

# Board of Harbor Commissioners

## Crescent City Harbor District

4 January 2022

Regular Harbor Commission Meeting



# Regular Meeting

## Board of Harbor Commissioners of the Crescent City Harbor District

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

### AGENDA

**Date:**      **Tuesday, January 4, 2022**

**Time:**      **Open Session 2:00 p.m.**

**Place:**      **101 Citizens Dock, Crescent City, CA, and via Zoom Webinar, and  
Remote Teleconference Location: Aston at Papakea Resort,  
3543 Lower Honoapiilani Road, Lahaina, Hawaii**

Link:                      <https://us02web.zoom.us/j/81450722974?pwd=VWcwWUFxRnZuWUNVMIA0ODBmcXNNdz09>

Passcode:              259248

## **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**

*Consent Calendar items are considered routine and will be approved by one Motion, with no separate discussion prior to voting. The public, staff, or members of the Harbor Commission may request specific items be removed from the Consent Agenda for separate consideration or action.*

- a. Approval of Warrant List from December 17, 2021 through December 30, 2021.**

## **2. New Business**

- a. Review and Discuss Ordinance Amendment to conduct a single monthly Board meeting.**
- b. Review and vote to approve increasing funding for the Del Norte County Visitors Bureau.**
- c. Review and vote to approve Fiscal Year 2019/2020 Audit.**
- d. Update from Financial Ad Hoc, Commissioners White and Weber.**
- e. Solar Update and SLA Payment Agreement.**
- f. Approve Resolution No. 2022-001 Authorizing The CEO & Harbormaster To Execute A Ground Lease With Renewable Energy Capital, LLC For The Development Of The Bayside RV Park And Determining that the Project Is Categorically Exempt From CEQA.**

## **3. Unfinished Business**

- a. Review Letter to the Regional Water Board.**
- b. Review and discuss modernization of the Harbor District's vehicle fleet.**
- c. COVID Grant Award Update.**
- d. Dredge Permit Update.**

#### **4. Communications and Reports**

- a. Financial Reports: Account Balances**
- b. CEO/Harbormaster Report**
- c. Harbor Commissioner Reports**

#### **5. Adjournment**

*Adjournment of the Board of Harbor Commissioners will be until the next meeting scheduled for Tuesday, January 4, 2022, 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**

*All items on this list are considered and acted on in one Motion. Anyone may request an item be removed from the Consent Agenda for separate consideration.*

- a. Approval of Warrant List from December 17, 2021 through December 30, 2021.**

***Public Comment?***

**Crescent City Harbor District**  
**Check Detail**  
December 17 - 30, 2021

Type	Num	Date	Name	Item	Account	Original Amount
Check	1377	12/21/2021	KENNETH BRUCE DWELLEY	PAYMENT FOR BAYSIDE	1047 · BAYSIDE- RV PARK-1766	-4,190.50
Check	1378	12/21/2021	ROBERT J. FRAZIER	PAYMENT FOR BAYSIDE	1047 · BAYSIDE- RV PARK-1766	-4,190.50
Bill Pmt -Check	1380	12/30/2021	CCWATER	BAYSIDE WATER USAGE	1047 · BAYSIDE- RV PARK-1766	-1,345.69
Bill Pmt -Check	1381	12/30/2021	CRESCENT ACE HARDWARE	GROUNDSKEEPING SUPPLIES	1047 · BAYSIDE- RV PARK-1766	-52.07
Bill Pmt -Check	1382	12/30/2021	RECOLOGY DN	BAYSIDE GARBAGE SERVICE	1047 · BAYSIDE- RV PARK-1766	-2,299.28
Bill Pmt -Check	1383	12/30/2021	SUBURBAN PROPANE	BAYSIDE PROPANE	1047 · BAYSIDE- RV PARK-1766	-509.77
Bill Pmt -Check	2088	12/30/2021	CCWATER	RHV WATER USAGE	1045 · REDWOOD HARBOR VILLAGE 0707	-1,223.70
Bill Pmt -Check	2089	12/30/2021	RECOLOGY DN	RHV GARBAGE SERVICE	1045 · REDWOOD HARBOR VILLAGE 0707	-2,583.48
Bill Pmt -Check	2090	12/30/2021	SUBURBAN PROPANE	RHV PROPANE USAGE	1045 · REDWOOD HARBOR VILLAGE 0707	-340.16
Bill Pmt -Check	2091	12/30/2021	CRESCENT ACE HARDWARE	OFFICE HEATER/MAINT. SUPPLIES	1045 · REDWOOD HARBOR VILLAGE 0707	-130.31
Bill Pmt -Check	6234	12/21/2021	ACCOUNTEMPS	FINANCIAL ADVISOR	1040 · CCHD US BANK OPERATING 4766	-8,422.19
Bill Pmt -Check	6235	12/21/2021	ALLEGIANCE-CIT DOCK	INSURANCE	1040 · CCHD US BANK OPERATING 4766	-7,135.76
Bill Pmt -Check	6236	12/21/2021	BEST BEST & KRIEGER, LLP	ATTORNEY FEES	1040 · CCHD US BANK OPERATING 4766	-22,395.60
Bill Pmt -Check	6237	12/21/2021	STREAMLINE	STREAMING SERVICE FOR WEBSITE	1040 · CCHD US BANK OPERATING 4766	-400.00
Bill Pmt -Check	6239	12/30/2021	C RENNER PETROLEUM INC	MACHINE & EQUIPMENT FUEL	1040 · CCHD US BANK OPERATING 4766	-111.80
Bill Pmt -Check	6240	12/30/2021	CRESCENT ACE HARDWARE	DISPOSABLE GLOVES FOR MAINT.	1040 · CCHD US BANK OPERATING 4766	-78.09
Bill Pmt -Check	6241	12/30/2021	HI-TECH SECURITY	ANNUAL ACCESS CONTROL FEE	1040 · CCHD US BANK OPERATING 4766	-270.00

