

Board of Harbor Commissioners

Crescent City Harbor District

18 July 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, July 18 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. Consent Calendar

- a. Approval of the Meeting Minutes of the June 20, 2023 Regular Meeting.**

2. Comptroller's Report, Review Balances

3. New Business

- a. Discussion with Nathan Alldredge, Supervisor of the Santa Barbara Harbor Patrol.**
- b. Review and Vote to Approve Resolution 2023-11 Requiring the Exclusion of Individuals with Specific Criminal Histories from Harbor Patrol positions.**
- c. Review and Vote to Approve Lease for 250 Citizens Dock Rd (Sheriff's Building North Side) with Fishermen's Catch.**

4. Unfinished Business

- a. Grants Update**
- b. Dredge Permitting Update**

5. Communications and Reports

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

6. 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

7. Adjourn Closed Session

8. Report out of Closed Session

9. MEETING ADJOURNMENT

Adjournment of the Board of Harbor Commissioners will be until the next meeting scheduled for Tuesday, August 1, 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. Consent Calendar

- a. Approval of the Meeting Minutes of the June 20, 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

June 20, 2023
2:00 p.m.



Board of Harbor Commissioners of the Crescent City Harbor District

MINUTES

Open Session, Tuesday June 20, 2023, at 2:00 P.M.

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

ROLL CALL:

<i>PRESENT:</i>	<i>President</i>	WES WHITE
	<i>Secretary</i>	HARRY ADAMS
	<i>Commissioner</i>	RICK SHEPHERD
	<i>Commissioner</i>	BRIAN STONE
	<i>Commissioner</i>	GERHARD WEBER

ABSENT:

QUORUM:

PLEDGE OF ALLEGIANCE:

PUBLIC COMMENT:

A member of the public inquired about results from arbitration with Fashion Blacksmith and when the Harbor might provide additional information.

Another member of the public expressed their support for a Pride Month Proclamation.

No other members of the public commented.

1) CONSENT CALENDAR:

1A) Approval of Meeting Minutes from the June 2nd, 2023, Open Session.

1B) Proclamation Regarding Pride Month

President White made a statement about the Harbor’s continued goals toward mutual respect in the community. Agenda item 1B was determined to be outside the purview of the Board of Harbor Commissioners and was therefore removed from the Consent Calendar. Commissioner Shepherd **motioned** to approve the Consent Calendar; Commissioner Adams **seconded** the motion.

POLLED VOTE was called, **MOTION CARRIED:**

AYES: WHITE, STONE, WEBER, ADAMS, SHEPHERD // **NAYS:** NONE

ABSENT: NONE // **ABSTAIN:** STONE

2) COMPTROLLER’S REPORT/ REVIEW BALANCES

Harbormaster Tim Petrick reviewed balances with the Board put together by Comptroller Thomas Zickgraf, noting a downward trend in the balances that were projected to turn back around after tax receipts. Harbormaster Petrick also noted promising growth with new leases and fees coming in the next year.

No members of the public commented.

3) NEW BUSINESS

3A) Review and Vote to Approve a Resolution Updating Authorized to Access, Manage, and/or Sign on CCHD Financial Accounts at Coast Central Credit Union

Harbormaster Petrick presented **Resolution 2023-08** to the Board. Petrick reported that the resolution was required by Coast Central to update an account to start being used for restricted grant funds. The resolution required two commissioners plus the Harbormaster to be included as co-signers.

Commissioner Stone inquired if the Financial Corporation would need to be involved with the grant funds. Stone also expressed concern about keeping all the grant funds in one account due to potential tracking/accuracy errors. Harbormaster Petrick reassured the Board that every grant would have its own detailed tracking process.

Commissioner Shepherd **motioned** to approve **Resolution 2023-08**; Commissioner Weber **seconded** the motion.

POLLED VOTE was called, **MOTION CARRIED:**

AYES: WHITE, STONE, WEBER, ADAMS, SHEPHERD // **NAYS:** NONE

ABSENT: NONE // **ABSTAIN:** NONE

No member of the public commented.

3B) Review and Vote to Approve a Resolution Designating CCHD Agents for Cal OES Applications

Harbormaster Petrick presented **Resolution 2023-09**, which was required by CAL OES to receive their portion of funding for the FEMA Disaster Relief Funds. The resolution was to

appoint Harbormaster Petrick and Comptroller Zickgraf as “Certified Agents” to communicate with Cal OES about grant funds. Secretary Adams **motioned** to approve **Resolution 2023-09**; Commissioner Shepherd **seconded** the motion.

POLLED VOTE was called, **MOTION CARRIED:**

AYES: WHITE, STONE, WEBER, ADAMS, SHEPHERD // **NAYS:** NONE

ABSENT: NONE // **ABSTAIN:** NONE

No member of the public commented.

3C) Review and Vote to Approve Amended CCHD Bylaws

Harbormaster Petrick presented **Resolution 2023-10**, which added clarification to how the Commissioners represented the Harbor in public in accordance with the Harbor’s Bylaws. The purpose was to amend the Bylaws to ensure that the Commissioners kept a unified position in public settings, and to keep personal views from being confused as official Harbor positions. Secretary Adams **motioned** to approve **Resolution 2023-10**; Commissioner Weber **seconded** the motion.

