantial portion thereof are destroyed by any cause so as to render the premises unfit for purposes designated in Section 1.5, or if the Premises are so badly damaged that they cannot be repaired within two hundred seventy (270) days from the date of such damage, either party may terminate this Lease by giving to the other party a written notice of termination served in the manner provided by Section 11.1 of this Lease. After such notice of termination has been given, Rent shall be prorated to the date Tenant actually vacates the Premises.

(b) Insured Partial Destruction. If the Premises are partially destroyed by any cause covered by insurance, and the destroyed portion can be rebuilt or repaired within two hundred seventy (270) days from the date of destruction, Landlord shall repair the same with reasonable diligence to the extent permitted by the insurance proceeds. In such event, this Lease shall remain in full force and effect, but until the destroyed premises are repaired, Rent paid by Tenant to Landlord shall be reduced in the same proportion that Tenant's square footage leased is reduced by such destruction at the rates specified in Section 1.2 as adjusted from time to time for changes in the Consumer Price Index.

(c) Non-insured Partial Destruction. If the Premises are partially destroyed by any cause not insurable by fire insurance with extended coverage casualty endorsement but can still be used for the purpose designated in Section 1.5 of this Lease, either party may, at its option, terminate this Lease unless Landlord can rebuild or repair the destroyed portion of the Premises within two hundred seventy (270) days from the date of such partial destruction. If Landlord accomplishes such repair or if Tenant fails to exercise its option to terminate, this Lease shall remain in full force and effect, but until the destroyed premises are repaired, Rent paid by Tenant to Landlord shall be reduced in the same proportion that Tenant's square footage is reduced by such destruction at the rates specified in Section 1.2 as adjusted from time to time for changes in the Consumer Price Index.

(d) Glass Breakage. Glass breakage shall not be deemed a partial destruction within the meaning of Subsections (b) and (c) above.

(e) Waiver of Civil Code Sections. Tenant waives the provisions of California Civil Code Section 1932(2) and California Civil Code Section 1933(4) with respect to any destruction of the Premises.

(f) Tenant's Fault. Notwithstanding anything herein to the contrary, if the Premises or any other portion of the property in which the Premises are located is damaged by casualty resulting from the fault, negligence, or breach of this Lease by Tenant, Rent shall not be diminished during the repair of such damage and Tenant shall be liable to Landlord for the cost and expense of the repair and restoration of the property caused thereby to the extent such cost and expense is not covered by insurance proceeds.

10.2 Condemnation.

(a) Condemnation Resulting in Termination. If the whole or any substantial part of the Premises should be taken or condemned for any public use under any regulation, or by right of eminent domain, or by private purchase in lieu thereof, and the taking would prevent or materially interfere with Tenant's Use of the Premises, either party shall have the right to terminate this Lease at its option.

(b) Condemnation Not Resulting in Termination. If a portion of the property of which the Premises are a part should be taken or condemned for any public use under any regulation, or by right of eminent domain, or by private purchase in lieu thereof, and the taking prevents or materially interferes with the Tenant's use of the Premises, and this Lease is not terminated as provided in Section 10.2 above, the Rent payable hereunder during the unexpired portion of this Lease shall be reduced, beginning on the date when the physical taking shall have occurred, to such amount as may be fair and reasonable under all of the circumstances, but only after giving Landlord credit for all sums received or to be received by Tenant by the condemning authority. Notwithstanding anything to the contrary contained in this Paragraph, if the temporary use or occupancy of any part of the Premises shall be taken or appropriated under power of eminent domain during the Term, this Lease shall be and remain unaffected by such taking or appropriation and Tenant shall continue to pay in full all Rent payable hereunder by Tenant during the Term; in the event of any such temporary appropriation or taking, Tenant shall be entitled to receive that

portion of any award which represents compensation for the use of or occupancy of the Premises during the unexpired Term.