**Crescent City Harbor District**  
**Check Detail**  
December 17 - 30, 2021

Bill Pmt -Check	6242	12/30/2021	ACCURATE TERMITE & PEST	ANNUAL MONITORING SERVICE	1040 · CCHD US BANK OPERATING 4766	-825.00
Bill Pmt -Check	6243	12/30/2021	CCWATER	CCHD WATER USAGE	1040 · CCHD US BANK OPERATING 4766	-3,316.33
Bill Pmt -Check	6244	12/30/2021	CRESCENT ELECTRIC	REPAIR TO B-21 & LIGHT POLE	1040 · CCHD US BANK OPERATING 4766	-494.06
Bill Pmt -Check	6245	12/30/2021	MENDES SUPPLY CO	CCHD JANITORIAL SUPPLIES	1040 · CCHD US BANK OPERATING 4766	-75.57
Bill Pmt -Check	6246	12/30/2021	O'REILLY AUTO PARTS	PARTS FOR NISSAN	1040 · CCHD US BANK OPERATING 4766	-28.30
Bill Pmt -Check	6247	12/30/2021	PACIFIC POWER	CCHD POWER USAGE	1040 · CCHD US BANK OPERATING 4766	-7,084.80
Bill Pmt -Check	6248	12/30/2021	RECOLOGY DN	CCHD GARBAGE SERVICE	1040 · CCHD US BANK OPERATING 4766	-8,243.85
Bill Pmt -Check	6249	12/30/2021	THERMO FLUIDS INC	WASTE OIL DISPOSAL	1040 · CCHD US BANK OPERATING 4766	-312.20
Bill Pmt -Check	6250	12/30/2021	US CELLULAR	CELL PHONE SERVICE	1040 · CCHD US BANK OPERATING 4766	-218.15
Bill Pmt -Check	6251	12/30/2021	XEROX	COPIER RENTAL & FEES	1040 · CCHD US BANK OPERATING 4766	-389.93
					TOTAL	-76,667.09





## **2. New Business**

- a. Review and Discuss Ordinance Amendment to conduct a single monthly Board meeting.**

***Public Comment?***



## **2. New Business**

- b. Review and vote to approve increasing funding for the Del Norte County Visitors Bureau.**

