

CRESCENT CITY HARBOR DISTRICT
SHORT FORM CONSTRUCTION CONTRACT
'B' DOCK RESTROOM

This Contract ("Contract") is made and entered into this ___ day of _____, 2022, by and between the Crescent City District Harbor District, a special district organized pursuant to the California Harbors and Navigation Code ("District") and [], a [specify type of entity] ("Contractor"). District and Contractor are sometimes referred to in this Contract individually as a "Party" and collectively as the "Parties."

RECITALS

A. District is in need of the construction of a restroom on 'B' Dock as provided in the floor plan attached hereto as [Exhibit 'C'](#) and hereby made a part of this Contract ("Project").

B. Contractor is duly licensed and/or has the necessary qualifications to provide such services for the Project.

C. The Parties desire to establish the terms for the District to retain the Contractor in order to complete the Project.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Scope of Work

- a. Contractor promises and agrees to furnish to the District all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately complete the Project, including all structures and facilities necessary for the Project or described in the Contract (hereinafter sometimes referred to as the "Work"), for a Total Contract Price as specified pursuant to this Contract. All Work shall be subject to, and performed in accordance with the referenced documents, as well as the exhibits attached hereto and incorporated herein by reference. The plans and specifications for the Work are further described in [Exhibit 'A'](#) attached hereto and incorporated herein by this reference.
- b. Change in Scope of Work. Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition or deletion is approved in advance and in writing by a valid change order executed by the District.

2. Compensation

- a. Subject to paragraphs 2(b) - (d) below, District shall pay for the Project provided by Contractor in accordance with the Schedule of Charges set forth in [Exhibit 'B'](#) attached hereto and hereby made a part of this Contract; provided, however that the contents of this Contract shall supersede any provision in [Exhibit 'B'](#) that is inconsistent herewith.
- b. In no event shall the total amount paid for the Project rendered by Contractor pursuant to this Contract exceed the sum of [amount] (\$[numeric amount]). This Contract is subject to and contingent on budgetary appropriations being approved by the District's Board of Harbor Commissioners for each fiscal year during the term of this Contract. If such appropriations are not approved, the Contract will be immediately terminated without penalty to the District.
- c. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by District, District will use its best efforts to cause Contractor to be paid within thirty (30) days of receipt of Contractor's invoice; provided however, that untimely invoices may be subject to nonpayment if funding has not been appropriated or budgeted for payment of the invoice due to Contractor's untimely submission. Payment to Contractor for work performed pursuant to this Contract shall not be deemed to waive any defects in the work performed by Contractor.

3. Period of Performance and Liquidated Damages

Contractor shall perform and complete all Work under this Contract within 90 calendar days, beginning the effective date of the Notice to Proceed ("Contract Time"). Contractor shall perform its Work in strict accordance with any completion schedule, construction schedule or project milestones developed by District. Such schedules or milestones may be included as part of Exhibit "A" attached hereto, or may be provided separately in writing to the Contractor. Contractor agrees that if such Work is not completed within the aforementioned Contract Time and/or pursuant to any such completion schedule, construction schedule or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged and agreed that District will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to District as fixed and liquidated damages the sum of One Hundred Dollars (\$100) per day for each and every calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule or Project milestones established pursuant to the Contract.

4. Payment to Subcontractors

Contractor shall pay all subcontractors for and on account of work performed by such subcontractors in accordance with the terms of their respective

subcontracts and as provided for in Section 7108.5 of the California Business and Professions Code. Such payments to subcontractors shall be based on the measurements and estimates made and progress payments provided to Contractor pursuant to this Contract.

5. Standard of Performance.

Contractor shall perform all Work under this Contract in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work, and that such licenses and approvals shall be maintained throughout the term of this Contract. As provided for in the indemnification provisions of this Contract, Contractor shall perform, at its own cost and expense and without reimbursement from District, any work necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor who is determined by District to be uncooperative, incompetent, a threat to the safety of persons or the Work, or any employee who fails or refuses to perform the Work in a manner acceptable to District, shall be promptly removed from the Project by the Contractor and shall not be re-employed on the Work.

6. Maintenance of Records

Books, documents, papers, accounting records, and other evidence pertaining to work done and costs incurred pursuant to this Contract shall be maintained by Contractor and made available for inspection, audit and copying by the District at all reasonable times during the term of this Contract and for four (4) years from the date of final payment under the Contract.

