

HARBORMASTER EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is entered into as of the ___ day of July 2021 (the "Effective Date"), between the Crescent District Harbor District (hereinafter referred to as the "District") and Timothy Brooks Petrick (hereinafter referred to as the "Harbormaster" or the "Employee"). District and Harbormaster/Employee are sometimes referred to in this Agreement as "Party" and collectively as "Parties."

RECITALS

WHEREAS, it is the desire of the Board of Harbor Commissioners ("Board") of the District to retain the services of Employee as Harbormaster pursuant to the provisions of the District's Bylaws and Ordinances ("District Code"), and

WHEREAS, it is the desire of the Board to provide certain benefits, establish certain conditions of employment and to set certain working conditions of the Harbormaster.

NOW, THEREFORE, the above named Parties hereby mutually agree and promise as follows:

1. Duties, Acceptance of Appointment, and Hours of Work.

1.1 Duties

The Harbormaster shall perform those duties and have those responsibilities that are commonly assigned to a Harbormaster of a Harbor District in California, and as may be further set forth in the District's Code, as well as those duties set forth in the District's Job Notice for Harbormaster. Harbormaster shall perform such other legally permissible and proper duties and functions consistent with the Office of the Harbormaster, as the Board shall from time to time assign. The Harbormaster shall report to the Board, which shall also serve as appointing authority for the Harbormaster. It is expected that Harbormaster shall abide by the ICMA Code of Ethics. Harbormaster is encouraged to participate in community and civic affairs.

1.2 Acceptance of Appointment

Harbormaster hereby accepts the appointment as Harbormaster of the Crescent City Harbor District subject to all terms and conditions set forth in this Agreement.

1.3 Hours of Work

It is recognized that Harbormaster devotes a great deal of time outside the normal office hours-schedule, and to that end, he shall be allowed to establish an appropriate work schedule recognizing that the normal District work schedule is Monday

through Friday, 8 AM to 5 PM. Harbormaster is exempt from paid overtime compensation.

1.4 Devotion to District Business

The Harbormaster's position is full-time. Harbormaster shall not engage in any business, educational, professional, charitable, or other activities that would conflict or materially interfere with performance of his Harbormaster duties, except as may be specifically authorized by the Board.

2. Term.

This Agreement shall be deemed effective for an initial term beginning on Effective Date, and continuing through July __, 20__ ("Initial Term"), and shall remain in effect for the Initial Term, unless terminated earlier in accordance with Section 11.

3. Compensation.

3.1 Salary

District agrees to pay Harbormaster, and Harbormaster agrees to accept from District, as compensation for services rendered by Harbormaster pursuant to this Agreement, an annual base salary, commencing on the Effective Date, in the amount of _____ Dollars (\$_____) (hereinafter "Annual Base Salary"), payable in installment payments in the same manner and at the same times as salaries of other employees of the District are paid.

The term "Annual Base Salary" as used in this Agreement shall also include any such adjustments approved by the Board other than payments not eligible to be added to the Harbormaster's Annual Base Salary pursuant to the terms of any applicable salary resolution of the District. The term "Monthly Base Salary" as used in this Agreement shall mean a sum of money equal to one-twelfth (1/12) of Harbormaster's Annual Base Salary as defined herein.

Any salary adjustment shall be memorialized by an amendment to this Agreement.

3.2 Health and Medical Benefits

The Harbormaster will be afforded the opportunity to purchase District's Health and Medical Plans ("Plans") at the same rate as the District provides for all Plan participants and any other optional Plans or benefits at the rates offered to all other employees. Harbormaster understands that the statutory minimum contribution for medical benefits, as required by PEMCHA, will be deducted from pre-tax wages of the Harbormaster, should the Harbormaster elect to participate in the District's PEMCHA health plan.

3.3 Pension

The District agrees to enroll the Harbormaster as a member of the California Public Employees Retirement System (CalPERS) in accordance with CalPERS regulations and the District's agreement with CalPERS.

3.4 Life Insurance

Harbormaster shall be entitled to participate in any group life or disability insurance programs approved by the District for all employees.

3.5 Mobile Phone Allowance.

The Harbormaster shall be provided with \$___ per month for his personal mobile phone service. Should the total of Harbormaster's mobile phone expense exceed \$100.00 per month, Harbormaster shall be personally responsible for the amount of his monthly mobile phone bill in excess of \$_____.

3.6 Benefits

In addition, and except as otherwise specified herein, Harbormaster shall receive all such other benefits and compensation that are generally applicable to Employees of the District as of the date of this Agreement, as the same may be modified from time to time after the date of this Agreement, including but not limited to CalPERS retirement benefits, long term disability insurance, holidays, vacation, bereavement and family illness leave. In the event the Harbormaster's employment is terminated, either voluntarily or involuntarily, the Harbormaster shall be compensated for all accrued vacation time, all paid holidays, and all other benefits to the termination date, except for any accrued sick leave as it has no cash value.