***Public Comment?***



# A YEAR IN REVIEW

# WHERE NATURE OUTNUMBERS PEOPLE

FY20-21 HIGHLIGHTS July 1, 2020 - June 30, 2021  
DEL NORTE COUNTY TOURISM MARKETING REPORT





# DEL NORTE COUNTY ROOM TAX REPORT

*Harbor District Tax Collections Not Included*

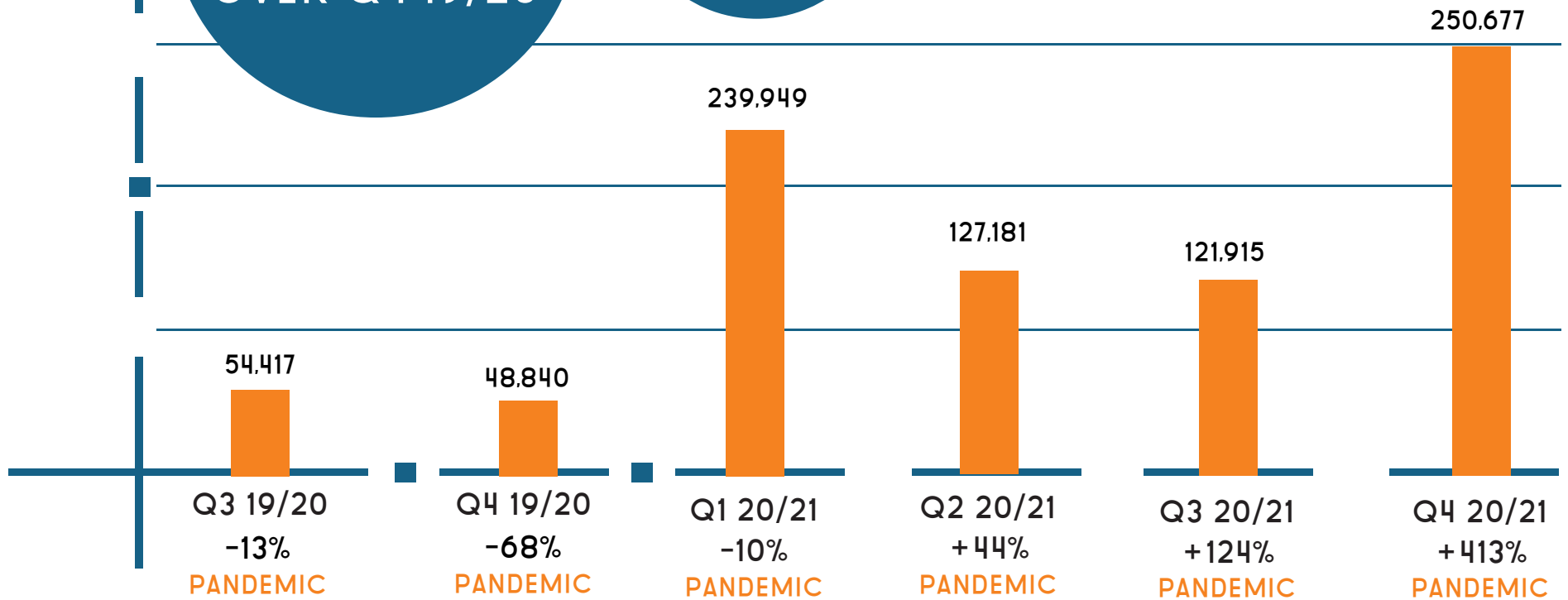
**THE COUNTY INCREASED  
OUR FUNDING BY \$30K  
FOR FY21-22**

**+413%\*  
INCREASE**

**OVER Q4 19/20**

**+63%\*  
INCREASE**

**OVER Q4 18/19**



# WEBSITE VISITS

A photograph of a herd of elk in a grassy field. Two dark blue text boxes are overlaid on the image, containing performance metrics. The top box shows '217K PAGEVIEWS (+157%)' and the bottom box shows '3.7M ORGANIC SEARCH IMPRESSIONS (+73%)'. The elk are in various poses, some facing away and some towards the camera.

**217K  
PAGEVIEWS  
(+157%)**

**3.7M  
ORGANIC SEARCH  
IMPRESSIONS  
(+73%)**

Our Google Search impressions increased +73% (2,114,746 to 3,651,690) from the previous year and click thrus increased by +64% (40,133 to 65,943)

# WEBSITE TRAFFIC IN PAGEVIEWS

**WE'RE SEEING HUGE  
GROWTH IN  
WEBSITE TRAFFIC**

FY20/21

FY21/22\*

FY19/20

FY18/19

**+157%**

**+901%**

**+104%**

216,661

84,325

156,587

8,421

WEBSITE  
LAUNCHED  
APRIL 1, 2019

THROUGH  
DEC 29, 2021





# SOCIAL MEDIA MARKETING



**2 MILLION+  
IMPRESSIONS  
PAID & ORGANIC  
(+94%)**

**69K+  
ENGAGEMENTS  
(+82%)**

Paid Facebook/Instagram ad campaign reached 909,372 people and had over 1.8 MILLION total impressions with 23,486 clicks



# PUBLIC RELATIONS

A group of kayakers is seen from behind, paddling on a calm blue sea. They are wearing blue jackets and using yellow paddles. In the background, there are large, rugged rock formations under a bright blue sky with scattered white clouds. The overall scene is serene and scenic.