(c) Award. Landlord shall be entitled to (and Tenant shall assign to Landlord) any and all payment, income, Rent, award or any interest therein attributable to the value of any unexpired portion of this Lease which may be paid or made in connection with such taking or conveyance and Tenant shall have no claim against Landlord or otherwise for any sums paid by virtue of such proceedings. Any other compensation specifically and separately awarded Tenant shall be and remain the property of Tenant.

11. Miscellaneous

11.1 Notice. All notices required herein shall be served by personal service or by registered or certified mail, or by nationally recognized overnight delivery services. Notices shall be addressed as follows:

(a) Notice to be served on Landlord shall be sent to Landlord addressed to CRESCENT CITY HARBOR DISTRICT, Attn: CEO/Harbormaster, 101 Citizens Dock Road, Crescent City, California 95531.

(b) Notice to be served on Tenant shall be sent to Tenant addressed to FISHERMEN'S CATCH, INC., 1951 Windward Point, Discovery Bay, California 94505.

(c) The date of service of any notice shall be deemed to be 24 hours after the date such notice is deposited in the United States mail or with such overnight delivery service.

11.2 Liens. Tenant shall promptly discharge or cause to be discharged any valid lien, right *in rem*, claim or demand of any kind (except one in favor of Landlord) arising or existing with respect to the Premises. If the same is not promptly discharged by Tenant, Landlord may discharge the same and Tenant shall immediately reimburse Landlord the cost thereof.

11.3 Failure to Insist on Compliance. Landlord's or Tenant's failure to take advantage of any default or breach of covenants on the part of the other party or to insist upon the performance of any terms, covenants and conditions of this Lease shall not be a waiver or relinquishment of such party's right to the future performance of such terms, covenants or conditions. Tenant's or Landlord's obligations with respect to such future performance shall continue in full force and effect. No custom or practice which may develop between the parties in the course of administering this Lease shall be construed to waive or lessen the right of either party to insist upon the performance by either of any term, covenant or condition hereof.

11.4 Successors in Interest. The terms, covenants and conditions contained herein shall apply to and bind the successors and assignees of all the parties hereto.

11.5 Amendments, Changes or Additions to Statutes. Whenever reference is made in this Lease to any provision of law such reference applies to all amendments, changes and additions now or hereafter made to such provisions.

11.6 Time. Time is of the essence of this Lease.

11.7 Non-discrimination. In conducting Tenant's activities on the Premises, Tenant must not unlawfully discriminate against employees or applicants for employment or for services or segregate any person or group of any member of the public on account of sex, sexual orientation, marital status, age, race, color, creed, national origin, ancestry, medical condition or physical handicap in the leasing, subleasing, renting, transferring, use, occupancy, or enjoyment of the premises. Tenant must abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to the Act

The foregoing provision includes, but is not limited to, the following: employment upgrading, demotion, transfer, recruiting, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, including apprenticeship. Tenant shall post notices provided by the State of California or the United States of America or its local government representative setting forth the provisions of this non-discrimination clause in conspicuous places available for employees and applicants for employment.

Tenant shall insert the foregoing provision in all contracts entered into by Tenant in the performance of any work permitted under this Lease except contracts for standard commercial supplies or raw materials.

11.8 Tenant's Representations and Warranties. Tenant hereby represents and warrants as follows:

(a) Tenant has full right, power and authority to execute, deliver, and carry out the terms of this Lease and all documents and agreements necessary to give effect to the provisions contained in this Lease.

(b) Neither Landlord nor any agent or employee of Landlord has made any representation, promise, or warranty except as expressly set forth in this Lease.

11.9 Captions. The captions of this Lease are not a portion of the substantive terms hereof.

11.10 Signs. Tenant shall not erect, install, or make any signs on the Premises without the prior written consent of Landlord thereto. Landlord will not unreasonably withhold its consent to the erection or installation of signs stating the name of Tenant's business of reasonable dimensions and decor.

11.11 Estoppel Certificate. Tenant shall execute and deliver to Landlord within ten (10) days of request a commercially reasonable estoppel statement. Landlord and Tenant intend that any estoppel statement delivered pursuant to this Section may be relied upon by any mortgagee, beneficiary, purchaser or prospective purchaser of the building or any interest therein and failure to execute and return such estoppel shall be a material breach of the Lease.