POLLED VOTE was called, **MOTION CARRIED:**

AYES: WHITE, WEBER, ADAMS, SHEPHERD // **NAYS:** NONE

ABSENT: NONE // **ABSTAIN:** STONE

A member of the public expressed concern on restricting free speech, calling it a slippery slope. No other members of the public commented.

3D) Review and Vote to Approve Insurance Renewal Proposal from Redwoods Leavitt

A representative from Redwoods Leavitt reviewed the “Renewal Proposal” with the Board. Leavitt started by answering questions from the Board about details from the proposal. In the discussion, Commissioner Stone inquired about increasing the amount of liability coverage from the Public Officials Insurance Policy.

Harbormaster Petrick recommended that the Board vote on all aspects of the renewal proposal with the exception of the Public Officials policy, and to discuss different quotes once more information was obtained. Redwood Leavitt’s representative informed the Board that they had until July 1st to request any changes to the proposal.

Commissioner Stone **motioned** to approve Redwood Leavitt’s insurance policy proposal, excepting the Public Officials policy, Commissioner Weber **seconded** the motion.

POLLED VOTE was called, **MOTION CARRIED:**

AYES: WHITE, STONE, WEBER, ADAMS, SHEPHERD // **NAYS:** NONE

ABSENT: NONE // **ABSTAIN:** NONE

No members of the public commented.

4) UNFINISHED BUSINESS

4A) Discuss Future Harbor Involvement with Tri-Agency, Review Bylaws, Budget, and Work Plan

President White reported that the Tri-Agency had released their proposed workplans, budget, and bylaws. White opened the discussion with the Board, with the intent of receiving feedback before the Tri-Agency meeting took place on July 25th. The Board addressed their concerns with Tri-Agency's proposed documents, focusing on topics such as tribe inclusion and unclear joint power authority control.

A member of the public responded to joint power concerns that arose in the discussion, clarifying the agreement did not change the Board's authority within the Harbor. No other members commented.

4B) Beneficial Use Permit Update

Harbormaster Petrick reported that he and Geoengineers met with city official Eric Wier to further discuss relocating dredge sediment. The meeting went well, and they were working with the Water Board to continue moving forward. Petrick also reported that he was planning on reaching out to the Army Corp. to find out how the Harbor could get funding from them to help move the sediment.

No members of the public commented.

4C) Crescent City Harbor Patrol/Police Department Update

Harbormaster Petrick presented the "Vision Statement" for the nascent Harbor Patrol/Police Department, highlighting the department as a response to increasing issues with vandalism and other disorderly conduct within the Harbor. Petrick also highlighted the incoming department as a safety and education force first, with law enforcement as a secondary priority.

Harbormaster Petrick also reported that the patrol was being introduced to the Harbor in phases. Initially, the patrol would likely be fully reliant on grants for the first three years. Continued operation of the patrol after that would be reliant on steady revenue sources that were anticipated from future Harbor development and more consistent enforcement of Harbor ordinances.

A member of the public expressed concern with the terminology "Police Department," and preferred Harbor Patrol as more indicative of the multipurpose mission. No other members of the public commented.

5) COMMUNICATIONS AND REPORTS

5A) CEO/Harbormaster Report

Harbormaster Tim Petrick reported that he contacted everyone with long term storage and informed them that long term crab pot storage in the Marina parking lot was no longer allowed. Crab Pot storage would be allowed up to thirty days after the end of the crab season, after that crab pots would be impounded.

Harbormaster Petrick also reported that Water Safety Day was a success, and there were hopes to expand the event for more students in future years.

5B) AD HOC Committee Reports

- a. KRRC: Commissioner Stone reported that KRRC and the County provided insurance documents requested by the Harbor. Commissioner Shepherd reported that permits were being requested for all the buoys to start relocating them. Harbormaster Petrick reported an upcoming meeting on Thursday, June 29th.
- b. Chamber: Commissioner Shepherd reported he would be attending another Chamber event on June 23rd.
- c. Tri-Agency: President White reported that there was no Tri-Agency meeting planned for this month; the next meeting was scheduled for July 25th.

5C) Harbor Commissioner Reports

- a. President White had nothing to report.
- b. Secretary Adams followed up on his previous report regarding lane markings and signage on Anchor Way.
- c. Commissioner Stone reported that it was time to start thinking about winter holiday events. Stone also encouraged the Harbor to participate in future community events.
- d. Commissioner Shepherd had nothing to report.
- e. Commissioner Weber reported striping issues in the Marina parking lot, and expressed concern for potential problems it could cause for the Farmer's Market. He also reported that the Coastguard Auxiliary donation from the Harbor went well.

1) ADJOURN OPEN SESSION

ADJOURNMENT TO THE BOARD OF HARBOR COMMISSIONERS NEXT REGULAR MEETING SCHEDULED FOR TUESDAY, JULY 18, 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



2. Comptroller's Report, Review Balances

Public Comment?