**OVER 26  
PRESS FEATURES,  
MENTIONS, AND ARTICLES**



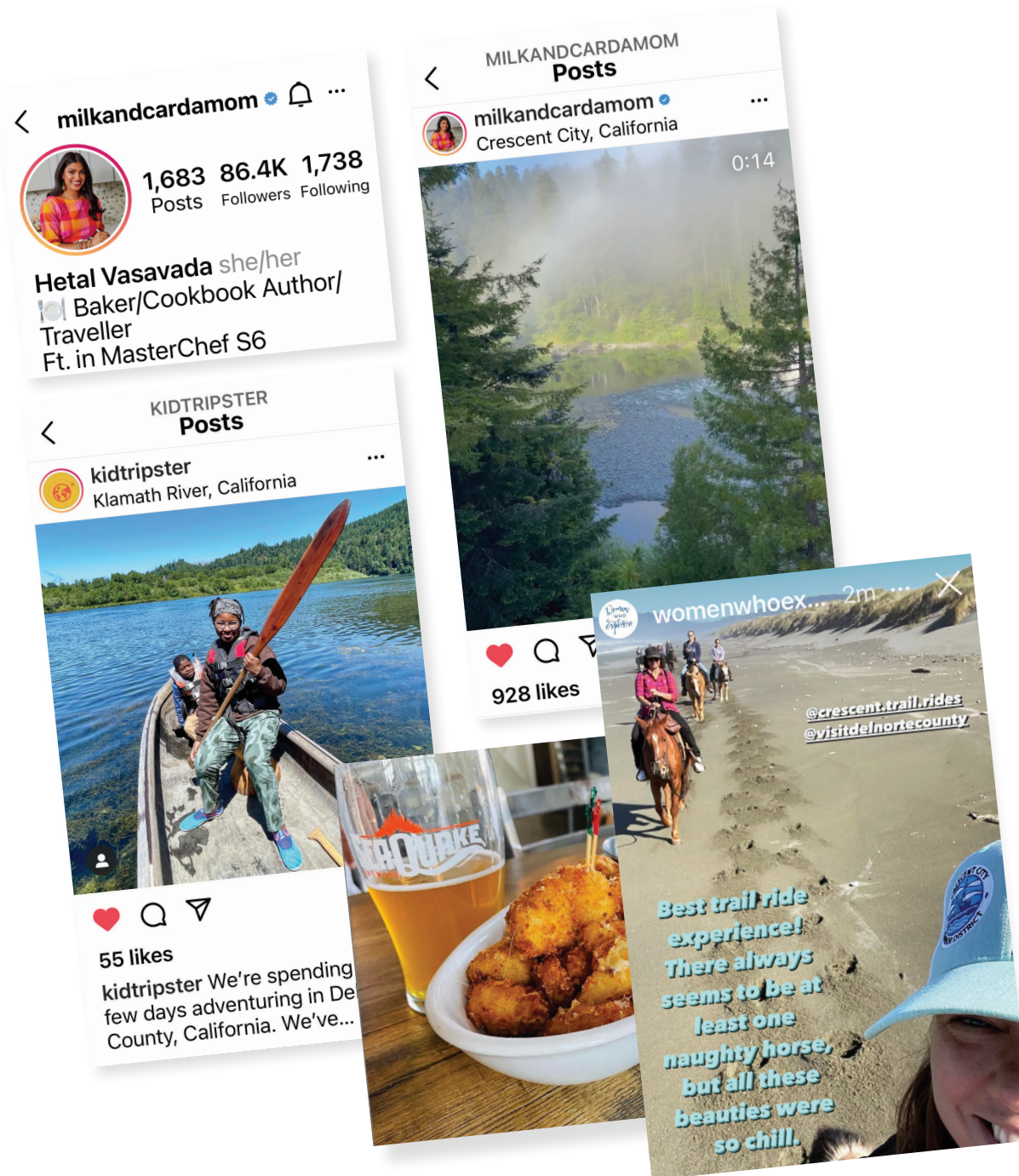
# LOCAL BUSINESSES FEATURED IN EARNED MEDIA

*Crescent City Harbor*  
*Stella's Adventures*  
*Crescent City KOA*  
*Rumiano Cheese*  
*Alexandre Family Farm*  
*Fog Bank Clothing*  
*Port O' Pints*  
*SeaQuake Brewing Co.*  
*Del Norte Golf Course*  
*Crescent Trail Rides*  
*Soul Feet Retreat*  
*'Hobbit Hole' Vacation Rental*  
*Trees of Mystery*  
*Redwood Rides*  
*Rock Creek Ranch*  
*Smith Trail Alliance*  
*Redwood Hotel & Casino*  
*Paul's Famous Smoked Salmon*  
*Yurok Redwood Canoe Tours*  
*Requa Inn*  
*Fern Hook Cabins*

visit  
California

**75% OF THE STORIES  
WE PITCHED, WERE  
PUBLISHED.**

# JUST A FEW ARTICLE MENTIONS



Visit California "See Yourself Outside"  
(May '21) Featuring Yurok Country, Redwood Hotel & Casino, Requa Inn, Redwood Canoe Tours and Pau'ls Famous Smoked Salmon

Conde Naste Traveler: Future article on Indigenous-owned tour operators

**Hetal Vasavada @MilkandCardaMom**  
Social media influencer, foodie author and travel blogger with audience of over 86.4K followers. Featuring SeaQuake Brewing Co., Alexandre Family Farm and their Vacation Rental, Jed Smith State Park, Battery Pt. Lighthouse.