11.12 Integration. This lease is the final agreement between Landlord and Tenant with regard to the Premises and supersedes all prior agreements (oral/or written), negotiations or representations. This lease may only be modified in writing, approved by Landlord's Board of Harbor Commissioners or CEO/Harbor Master, as applicable, and signed by both Landlord and Tenant.

11.13 Authorized Representatives. Each of the persons whose signature is subscribed hereto warrants that he or she has the proper authority to execute this Lease on behalf of Landlord or Tenant as appropriate.

11.14 Force Majeure. Except with respect to payment of Rent or any other sums due to Landlord hereunder or with respect to payment of any Poundage Fees, which shall not be excused or delayed, if performance by a party of any portion of this Lease is made impossible by any prevention, delay, or stoppage caused by strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes for those items, government actions, civil commotions, tsunami, pandemic, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, performance by that party for a period equal to the period of that prevention, delay, or stoppage is excused. Either party shall have the right to terminate this Lease in the event of Force Majeure for a consecutive six (6)-month period.

11.15 Choice of Law. This Lease shall in all respects be governed by the laws of the State of California.

11.16 Counterparts. This Lease may be executed in several counterparts and all documents so executed shall constitute one Lease, binding on all of the parties hereto, notwithstanding that all of the parties did not sign the original or the same counterparts.

11.17 Subordination. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be and is hereby declared to be subject and subordinate at all times to: (a) all ground leases or underlying leases which may now exist or hereafter be executed affecting the Premises and/or the land upon which the Premises are located; and (b) any mortgage or deed of trust which may now exist or be placed upon the land upon which the Premises is situated, or said ground leases or underlying leases, or Landlord's interest or estate in any of said items which is specified as security. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases or any such liens to this Lease. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the Tenant of the successor in interest to Landlord provided that Tenant shall not be disturbed in its possession under this Lease by such successor in interest so long as Tenant is not in default under this Lease. Within ten (10) days after request by Landlord, Tenant shall execute and deliver any additional documents evidencing Tenant's attornment or the subordination of this Lease with respect to any such ground leases or underlying leases or any such mortgage or deed of trust, in the form requested by Landlord or by any ground landlord, mortgagee, or beneficiary under a deed of trust, subject to such nondisturbance requirement.

[signatures on following page]

**SIGNATURE PAGE TO
LEASE
BY AND BETWEEN THE CRESCENT CITY HARBOR DISTRICT AND
FISHERMEN'S CATCH, INC.**

TENANT:

Fisherman's Catch, INC.,
a California Corporation

By: _____
Peter Nguyen, CEO

Approved as to form:

By: _____

LANDLORD:

Crescent City Harbor District:

By: _____
Tim Petrick, Harbormaster

Approved as to form:

By: _____
Ruben Duran, General Counsel

EXHIBIT A
DEPICTION OF PREMISES

2-star hotel

Vance Ave

Purple Cat Thriftshop
Thrift store

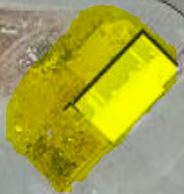


Good Harvest Cafe



Redwood Hwy

Thompson St



101

Redwood
Sightseeing Tours



Stella's Adventures



Sta



Perimeter ⓘ
420 ft ▾

Area
11,120 ft² ▾

EXHIBIT B

REQUIREMENTS FOR TENANT'S WORK AND ALTERATIONS AND IMPROVEMENTS

If Landlord shall permit Tenant to construct any initial tenant improvements in the Premises or to have any work performed in the Premises at any time prior to or during the Lease term by a contractor retained by Tenant ("**Tenants Work**"), then Tenant shall comply with the requirements set forth herein. If Tenant's Work has been properly authorized, Tenant will receive written approval and consent for alterations to the Premises. All alterations to the Premises, excepting movable furniture and trade fixtures, shall, at Landlord's option, become a part of the realty and belong to Landlord.