3. New Business

- a. **Discussion with Nathan Alldredge, Supervisor of the Santa Barbara Harbor Patrol.**

Public Comment?



3. New Business

- b. Review and Vote to Approve Resolution 2023-11 Requiring the Exclusion of Individuals with Specific Criminal Histories from Harbor Patrol positions.**

Public Comment?

RESOLUTION NO. 2023-11

A RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE CRESCENT CITY HARBOR DISTRICT REQUIRING THAT ANY PERSON WHO HAS APPLIED FOR APPOINTMENT TO THE HARBOR PATROL SHALL BE SUBJECT TO A REVIEW OF THEIR LOCAL, STATE, AND FEDERAL CRIMINAL HISTORY INFORMATION AND EXCLUDED BASED ON SPECIFIC CRIMINAL CONDUCT.

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Section 11105(b)(11) authorizes cities, counties, districts and joint powers authorities to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, governing body of a city, county or district or joint powers authority to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

NOW THEREFORE, BE IT RESOLVED, that the CRESCENT CITY HARBOR DISTRICT is hereby authorized to access local, state and federal level summary criminal history information for the employment purposes of all Harbor Patrol positions (including volunteers and contract employees) and may not disseminate the information to a private entity; and

BE IT FURTHER RESOLVED that the Crescent City Harbor District shall not consider a person who has been convicted of a violent or serious felony or certain misdemeanors eligible for employment (including volunteers and contract employees if applicable).

The Clerk of the Crescent City Harbor District shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 18th day of July,
2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wes White, President

Board of Harbor Commissioners

Crescent City Harbor District

ATTEST:

Clerk

Board of Harbor Commissioners

Crescent City Harbor District



3. New Business

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

Public Comment?

**LEASE BY AND BETWEEN THE
CRESCENT CITY HARBOR DISTRICT AND
FISHERMAN'S CATCH, LLC**

This lease ("**Lease**") is executed this ___ day of ____, 2023 by and between the **CRESCENT CITY HARBOR DISTRICT**, a special district organized pursuant to the California Harbors and Navigation Code ("**Landlord**"), and [**FISHERMAN'S CATCH, LLC**], a California limited liability company]¹ ("**Tenant**"), whose address is _____, 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 _____, 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. Seven (7) years.

1.6 Option to Extend. One (1) option to extend the Term for an additional five (5)-year period.

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.

2. Premises, Use, Compliance with Laws

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

¹ NTD: Tenant to confirm entity name and state of organization.

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 1.6 unless terminated pursuant to Section 4.

2.3 Options 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. 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.

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. 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.

(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 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 water quality law, regulation, or policy. 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 1.6. 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/Harbor Master, 100 Citizens Dock Road, Crescent City, California 95531.

(b) Notice to be served on Tenant shall be sent to Tenant addressed to Tenant at the address shown in the introductory paragraph to this Lease, with a copy sent to Tenant at the following address _____.

(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
FISHERMAN'S CATCH, LLC**

TENANT:

Fisherman's Catch, LLC, a California

By: _____

Approved as to form:

By: _____

LANDLORD:

Crescent City Harbor District:

By: _____
Tim Petrick, Harbor Master

Approved as to form:

By: _____
Ruben Duran, General Counsel

EXHIBIT A
DEPICTION OF PREMISES

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 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



4. Unfinished Business

a. Grants Update

Public Comment?



4. Unfinished Business

b. Dredge Permitting Update

Public Comment?



5. Communications and Reports

a. CEO/Harbormaster Report

Harbor District and CSS Staff met with FEMA and were informed that our Disaster Damage Repairs were being moved to the next level of approvals. The current engineering estimates place the repairs for funding over \$9 million. FEMA seems intent to approve build back better funding so that number could grow as it goes through the approvals process. FEMA remains very supportive of the project.

We had RFP meetings both Q&A and Site Inspections for the Anchor Way Restroom Project and the Citizens Dock/Seawall permitting. Both were well attended and we anticipate multiple bids especially for the Citizen's Dock/Seawall project. I anticipate the board being presented with bids to choose from at the next meeting.

The launch ramp has been re-striped and maintenance added reflectors down the length of Anchor way. This was a cost effective measure to improve safety and save funding for once the road has been replaced.



5. Communications and Reports

a. CEO/Harbormaster Report *(continued)*

4th of July went well. The harbor had some minor damage this year due to burned fireworks disposal totes, a destroyed port-a-potty, and the general mayhem that accompanies the holiday but after a few days Maintenance had done a wonderful job cleaning up and one could hardly tell thousands of people had been setting off explosives in the harbor.

We have come to a short term agreement with LaCappella's Italian Kitchen to carry their pre-made sandwiches in the harbor gift shop. There will be a sandwich fridge in there with fresh cold sandwiches.



5. Communications and Reports

b. Ad Hoc Committee Reports (as needed)

Public Comment?



5. 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?



6. 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

7. Adjourn Closed Session

8. Report out of Closed Session

9. MEETING ADJOURNMENT

Adjournment of the Board of Harbor Commissioners will be until the next meeting scheduled for Tuesday, August 1, 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.