**KidTripster.com Travel Blog & Social Media**  
Featuring SeaQuake Brewing Co., Crescent Trail Rides, Redwood Rides, Trees of Mystery, Yurok Redwood Canoe Tours, Klamath Tour-Thru Tree, Battery Pt. Lighthouse, Beaches, and Jed Smith State Park

Visit California "Off-Coast Adventures & Fun on the Water" (July '21) Featuring Stella's Adventures and Redwood Rides

LA Times: Yurok Country Feature Articles (Jul '21)

Visit California "5 Amazing Ways to Road Trip through California this Summer" (Jul '21) Featuring Crescent City KOA & Fern Hook Cabins.

Visit California "7 Cool Ways to Play in the Pacific Ocean" (Jul '21) Featuring Redwood Rides.

Visit California "What You Need to Know About Visiting California Breweries" (Aug '21) Featuring SeaQuake

WHAT'S HAPPENING NOW

INFLUENCER MARKETING

CONTENT & SEARCH MARKETING

PARTNERSHIP WITH VISIT CALIFORNIA

TARGETED VIDEO CAMPAIGNS

MORE PUBLIC RELATIONS

TRAVEL SHOWS IN 2022

AAA VIA MAGAZINE 1/4 PAGE ADS

CALIFORNIA VISITOR GUIDE AD '22





THANK YOU







## **2. New Business**

- c. Review and vote to approve Fiscal Year 2019/2020 Audit.**

***Public Comment?***

# CRESCENT CITY HARBOR DISTRICT

## AUDITED FINANCIAL STATEMENTS

JUNE 30, 2020

(with summarized comparative totals as of and  
for the year ended June 30, 2019)



**CRESCENT CITY HARBOR DISTRICT  
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JUNE 30, 2020**

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Discussion Purpose Only,  
Subject to Change,  
Not to be Reproduced

## INDEPENDENT AUDITOR'S REPORT

To the Board of Commissioners  
Crescent City Harbor District  
Crescent City, California

### **Report on the Financial Statements**

We have audited the accompanying financial statements of the business-type activities of the Crescent City Harbor District (the "District"), as of and for the year ended June 30, 2020, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Crescent City Harbor District as of June 30, 2020, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.



## **Other Matters**

### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the schedule of the district's proportionate share of the net pension liability and schedule of the district's contribution on pages 24 - 26 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion.

Management has omitted the Management's Discussion and Analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Government Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

### ***Report on Summarized Comparative Information***

We had previously audited the District's 2019 financial statements and expressed an unmodified audit opinion on those audited financial statements in our report dated March 13, 2021. In our opinion, the summarized comparative information presented herein as of and for the year ended June 30, 2019, is consistent, in all material respects, with the audited financial statements from which it has been derived.

### **Other Reporting Required by Government Auditing Standards**

In accordance with *Government Auditing Standards*, we have also issued our report dated November 11, 2021, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the District's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control over financial reporting and compliance.

Oakland, California  
November 11, 2021

## **BASIC FINANCIAL STATEMENTS**

Draft - Preliminary for  
Discussion Purpose Only,  
Subject to change,  
Not to be Reproduced

**CRESCENT CITY HARBOR DISTRICT**  
**STATEMENT OF NET POSITION - PROPRIETARY FUND**  
**JUNE 30, 2020**  
(With summarized comparative totals as of June 30, 2019)

	2020	2019
<b>ASSETS</b>		
Current assets:		
Cash and investments:		
Available for operations	\$ 2,056,574	\$ 2,139,039
Receivables, net:		
Accounts receivable	93,100	76,925
Grants receivable	150,784	150,784
Inventory of materials and supplies	30,324	29,517
Loans receivable	15,650	15,650
Prepaid expenses	1,443	12,487
Other current assets	-	202
Total current assets	2,347,875	2,424,604
Noncurrent assets:		
Capital assets:		
Nondepreciable capital assets	441,126	441,126
Depreciable capital assets, net	35,284,904	39,679,519
Other noncurrent assets	35,000	35,000
Total noncurrent assets	35,761,030	40,155,645
Total assets	38,108,905	42,580,249
<b>DEFERRED OUTFLOWS OF RESOURCES</b>		
Deferred outflows of resources - pension	128,218	195,140
Total deferred outflows of resources	128,218	195,140
Total assets and deferred outflows of resources	38,237,123	42,775,389
<b>LIABILITIES</b>		
Current liabilities:		
Accounts payable	99,120	88,438
Accrued payroll liabilities	22,402	61,806
Customer deposits	194,008	190,196
Interest payable	148,023	135,424
Current portion of compensated absences	8,783	8,783
Current portion of long-term debt	184,219	80,818
Other current liabilities	69	4
Total current liabilities	\$ 656,624	\$ 565,469