1. **SUBMITTAL OF PLANS** Prior to commencing any work in the Premises, Tenant shall submit to Landlord for approval its proposed plans for the work. Without limiting the foregoing, Tenant shall provide:

- (a) A separate scale drawing denoting all proposed construction and/or demolition if necessary;

- (b) A separate drawing for each trade proposing structural, electrical, mechanical, civil or landscaping modifications;

- (c) Specify all dimensions and complete references to all work to be performed in the affected areas;

- (d) If adding extra electrical or mechanical equipment, -provide complete operating and maintenance specifications for each item;

2. **CHECKLIST** With respect to each project, Tenant with a checklist listing the items required to be furnished to Landlord in connection with the proposed work. Tenant shall furnish to Landlord prior to, during, or upon completion of Tenants Work, as applicable, each of the items specified in the checklist attached hereto as **Attachment I**.

3. **CONTRACTORS PROVIDING TENANT IMPROVEMENT SERVICES.**

- (e) The contractor employed by Tenant and any subcontractors shall be (i) duly licensed in the state in which the Premises are located, and (ii) subject to Landlord's prior written approval, which approval shall not be unreasonably withheld. If more than one trade is employed on a single job, state law requires the services of a general contractor in addition to contractors for specialty work being performed;

- (f) Each contractor shall provide proof of licensing as a general or specialty contractor in accordance with state law. Additionally, each contractor shall furnish proof of licensing in the city or municipality in which the construction related activity is to take place;

(g) Tenant shall use Landlord's subcontractor for mechanical, electrical, plumbing, roofing and roofing consultant Landlord retains the right to approve or disapprove outside contractors prior to commencement of any work;

(h) Tenant and Tenant's contractors shall comply with all Applicable Laws pertaining to the performance of Tenant's Work and the completed improvements and all applicable safety regulations established by Landlord or the general contractor.

(i) Prior to commencement of any Work in the Premises, Tenant and Tenant's contractors (and any subcontractors) shall obtain and provide Landlord with certificates evidencing Workers' Compensation, public liability and property damage insurance in amounts and forms and with companies satisfactory to Landlord Each general contractor (and any subcontractor) employed on the Premises shall provide Landlord with a current certificate of insurance in effect for that contractor with a thirty (30) day notice of cancellation or revocation clause Insurance requirements are as follows:

(i) Comprehensive General Liability with a \$2,000,000 Combined Single Limit covering the liability of Landlord and contractor for bodily injury and property damage arising as a result of the construction of the improvements and the services performed thereunder Landlord shall be named as an additional insured;

(ii) Comprehensive Automobile Liability with a \$2,000,000 Combined Single Limit covering Landlord and vehicles used by contractor (and any subcontractor) in connection with the construction of the improvements;

(iii) Workers' Compensation and Employer's Liability as required by law, for employees of the contractor (and any subcontractors) performing work on the Premises.

(j) The following requirements shall be incorporated as "**Special Conditions**" into the contract between Tenant and its contractors and a copy of the contract shall be furnished to Landlord prior to the commencement of Tenant's Work.

(i) Prior to start of Tenant's Work, Tenant's contractor shall provide Landlord with a construction schedule in "bar graph" form indicating the completion dates of all phases of Tenant's Work;

(ii) Tenant's contractor shall be responsible for the repair, replacement or clean-up of any damage done by it to other contractors' work which specifically includes access ways to the Premises which may be concurrently used by others;

(iii) Tenant's contractor shall accept the Premises prior to starting any trenching operations Any rework of sub-base or compaction required after the contractor's initial acceptance of the Premises shall be done by Tenant's contractor, which shall include the removal from the Project of any excess dirt or debris;

(iv) Tenant's contractor shall contain its storage of materials and its operations "within the Premises and such other space as it may be assigned' by Landlord or Landlord's contractor Should Tenant's contractor be assigned space outside the Premises, it shall

move to such other space as Landlord or Landlord's contractor shall direct from time to time to avoid interference or delays with other work;