7. Conflict of Interest

Contractor hereby expressly covenants that no interest presently exists, nor shall any interest, direct or indirect, be acquired during the term of this Contract that would conflict in any manner with the performance of services pursuant to this Contract.

8. Delays in Performance

Neither the District nor Contractor shall be considered in default of this Contract for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Contract, such

circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; pandemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Contract.

9. Compliance with Law

- a. Contractor shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government. If Contractor's failure to comply with applicable laws, ordinances, codes and regulations results in a claim for damage or liability to District, Contractor shall be responsible for indemnifying and holding the District harmless as provided in this Contract.
- b. Contractor shall assist the District, as requested, in obtaining and maintaining all permits, if any, required of Contractor by federal, state and local regulatory agencies.

10. Assignment and SubContractors

Contractor shall not assign, delegate, sublet, or transfer this Contract or any rights under or interest in this Contract without the written consent of the District, which may be withheld for any reason. A consent to one assignment shall not be deemed to be consent to any subsequent assignment. Nothing contained herein shall prevent Contractor from employing independent associates and subContractors as Contractor may deem appropriate to assist in the performance of services hereunder.

11. Independent Contractor

Contractor is retained as an independent Contractor and is not an agent or employee of the District. No employee or agent of Contractor shall by this Contract become an agent or employee of the District. The work to be performed shall be in accordance with the work described in [Exhibit 'A'](#), subject to such directions and amendments from the District as herein provided. Contractor shall have no authority, express or implied, pursuant to this Contract to bind District to any obligation whatsoever.

Contractor enters into this Contract as, and shall continue to be, an independent Contractor. All services shall be performed only by Contractor and Contractor's employees, if applicable. Under no circumstances shall Contractor, or any of Contractor's employees, look to the District as his or her employer, or as a partner, agent or principal. Neither Contractor, nor any of Contractor's

employees, shall be entitled to any benefits accorded to District employees, including without limitation worker's compensation, disability insurance, vacation or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in Contractor's name, unemployment, disability, worker's compensation and other insurance, as well as licenses and permits usual or necessary for conducting the services.

12. Integration

This Contract represents the entire understanding of the District and Contractor as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. To the extent that any provision or clause contained in an attachment to this Contract conflicts with a provision or clause in the Contract, the provision or clause in this Contract shall control. This Contract may not be modified or altered except in writing signed by both parties hereto. This is an integrated Contract.

13. Insurance

a. Commercial General Liability

- (i) The Contractor shall take out and maintain, during the performance of all work under this Contract, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the District.
- (ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:
 - (1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001)
- (iii) Commercial General Liability Insurance must include coverage for the following:
 - (1) Bodily Injury (including death) and Property Damage
 - (2) Personal Injury/Advertising Injury
 - (3) Premises/Operations Liability
 - (4) Products/Completed Operations Liability
 - (5) Aggregate Limits that Apply per Project
 - (6) Contractual Liability with respect to this Contract

- (7) Broad Form Property Damage
 - (8) Independent Contractors Coverage
 - (9) Sexual Misconduct Coverage, with no applicable sublimit
- (iv) All such policies shall name the Crescent City Harbor District, its Board of Harbor Commissioners and each member thereof, its officers, employees, and agents as Additional Insureds under the policy.
 - (v) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the District. All deductibles and self-insured retentions must be declared to the District prior to commencing work under this Contract.

b. Workers' Compensation/Employer's Liability

- (i) At all times during the performance of the work under this Contract the Contractor shall maintain Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage in amounts indicated herein.
- (ii) Such insurance shall include an insurer's Waiver of Subrogation in favor of the District and will be in a form and with insurance companies acceptable to the District.
- (iii) If insurance is maintained, the workers' compensation and employer's liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the District.
- (iv) Before beginning work, the Contractor shall furnish to the District satisfactory proof that he/she has taken out for the period covered by the work under this Contract, full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Contract, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof. Contractor shall require all subContractors to obtain and maintain, for the period covered by the work under this Contract, worker's compensation of the same type and limits as specified in this Section.

c. Minimum Policy Limits Required

- (i) The following insurance limits are required for the Contract:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/\$2,000,000 aggregate for bodily injury (including death), personal injury and property damage
Employer's Liability	\$1,000,000 per accident for bodily injury or disease