The accompanying notes are an integral part of these financial statements.

**CRESCENT CITY HARBOR DISTRICT**  
**STATEMENT OF NET POSITION - PROPRIETARY FUND**  
**JUNE 30, 2020**  
(With summarized comparative totals as of June 30, 2019)

	2020	2019
<b>LIABILITIES - CONT'D</b>		
Noncurrent liabilities:		
Noncurrent portion of long-term debt	\$ 5,362,541	\$ 5,047,332
Net pension liability	791,023	755,972
Noncurrent portion of compensated absences	14,005	14,005
Total noncurrent liabilities	6,167,569	5,817,309
Total liabilities	6,824,193	6,382,778
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Deferred inflows of resources - pension	84,934	62,508
Total deferred inflows of resources	84,934	62,508
Total liabilities and deferred inflows of resources	6,909,127	6,445,286
<b>NET POSITION</b>		
Net investment in capital assets	30,678,698	34,992,495
Unrestricted	649,298	1,337,608
Total net position	31,327,996	36,330,103
Total liabilities, deferred inflow of resources, and net position	\$ 38,237,123	\$ 42,775,389

The accompanying notes are an integral part of these financial statements.

**CRESCENT CITY HARBOR DISTRICT**  
**STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION**  
**- PROPRIETARY FUND**  
**FOR THE YEAR ENDED JUNE 30, 2020**  
**(With summarized comparative totals for the year ended June 30, 2019)**

	<u>2020</u>	<u>2019</u>
<b>OPERATING REVENUES</b>		
Slip rentals	\$ 408,288	\$ 477,191
Launching, day use fees, travel lift, transient and other services	107,571	174,462
Rents and concessions	1,421,655	1,095,492
Other miscellaneous income	<u>34,443</u>	<u>33,021</u>
Total operating revenues	<u>1,971,957</u>	<u>1,780,166</u>
<b>OPERATING EXPENSES</b>		
Advertising	5,404	7,714
Audit	19,451	6,510
Bad debts	1,791	6,787
Depreciation	3,935,883	4,417,969
Election costs	-	9,780
Fuel, oil and grease	13,782	14,992
Insurance	229,295	164,825
Legal	169,111	163,930
Office and administrative	41,452	65,638
Operating supplies	2,222	11,110
Other	112,568	40,860
Outside services	50,946	96,425
Payroll expenses	977,346	933,858
Payroll taxes	21,598	54,672
Repairs and maintenance - materials	17,921	10,648
Repairs and maintenance - services	82,742	221,254
Travel	16,712	18,084
Utilities and telephone	<u>438,688</u>	<u>350,868</u>
Total operating expenses	<u>6,136,912</u>	<u>6,595,924</u>
Operating income (loss)	(4,164,955)	(4,815,758)
<b>NONOPERATING REVENUES (EXPENSES)</b>		
Property taxes and assessments income net of administration fees	379,143	385,081
Interest income	34,522	28,119
Interest expense	<u>(192,085)</u>	<u>(185,816)</u>
Total nonoperating revenues (expenses)	<u>221,580</u>	<u>227,384</u>
<b>CHANGE IN NET POSITION</b>	(3,943,375)	(4,588,374)
<b>NET POSITION, BEGINNING OF YEAR</b>	36,330,103	43,620,200
<b>RESTATEMENT</b>	<u>(1,058,732)</u>	<u>(2,701,723)</u>
<b>NET POSITION, BEGINNING OF YEAR AS RESTATED</b>	<u>35,271,371</u>	<u>40,918,477</u>
<b>NET POSITION, END OF YEAR</b>	<u>\$ 31,327,996</u>	<u>\$ 36,330,103</u>

The accompanying notes are an integral part of these financial statements.