(v) Tenant's contractor shall clean up the construction area and surrounding exterior areas daily All trash, demolition materials and surplus construction materials shall be stored within the Premises and promptly removed from the Premises and disposed of in an approved sanitation site;

(vi) Tenant's contractor shall provide temporary utilities, portable toilet facilities, and potable drinking water as required for its work within the Premises and shall pay to Landlord's contractor the cost of any temporary utilities and facilities provided by contractor at Tenant's contractor's request;

(vii) Tenant's contractor shall notify Landlord or Landlord's project manager of any planned work to be done on weekends or other than normal job hours;

(viii) Tenant's contractor or subcontractors shall not post signs on any part of the Premises;

(ix) Tenant shall and shall cause its contractors and subcontractors to: pay prevailing wages in the construction of Tenant's Work as those wages are determined pursuant to Labor Code Sections 1720 et seq.; employ apprentices as required by Labor Code Sections 1777.5 et seq.; and comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1725.5, 1771, 1771.1, 1771.4, 1776, 1777.5 et seq., 1810-1815 and the implementing regulations of the Department of Industrial Relations (the "**DIR**") for all such Labor Code sections.

4. COSTS Tenant shall promptly pay any and all costs and expenses in connection with or arising out of the performance of Tenant's Work (including the costs of permits therefore) and shall furnish to Landlord evidence of such payment upon request.

5. MECHANIC'S LIENS

(a) Tenant shall not suffer or permit to be enforced against the Premises or any part of the Project any mechanic's, materialman's, contractor's or subcontractor's lien arising out of any work of improvement, however, it may arise

(b) Tenant shall notify Landlord at least ten (10) days prior to the commencement of construction of any Tenant's work and Landlord shall have the right to post and record a notice of non-responsibility in conformity with applicable law Within ten (10) days following completion of Tenant's Work, Tenant shall file a Notice of Completion' and deliver to' Landlord an unconditional release and waiver of lien executed by each contractor, subcontractor and materialman involved in Tenant's Work.

(c) In the event any lien is filed against the Premises or any portion thereof or against Tenant's leasehold interest therein, Tenant shall obtain the release and/or discharge of said lien, within ten (10) days after the filing thereof In the event Tenant fails to do so, Landlord may obtain the release and/or discharge of said lien and Tenant shall Indemnify Landlord for the costs thereof, including reasonable attorneys' fees, together with interest at the Applicable Interest Rate

from the date of demand Nothing herein shall prohibit Tenant from contesting the validity of any such asserted claim, provided Tenant has furnished to Landlord a lien release bond freeing the Premises from the effect of the lien claim.

6. INDEMNITY

(a) Tenant shall indemnify, defend (with counsel satisfactory to Landlord) and hold Landlord harmless from and against any and all suits, claims, actions, loss, cost or expense (including claims for workers' compensation, attorney's fees and costs) based on personal injury or property damage, or otherwise (including, without limitation, contract and breach of warranty claims) arising from the performance of Tenant's work Tenant shall repair or replace (or, at Landlord's election, reimburse Landlord for the cost of repairing or replacing) any portion of the Property or item of Landlord's equipment or any of Landlord's real or personal property damaged, lost or destroyed in the performance of Tenant's Work.

a. Tenant shall indemnify, hold harmless and defend (with counsel reasonably selected by the Landlord), to the extent permitted by applicable law, Landlord, its councilmembers, commissioners, officials, employees and agents, against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Tenant, or its contractors or subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq., to hire apprentices in accordance with Labor Code Sections 1777.5 et seq., or to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1725.5, 1771, 1771.1, 1771.4, 1776, 1777.5 et seq., 1810-1815 and the implementing regulations of the DIR in connection with Tenant's Work. The provisions of this Section shall survive termination of the Lease.

7. PROPERTY STANDARDS All work shall conform to Landlord's established Property standards and specifications Tenant is required to make these standards part of the construction documents.

8. ROOF PENETRATIONS If improvements penetrate the roof membrane, the penetrations will be sealed per Landlord/IRC roofing specifications and inspected by IRC to maintain roof warranty The cost of inspection and all corrective work shall be borne by Tenant. Tenant shall use Landlord's original roofing contractor.