3.7 Sick Leave Bank

Employee shall accrue sick leave at the maximum level allowed for Employees under the District's personnel policies. The maximum number of sick leave hours the Harbormaster may accrue is _____ (_____) hours. Any unused sick days in this bank, at the date of termination of employment under this Agreement, shall be forfeited to the District or may be converted for additional service credit for CalPERS retirement purposes should the Harbormaster retire directly from the District.

3.8 Vacation Bank

Harbormaster shall accrue vacation at the maximum level allowed for Employees under the District's personnel policies. Maximum accrual and cash out provisions shall be in accordance with those provided for Employees.

4. Performance Evaluation.

The Board shall review the Harbormaster's job performance at least once annually. The Harbormaster shall remind the Board of its obligations under this Section each year and shall work with the Board in finding an appropriate time to place his annual evaluation on the agenda. The Board shall in writing and in accordance with criteria established by the Board in consultation with the Harbormaster, develop the annual performance reviews and evaluations. The Board shall provide the Harbormaster a reasonable and adequate opportunity to discuss the Harbormaster's evaluation with the Board.

The annual performance reviews and evaluations shall be reasonably related to the Harbormaster's written job description and shall be based, in whole or in part, on goals for the Harbormaster's performance that are jointly developed and adopted by the Board and the Harbormaster.

5. Bonds.

District shall bear the full cost of any fidelity or other bonds required of Harbormaster under any law or ordinance.

6. General Business Expenses.

6.1 Contingent on Board approval, the District agrees to budget and pay for professional dues and subscriptions for Harbormaster necessary for his continuation and participation in national, regional, state and local boards, task-forces, conferences and meetings, associations and organizations desirable for Harbormaster's continued participation, professional growth, and advancement, and for the benefit of the District. At a minimum, such professional dues shall include participation in the California Association of Harbor Masters and Port Captains.

6.2 District agrees to budget and pay for travel and subsistence expenses of Harbormaster for professional and official travel, board and task-force meetings, conferences, and occasions to adequately continue the professional development of Harbormaster and to pursue necessary official functions for District.

6.3 District recognizes that the Harbormaster may incur expenses of a non-personal, job-related nature that are reasonably necessary to the Harbormaster's service to the District. The District agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted in accordance with the District's normal expenditure reimbursement procedures. To be eligible for reimbursement, all expenses must be supported by documentation meeting the District's normal requirements and must be submitted within time limits established by the District.

6.4 Notwithstanding the above, to the degree the District must make budget reductions, appropriate reductions in General Business Expenses

commensurate with reductions in other Districtwide accounts may be made at the sole discretion of the Board.

7. Abuse of Office or Position.

Pursuant to Government Code Sections 53243, 53243.1 and 53243.2, if Harbormaster is convicted of a crime involving an abuse of his office or position, all of the following shall apply: (1) if Harbormaster is provided with administrative leave pay pending an investigation, Harbormaster shall be required to fully reimburse District such amounts paid; (2) if District pays for the criminal legal defense of Harbormaster (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Harbormaster shall be required to fully reimburse District such amounts paid; and (3) if this Agreement is terminated, any Severance Pay and Severance Benefits related to the termination that Harbormaster may receive from District shall be fully reimbursed to District or void if not yet paid to Harbormaster. For purposes of this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (2) a crime against public justice, including, but not limited to, a crime described in Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

8. Notices.

Any notice required or permitted by this Agreement shall be in writing and shall be personally served upon the other Party, or sent by United States Postal Service, postage prepaid and addressed to the appropriate Party as follow:

If to District:	Crescent City Harbor District Attention: Board of Harbor Commissioners 101 Citizens Dock Road Crescent City, CA 95531
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If to Harbormaster:	Timothy Brooks Petrick Harbormaster
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Notice shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

9. Termination.

9.1 At-Will Employee

Harbormaster shall serve at the will and pleasure of the Board. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Board to suspend from duty, remove from office or otherwise terminate the services of

Harbormaster at any time, at the sole discretion of the Board. This Agreement may be terminated as follows.

9.2 Termination – Board Vote

The Board may remove the Harbormaster with or without cause, by motion adopted by the affirmative votes of a majority of the members of the Board. Pursuant to the provisions of Government Code Section 53260, if this agreement is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract up to a maximum of 18 months. Nothing in this section requires or obligates the payment of any severance.

9.3 Resignation

Harbormaster may voluntarily resign his position as Harbormaster, after giving District at least thirty (30) days written notice prior to the effective date of such resignation, unless such notice is waived in whole or part by the Board.

9.4 Death

If, during the Term or any extended Term, the Harbormaster dies, the Harbormaster's estate shall receive Accrued Salary and Benefits, but shall not be entitled to any additional compensation or payment.