If Contractor maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

d. Evidence of Insurance Required

- (i) Prior to execution of the Contract, the Contractor shall file with the District evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 2010 (or insurer's equivalent) signed by the insurer's representative, Certificate of Insurance (most recent version of Acord 25 Form or equivalent), and Additional Insured Endorsement verifying compliance with the requirements. All evidence of insurance shall be signed by a properly authorized officer, agent or qualified representative of the insurer and shall certify the names of the insured, any additional primary insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

e. Policy Provisions Required

- (i) The Crescent City Harbor District, its Board of Harbor Commissioners and each member thereof, its officers, employees, and agents shall be named as an additional insured on the Commercial General Liability policy, and, if the Project involves environmental hazards, on the Pollution/Asbestos Liability policy using form 2010 1185 or equivalent. Any subContractor, subContractor or similar entity performing work on the Project must add the District as an additional insured using CG form 20 38, or broader coverage. Blanket endorsements may be accepted at District's discretion. All policies shall contain or shall be endorsed to contain a provision that advanced written notice of any cancellation, including cancellation for non-payment of premium, shall be provided to the District. Statements that the carrier "will endeavor" and "that failure to mail such notice shall impose no obligation and liability upon the company, its agents or

representatives," will not be acceptable on endorsements. At the District's sole discretion, the requirement to endorse policies to provide advanced written notice of cancellation to the District may be waived upon the Contractor's Contract that it shall provide the District with copies of any notices of cancellation immediately upon receipt.

- (ii) General Liability, Automobile Liability, and if required, Pollution Liability insurance policies shall contain a provision stating that the Contractor's policies are primary insurance and that the insurance of the District or any named additional insureds shall not be called upon to contribute to any loss.

f. Qualifying Insurers

- (i) All policies required shall be issued by acceptable insurance companies, as determined by the District, which satisfy the following minimum requirements:

Insurance carriers shall be qualified to do business in California and maintain an agent for process within the State. Such insurance carrier shall have not less than an 'A' policyholder's rating and a financial rating of not less than "Class VII" according to the latest Best Key Rating Guide. Due to market fluctuations in the Workers Compensation sector, the District reserves the right and at its sole discretion to review and accept the Contractor's proposed Workers compensation insurance.

g. Additional Insurance Provisions

- (i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by the District, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Contract, including but not limited to, the provisions concerning indemnification.
- (ii) If at any time during the life of the Contract, the Contractor fails to maintain in full force any insurance required by the Contract documents the District may terminate the Contract or may elect to withhold compensation in an amount sufficient to purchase insurance to replace any expired or insufficient coverage.
- (iii) The Contractor shall include all subContractors as insureds under its policies or shall furnish separate certificates and endorsements for each subContractor. All coverage for subContractors shall be subject to all of the requirements stated herein.

- (iv) The District may require the Contractor to provide complete copies of all insurance policies in effect for the duration of the Project.
- (v) Neither the District, nor its District Board, nor any member of thereof, nor any of the directors, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of the Contract.

14. Indemnification

To the fullest extent permitted by law, Contractor agrees to indemnify, defend (with independent counsel approved by the District) and hold harmless the Crescent City Harbor District and its officers, employees and elected and appointed officials, and volunteers (each, an "Indemnified Party") from and against any and all liabilities (including without limitation all claims, losses, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys' fees, court costs and costs of alternative dispute resolution) regardless of nature or type, expressly including but not limited to those arising from bodily injury (including death) or property damage, arising out of or resulting from any act or omission to act of the Contractor, Contractor's agents, officers, employees, subcontractors, or independent Contractors hired by Contractor under this Contract. The Contractor's obligations apply regardless of whether or not a liability is caused or contributed to by the negligence (including passive negligence) or other act or omission of an Indemnified Party. The acceptance or approval of the Contractor's work by an Indemnified Party shall not relieve or reduce the Contractor's indemnification obligation. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the District, its officials, officers, agents, employees or representatives. The provisions of this Section shall survive completion of the work under this Contract or the termination of this Contract and are not limited by the provisions relating to insurance.

15. Warranty

Contractor warrants all Work under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the District of any defect in the Work or non-conformance of the Work to the Contract, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the District in

response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as the District may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the District, regardless of whether or not such warranties and guarantees have been transferred or assigned to the District by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the District. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of the District, the District shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the District for any expenses incurred hereunder upon demand.

16. Permits and Licenses

Contractor shall be responsible for securing any permits and licenses necessary to perform the Work described herein.