9. PROPERTY MODIFICATIONS Work will only be approved within the confines of a given space Tenant will not be allowed to modify Property exterior or-mechanical and electrical service as provided to the Property in common with other tenants.

10. ELECTRICAL WORK All electrical work shall be approved from the unit space electrical panel only Additional service requirements shall be secured only by direction of Landlord Tenant shall use Landlord's original electrical contractor.

11. SCHEDULE OF WORK Tenant may be required to provide a schedule of all work to be performed, subject to Landlord approval All costs to produce such schedule shall be borne solely by Tenant.

12. CLEAN UP AND DISPOSAL OF CONSTRUCTION DEBRIS Property trash containers are provided for office generated trash only and are not to be used for disposal of construction-related materials and debris Unapproved usage will result in a penalty assessment to the Tenant equal to the cost of an extra pick-up service as provided under the current rate schedule of regular trash removal service.

13. INSPECTION BY LANDLORD Landlord reserves the following rights (i) the right of inspection prior to, during and at completion of all construction and/or demolition, (ii) the right to post and record a notice of non-responsibility in conformity with California law, and (iii) the right to order a total stop to all improvements underway for non-compliance with any of the requirements hereof.

14. GENERAL PROVISIONS

(a) If Landlord has agreed to provide an allowance toward the cost of tenant improvements, Landlord shall retain from such funds an amount determined by Landlord until Tenant has fully complied with the requirements hereof.

(b) All materials, work, installations and decorations of any nature whatsoever brought on or installed in the Premises before the commencement of the Term or throughout the Term shall be at Tenant's risk, and neither Landlord nor any party acting on Landlord's behalf shall be responsible for any damage thereto or loss or destruction thereof due to any reason or cause whatsoever.

(c) Nothing contained herein shall make or constitute Tenant as the agent of Landlord.

ATTACHMENT 1

ITEMS TO BE FURNISHED TO LANDLORD FOR EACH WORK OF IMPROVEMENT

1. Plans of Alterations for Landlord Approval
2. Contractor(s), Address, Telephone Number, Contact Person
3. Copy of Contractor's State and City Business License
4. Copy of Property Permit
5. Copy of Final Inspection and Signed Property Permit Cards
6. Copy of Certificate of Insurance naming Crescent City Harbor District as Additional Insured; (Insurance to include Comprehensive General Liability, Comprehensive Auto, Workers' Compensation and Employer's Liability)
7. Signed Unconditional Lien Waiver in Favor of Crescent City Harbor District.
8. Schedule of Work.
9. Copy of Completion of Payment Bond
10. Architect's License and Expiration
11. Tenant and Contractor Agreement
12. Copy of Permit Plans
13. Copy of As-Built
14. Copy of Recorded Notice of Completion
15. Certificate of Occupancy
16. Evidence on Insurance for All Risk/Builder's Risk Insurance to the Amount of Improvements



5. Unfinished Business

b. Grants Update

Public Comment?

GRANT AWARD ANNOUNCED								
Grant Name	Grant Funder	Funded Projects	Project Amount	s	Match	Grant Start Date	Project Timeline	Next Steps
Port Infrastructure Development Grants (PIDP)	ODOT - Maritime Administration	1) Construction of a new seawall 2) repair and renovate the seafood packing and trucking area 3) replace the aged cargo handling equipment atop the seawall	\$ 9,208,207.00	\$ 7,366,565.60	\$1,841,641.40 (20% required)	Jan-23	1-Jan-28	Combined Environmental Study and Design with Citizens Dock ES- RFP released. Bid responses due 8/14/23
Port Economic Recovery Grant	California State Lands Commission	Create Technical Reports required for Seawall Construction Grant	\$ 437,001.65	\$ 321,195.65	\$ 115,806.00	Nov-22	Dec-23	Funds being used as match for PIDP grant
STPG Climate Adaptation Transportation Planning (partnering with Del Norte Local Transportation Commission)	Caltrans and OPR	Planning Study to identify climate mitigation projects along U.S. Hwy 101 and Anchor Way along South Beach.	\$250,000	\$ 120,000.00	\$ 4,000.00	Summer 2023	30 months	Funded, Managed by Del Norte Local Transportation Commission
CA Coastal Conservancy Grant Citizen's Dock Planning	CA Coastal Conservancy	Funds Design, Environmental Impact Studies and Permitting for a new Citizen's Dock.	\$927,000	\$927,000	\$237,000 (In-Kind)	Jun-23	36 months	Combined Environmental Study and Design with Seawall ES- RFP released. Bid responses due 8/14/23
CA Coastal Conservancy Grant South Beach Bathroom	CA Coastal Conservancy	Funds Design, Permitting and Construction of Bathrooms and Showers on Anchor Way, near Starfish Way.	\$450,000	\$450,000	\$117,000 (In-Kind)	Jun-23	36 months	RFP response received. Award scheduled for 8/1/23 meeting