9.5 Disability

In the event the Harbormaster is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, or mental incapacity for a period of six (6) consecutive months, the District may terminate the Harbormaster's employment and this Agreement.

9.6 Non-Renewal

In the event the District provides notice of non-renewal under Section 2 of this Agreement, Board may elect at any time thereafter to terminate this Agreement.

9.7 For Cause Termination

The Board may remove the Harbormaster For Cause at any time without prior notice by motion adopted by the affirmative votes of a majority of the Board. "For Cause" for purposes of this Agreement shall mean any of the following:

- (a) Conviction of, or plea of guilty or *nolo contendere* to, any crime or offense (other than minor traffic violations or similar offenses) which is likely to have a material adverse impact on the District or on the Harbormaster's reputation;

(b) Gross misconduct which is likely to have a material adverse impact on the District or on the Harbormaster's reputation;

(c) Proven failure of the Harbormaster to observe or perform any of his duties and obligations, if that failure continues for a period of thirty (30) days from the date of his receipt of notice from the Board specifying the acts or omissions deemed to amount to that failure; or

(d) Any other action or inaction by the Harbormaster that materially and substantially impedes or disrupts the performance of the District and its organizational component units, is detrimental to employee or public safety, violates properly established rules or procedures, or adversely affects the reputation of the District, its officers, or its employees.

10. Other Terms and Conditions of Employment.

The District, only upon agreement with Harbormaster, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Harbormaster, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the District Code, or any other law, ordinance or District Resolution.

Except as otherwise provided in this Agreement, Harbormaster shall be entitled to the highest level of benefits that are enjoyed by other Employees of the District as provided in the District Code, Personnel Rules and regulations, or by practice.

11. Communications in the Event of Termination.

In the event the District terminates Harbormaster for any reason or no reason, the District and Harbormaster agree that no member of the Board or employees directly employed by the Board shall make any written, oral, or electronic statement to any member of the public, the press, or any District employee concerning the Harbormaster's termination except in the form of a joint press release or statement, which is mutually agreeable to the District and the Harbormaster. The joint press release or statement shall not contain any text or information that is disparaging to either Party. Either Party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

12. Indemnification.

12.1 District shall defend, hold harmless and indemnify Harbormaster against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring in the performance of Harbormaster's duties or resulting from the exercise of his judgment or discretion in connection with the performance of his duties, unless the act or omission involved unlawful conduct. District shall not unreasonably refuse to provide for legal representation at District's expense. Legal representation, provided by District for

Harbormaster, shall extend until a final determination of the legal action including any and all losses, damages, judgment, interests, settlements, fines, court costs, and the reasonable costs and expenses of legal proceedings, including appeals, and including attorneys' fees, and expert witness fees and all other trial and appellate costs, and other liabilities incurred, imposed upon, or suffered by Harbormaster in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of Harbormaster's duties under this Agreement.

12.2 District agrees to pay all reasonable litigation expenses of Harbormaster throughout pendency of any District-related litigation to which Harbormaster is a party, witness or advisor to the District. Such expense payments shall continue beyond Harbormaster's employment with the District as long as litigation is pending. Post-employment, District agrees to pay Harbormaster for reasonable consulting fees, travel expenses and other costs, when Harbormaster serves as a witness, advisor or consultant to District regarding pending litigation.

13. General Provisions.

13.1 This writing constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior oral or written representations or written agreements on the subject matter hereof, which may have been entered into between the Parties.

13.2 No modification or revision to this Agreement shall be of any force or effect, unless the same is in writing and executed by the Parties hereto.

13.3 Each Party agrees and acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not embodied herein and that any agreement, statement, or promise not contained in this Agreement shall not be valid or binding on either Party.

13.4 If any provision, or portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

13.5 Neither this Agreement, nor any right, privilege or obligation of Harbormaster herein shall be assigned or transferred by him without the prior written consent of the Board. Any attempt at assignment or transfer in violation of this provision shall, at the option of the Board, be null and void and may be considered a material breach of this Agreement.

13.6 This Agreement shall be governed by and construed in accordance with the law of the State of California. Venue shall be in Del Norte County.

13.7 This Agreement shall be construed as a whole, according to its fair meaning, and not in favor or against any Party. By way of example and not in limitation,

this Agreement shall not be construed in favor of the Party receiving a benefit or against the Party responsible for any particular language in this Agreement.

13.8 Harbormaster acknowledges that he has had an opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

13.9 In any dispute arising out of this Agreement, the prevailing party shall recover its reasonable attorneys' fees and costs.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Harbormaster Employment Agreement on the _____ day of July, 2021.

EMPLOYEE/HARBORMASTER

Timothy Brooks Petrick, Harbormaster

CRESCENT CITY HARBOR DISTRICT

Brian Stone, President

ATTEST:

District Clerk

APPROVED AS TO FORM:

Ruben Duran, General Counsel