**CRESCENT CITY HARBOR DISTRICT**  
**STATEMENT OF CASH FLOWS - PROPRIETARY FUND**  
**FOR THE YEAR ENDED JUNE 30, 2020**  
(With summarized comparative totals for the year ended June 30, 2019)

	2020	2019
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Receipts from customers	\$ 1,379,335	\$ 1,587,219
Receipts from other income	641,120	207,483
Payments to suppliers	(1,152,412)	(1,157,872)
Payments to employees	<u>(1,003,297)</u>	<u>(936,798)</u>
Net cash provided (used) by operating activities	<u>(135,254)</u>	<u>(299,968)</u>
<b>CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES</b>		
Taxes received	<u>379,143</u>	<u>385,081</u>
Net cash provided (used) by noncapital financing activities	<u>379,143</u>	<u>385,081</u>
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</b>		
Payment of long-term debts	(181,390)	(72,582)
Interest paid on long-term debts	<u>(179,486)</u>	<u>(187,721)</u>
Net cash provided (used) by capital and related financing activities	<u>(360,876)</u>	<u>(260,303)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Interest received	<u>34,522</u>	<u>28,119</u>
Net cash provided (used) by investing activities	<u>34,522</u>	<u>28,119</u>
<b>CHANGE IN CASH AND CASH EQUIVALENTS</b>	(82,465)	(147,071)
<b>CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR</b>	<u>2,139,039</u>	<u>2,286,110</u>
<b>CASH AND CASH EQUIVALENTS, END OF YEAR</b>	<u><u>\$ 2,056,574</u></u>	<u><u>\$ 2,139,039</u></u>

The accompanying notes are an integral part of these financial statements.

**CRESCENT CITY HARBOR DISTRICT**  
**STATEMENT OF CASH FLOWS - PROPRIETARY FUND**  
**FOR THE YEAR ENDED JUNE 30, 2020**  
(With summarized comparative totals for the year ended June 30, 2019)

	<u>2020</u>	<u>2019</u>
<b>RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:</b>		
Operating income (loss)	\$ (4,164,955)	\$ (4,815,758)
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:		
Depreciation	3,935,883	4,417,969
Changes in assets and liabilities:		
(Increase) Decrease in accounts receivable	(16,175)	1,838
(Increase) Decrease in grants receivable	-	11,410
(Increase) Decrease in inventory of materials and supplies	(807)	469
(Increase) Decrease in other current assets	202	2,110
(Increase) Decrease in prepaid expenses	11,044	(12,487)
(Increase) Decrease in loans receivable	-	(82)
(Increase) Decrease in deferred outflows of resources	66,922	11,278
Increase (Decrease) in deferred inflows of resources	22,426	39,777
Increase (Decrease) in accounts payable	10,682	(16,182)
Increase (Decrease) in accrued payroll liabilities	(39,404)	61,806
Increase (Decrease) in net pension liability	35,051	(10,998)
Increase (Decrease) in compensated absences	-	924
Increase (Decrease) in customer deposits	3,812	7,954
Increase (Decrease) in other current liabilities	65	4
Net cash provided (used) by operating activities	<u>\$ (135,254)</u>	<u>\$ (299,968)</u>

The accompanying notes are an integral part of these financial statements.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING PRINCIPLES**

The financial statements of Crescent City Harbor District (the "District") have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant of the District's accounting policies are described below.

***A. Description of Reporting Entity***

The District was formed by a vote of the people of Del Norte County on November 8, 1931, in accordance with Chapter 704 of the Statutes of 1931. The District started operations shortly thereafter in 1932. In September of 1963, the District received a Land Grant from the State of California under Chapter 1510 of the Statutes of 1963. The Land Grant gave the title to the land on the sea bed floor and extending upward and inward to the mean high tide line of 1929, as shown on the maps attached to the Original Land Grant of Chapter 1510 of the Statutes of 1963. The title of the land was given to the District and is being held in trust for the people of the State of California. The District, as it now exists, contains both the land granted to it by the State of California and other fee simple parcels that the District has acquired over time.

The District provides improvement and operations of the harbor of the Crescent City, construction operation, and maintenance of wharves, docks, piers, slips, quays, and facilities for the promotion and accommodation of commerce, navigation, fisheries, and public recreation. In addition, the District leases several commercial buildings and businesses located upon the land owned by the District surrounding the harbor.

The District was organized under the California Harbors and Navigation Code, Division 8, Part 3, and is governed by a five-person elected Board of Commissioners. The District is County-wide, so all registered voters in the County of Del Norte are eligible to run for the Commission and vote in the election. The property managed by the District, and where the District operations occur, is located along the Pacific Ocean at the South end of the Crescent City. A portion of the District's property is within the city limits of Crescent City, but most of the District's property is located within the County of Del Norte.