GRANTS APPLIED FOR UNDER REVIEW								
Grant Name	Grant Funder	Project Applied For	Project Amount	Grant Amount Requested	Match Requirement	Announcement Date	Project Timeline	Next Steps
Harbor Mitigation Grant Program (HMGP)	Cal OES and FEMA	Technical Reports; Design & Engineering; NEPA/CEQA; Construction Permits required for Harbor water area		\$ 1,125,000.00	\$ 375,000.00	Awaiting Announcement	Completed within 5 years of obligation	FEMA Final Grant Review underway (June 2023)
Port Infrastructure Development Grants (PIDP) 2023-2024	ODOT - Maritime Administration	Construction of new Breakwaters to meet 100 year storm surge, 50-year tsunami events and sea level rise.	\$9,861,707	\$8,875,536	10%-20%	Sep-23	5 years	Application submitted to US DOT MARAD
Storm Damage Disaster Response 4683	FEMA	Repair of Anchor Way Breakwater, Anchor Way road and Whaler Island Groin Breakwater	\$7,695,828	\$7,695,828	6% - 20%	Q3 2023	18 months	FEMA Review ongoing

GRANTS WORKING ON								
Grant Name	Grant Funder	Project Applying For	Project Amount	Grant Amount To Request	Cost Sharing/Match Requirement	Grant Submittal Date	Grant Announcement	Next Steps
Storm Damage Mitigation, Section 406	FEMA	Construct new Anchor Way Breakwater, Anchor Way road and Whaler Island Groin Breakwater.	TBD	TBD	TBD	Spring 2024	2Q 2024	FEMA review ongoing. FEMA must invite us to apply.
Boating Infrastructure Grant	DBW	Lighting, communications, buoys, beacons, signals, markers, signs, security features.	\$200,000	\$200,000	TBD	Sep-23	Apr-24	Working on Application
CA Coastal Conservancy Grant Fish Filet Bathroom	Coastal Conservancy	Construction for bathroom and pop-up store for fish filet station	\$500,000	\$500,000	20% -in-kind	Aug-23	Oct-23	Application will be submitted by FIRC DNATL Community Food Council
CA Coastal Conservancy Grant Recreational Area Planning	Coastal Conservancy	Planning and Permitting for harbor recreational area including proposed food/beer garden	\$200,000	\$200,000	20% - can be in-kind	Aug-23	Oct-23	Working on Application
Grants Opportunities Being Reviewed								
Grant Name	Grant Funder	Project Applying For	Project Amount	Grant Amount To Request	Cost Sharing/Match Requirement	Grant Submittal Date	Grant Announcement	Next Steps
ICARP Regional Resilience Grant Program	Governors Office	Planning Grant for Construction of Climate Resilience projects in Anchor Way Commercial Business Area.	\$200,000	\$200,000	\$0	Aug-23	4th Q 2023	Reviewing eligibility criteria
EDA Public Works Program	U.S. EDA	Infrastructure Construction Projects and new equipment	\$ 3,450,000.00	\$ 3,000,000.00	\$ 450,000.00	Rolling Application	Funding available in 2024	Reviewing project eligibility criteria
Boat Launching Facility Grant Program	DBW	Replace boarding floats	TBD	TBD	TBD	Winter 2024	Funding available in 2024	Budget being prepared
Rural and Tribal Assistance Pilot Program	DOT	Fund staff to complete studies for climate and resiliency for roads in harbor	\$320,000-\$360,000	\$320,000-\$360,000	\$0	August 14, 2023	October 2023	Reviewing eligibility criteria
CA Coastal Conservancy	CA Coastal Conservancy	Commercial Business Area Development. Projects to be identified	\$2,000,000	\$2,000,000	\$200,000	Rolling Application	TBD	TBD