17. Laws, Venue, and Attorneys' Fees

This Contract shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Contract, the action shall be brought in a state situated in the County of Del Norte, State of California or if in federal court, the U.S. District Court for the Northern District of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, as determined by the court.

18. Termination or Abandonment

This Contract may be terminated by the District at any time by giving Contractor three (3) days advance written notice. In the event of termination by the District for any reason other than the fault of Contractor, the District shall pay Contractor for all Work performed up to that time as provided herein. In the event of breach of the Contract by Contractor, the District may terminate the Contract

immediately without notice, may reduce payment to the Contractor in the amount necessary to offset the District's resulting damages, and may pursue any other available recourse against Contractor. Contractor may not terminate this Contract except for cause.

In the event this Contract is terminated in whole or in part as provided, the District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated. Further, if this Contract is terminated as provided, the District may require Contractor to provide all finished or unfinished documents, data, diagrams, drawings, materials or other matter prepared or built by Contractor in connection with its performance of this Contract.

19. Completion of Work

When the Contractor determines that it has completed the Work required herein, Contractor shall so notify the District in writing and shall furnish all labor and material releases required by this Contract. The District shall thereupon inspect the Work. If the Work is not acceptable to the District, the District shall indicate to Contractor in writing the specific portions or items of Work which are unsatisfactory or incomplete. Once Contractor determines that it has completed the incomplete or unsatisfactory Work, Contractor may request a re-inspection by the District. Once the Work is acceptable to the District, the District shall pay to Contractor the Total Contract Price remaining to be paid, less any amount which the District may be authorized or directed by law to retain. Payment of retention proceeds due to Contractor shall be made in accordance with Section 7107 of the California Public Contract Code.

20. Contractor's Representative

Before starting the Work, Contractor shall submit in writing the name, qualifications and experience of its proposed representative who shall be subject to the review and approval of the District ("Contractor's Representative"). Following approval by the District, the Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Contract. The Contractor's Representative shall supervise and direct the Work, using his or her best skill and attention, and shall be responsible for all construction means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Contract. Contractor's Representative shall devote full time to the Project and either he or she (or designee), who shall be acceptable to the District, shall be present at the Work site at all times that any Work is in progress and at any time that any employee or subcontractor of Contractor is present at the Work site. Arrangements for responsible supervision, acceptable to the District, shall be made for emergency Work which may be required. Should Contractor desire to

change its Contractor's Representative, Contractor shall provide the information specified above and obtain the District's written approval.

21. Notice

Any notice or instrument required to be given or delivered by this Contract may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed as shown below and shall be effective upon receipt thereof.

DISTRICT
Name: Tim Petrick
Title: Harbormaster
Crescent City Harbor District
101 Citizens Dock Road
Crescent City, CA 95531

CONTRACTOR:
Attn:
Title:

22. Third Party Rights

Nothing in this Contract shall be construed to give any rights or benefits to anyone other than the District and the Contractor.

23. Severability and Waiver

The unenforceability, invalidity or illegality of any provision(s) of this Contract shall not render the other provisions unenforceable, invalid or illegal. Waiver by any party of any portion of this Contract shall not constitute a waiver of any other portion thereof.

24. Non-discrimination

Contractor will comply with all applicable federal, state and local laws, ordinances, and regulations, including the Americans with Disabilities Act (ADA), California Fair Employment and Housing Act (FEHA) and Title VII of the Civil Rights Act of 1964. Contractor will not discriminate in any way, against any person, on the ground of race, color, national origin, religion, religious creed, age (over 40), sex and gender (including pregnancy, childbirth, breastfeeding or related medical conditions), sexual orientation, gender identity, gender expression, disability (mental and physical), medical condition, genetic information, marital status, or military and veteran status, in connection with services under this Contract.

[Signatures on the following page]

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first written above.

CRESCENT CITY HARBOR
DISTRICT:

[Contractor Name]

By: _____
Tim Petrick
Harbormaster/CEO

By: _____
[Name]
[Title]

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____
Ruben Duran
District General Counsel

EXHIBIT 'A'
PROJECT CONSTRUCTION PROPOSAL

EXHIBIT 'B'
SCHEDULE OF CHARGES

EXHIBIT 'C'
FLOOR PLAN

EXHIBIT 'D'

**CERTIFICATION
LABOR CODE – SECTION 1861**

I, the undersigned Contractor, am aware of the provisions of Section 3700, et seq., of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work on this Contract.

[Contractor Name]

By:

[Name]
[Title]