Program to Support Offshore Wind Infrastructure Improvement	CA Department of Energy	Planning Studies and Commercial Area Development/Construction to support offshore wind efforts	\$2,000,000	\$2,000,000	\$200,000	3Q 2023	4Q 2023	Working on list of projects to include once the application is released
Boating Safety & Enforcement Equipment Grant Program (BSEE)	DBW	Purchase of new Patrol Boat	\$ 1,250,000.00	\$ 1,250,000.00	\$ 250,000.00	Spring 2024	Funding available in 2024	Grant application not released yet, due March-April 2024
NOAA Climate Resilience Regional Challenge	NOS, NOAA	Construction of new Breakwaters to meet 100 year storm surge, 50-year tsunami events and sea level rise.	TBD	TBD	\$0	August 2023	October 1, 2024	Letter of Intent being prepared due August 21, 2023



6. Communications and Reports

a. CEO/Harbormaster Report

Maintenance has begun filling in the expansion joints in the sidewalks surrounding the inner boat basin. The felt like material initially packed into the joints has worn away and water is causing erosion under the sidewalks. Maintenance has also been rebuilding the drainage swales in the planter areas.

Harbor Staff has been compiling and analyzing slip rental rates from around the coast and have begun analyzing the poundage spreadsheet. Thomas and Kristina will be putting together a plan to address outstanding fees.

The launch ramp has been very active. We have seen an influx of out-of-town charter boats using the ramp. All charter boats are required to pay an annual charter fee to operate in Crescent City Harbor. Please inform the harbor office if you see a charter boat at the launch ramp so we can verify they've paid their fees.



6. Communications and Reports

a. CEO/Harbormaster Report *(continued)*

We have been working hard to negotiate new and renewed commercial leases. We anticipate at least 5 leases to be ready for approval by the end of September.

La Cappella's Italian Kitchen is stocking pre-made sandwiches and pasta in the harbor gift shop. They will also be selling at Farmer's Market and potentially at a stall in the harbor on Sundays.



6. Communications and Reports

b. Ad Hoc Committee Reports (as needed)

Public Comment?



6. Communications and Reports

c. Harbor Commissioner Reports

(1) Commissioner Gerhard Weber

(2) Commissioner Rick Shepherd

(3) Commissioner Brian Stone

(4) Secretary Harry Adams

(5) President Wes White

Public Comment?



7. Adjourn to Closed Session

a. CONFERENCE WITH LEGAL COUNSEL – ONGOING LITIGATION

(Government Code section 54956.9(d)(2))

Ongoing Litigation: One case based on correspondence with Renewable Energy Capital regarding lease terms.

b. CONFERENCE WITH LEGAL COUNSEL – ONGOING LITIGATION

(Government Code section 54956.9(d)(2))

Ongoing Litigation: One case based on correspondence with Fashion Blacksmith regarding claim for damages

8. Adjourn Closed Session

9. Report out of Closed Session

10. MEETING ADJOURNMENT

Adjournment of the Board of Harbor Commissioners will be until the next meeting scheduled for Tuesday, August 15, 2023, at 2 p.m. PDT. The Crescent City Harbor District complies with the Americans with Disabilities Act. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, as required by Section 12132 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132). Any person with a disability who requires modification in order to participate in a meeting should direct such request to (707) 464-6174 at least 48 hours before the meeting, if possible.