Oversight responsibility, the ability to conduct independent financial affairs, issue debt instruments, approve budgets, and otherwise influence operations and account for fiscal matters, is exercised by the District's Board of Commissioners. The District is a separate reporting entity for financial reporting purposes, and the accompanying financial statements reflect the assets, liabilities, net position, revenues, and expenses of the District only.

As defined by *GASBS No. 14 and 39, The Financial Reporting Entity*, the District is not financially accountable for any other entity other than itself, nor are there any other entities for which the nature and significance of their relationship with the District are such that exclusion would cause the District's financial statements to be misleading or incomplete.

In addition, based upon the above criteria, the District is not aware of any entity that would be financially accountable for the District, resulting in the District is considered a component of the entity.

***B. Basis of Accounting***

On the Statement of Net Position and the Statement of Revenues, Expenses, and Changes in Net Position, business-type activities are presented using the economic resources measurement focus. The accounting objectives of this measurement focus are the determination of net income, financial position, and cash flows. All assets and liabilities (whether current or noncurrent) associated with their activities are reported. Fund equity is classified as Net Position.



**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING PRINCIPLES - CONT'D**

**B. Basis of Accounting - Cont'd**

The District's funds are classified as enterprise funds, which account for operations that are financed and operated in a manner similar to private business enterprises where the intent is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges. The acquisition and capital improvement of the physical plant facilities required to provide these goods and services are financed from existing cash resources, the issuance of debt, bonds, capital grants, and cash flow from operations.

**C. Cash and Investments**

For the purposes of the Statement of Net Position and Statement of Cash Flows, "cash and investments" includes all demand deposits, savings accounts, and certificates of deposits or short-term investments with an original maturity of three months or less. Fair value is based on quoted market price (Level 1). Additional cash and investment disclosures are presented in Note 2.

**D. Capital assets**

Capital assets include property, plant, equipment, and infrastructure assets (e.g., docks, roads, sidewalks, and similar items), reported in the Statement of Net Position in the basic financial statements. Capital assets are defined by the government as assets with an initial cost of more than \$5,000 and an estimated useful life in excess of one year. Depreciation is provided on a straight-line basis over the estimated useful lives of the assets as follows:

<u>Asset Class</u>	<u>Estimated Useful Life</u>
Autos and trucks	3 to 5 years
Wharves, Docks, and Marinas	5 to 30 years
Sewer Lift Station	5 to 30 years
Coast Guard Facility	20 to 50 years
Launch Ramps	10 to 50 years
Street Road and Parks	10 to 50 years
Buildings and improvements	5 to 40 years
Furniture	3 to 5 years
Machinery and Equipment	5 to 20 years

Assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at acquisition value at the date of donation.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend the asset's life are not capitalized.

Major outlays for capital assets and improvements are capitalized as projects are constructed. Interest incurred during the construction phase of capital assets of business-type activities is included as part of the capitalized value of the assets constructed.

**E. Inventory**

The District uses the "consumption" method of accounting for inventory. Under the "consumption" method, inventory acquisitions are recorded in the inventory account initially and charged as expenses when used.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING PRINCIPLES - CONT'D**

**F. Accrued Vacation and Sick Leave**

Accumulated unpaid employee vacation benefits are recognized as liabilities of the District and are accrued when incurred. Vacation with pay accumulates for regular career employees. Vacations are incurred as per policy. Accumulated employee sick leave benefits are not recognized as liabilities of the District since payment of such benefits is not probable. Therefore, sick leave benefits are recorded as expenses in the period in which sick leave is taken. As of June 30, 2020, and June 30, 2019, the compensated absences balance was \$22,788 and \$22,788, respectively.

**G. Long-Term Obligations**

In the statement of net position - proprietary fund, long-term debt, and other long-term obligations are reported as liabilities in the applicable business-type activities, or proprietary fund type statement of net position. **The face amount of debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources, while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.**

**H. Net Position**

Net position is comprised of three categories: (1) net investment in capital assets, (2) restricted net position, and (3) unrestricted net position. Each component of net position is reported separately on the statement of net position - proprietary fund.

- *Net investment in capital assets* represents the balance of capital assets less accumulated depreciation, net of the outstanding related debt.
- *Restricted net position* is subject to constraints externally imposed by funding agencies or legislation. The amount of restricted net position is calculated by reducing the carrying value of restricted assets by their related liabilities. These items are restricted by agreements that detail specific purposes and use. As of June 30, 2020, and June 30, 2019, the District does not have a restricted net position.
- The *unrestricted* component of net position represents the portion remaining after the “net investment in capital assets,” and “restricted” amounts have been determined. The District’s positive value of unrestricted net position may be used to meet ongoing obligations.

**I. Use of Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**J. Property Taxes**

The State of California (the State) Constitution Article XIII A provides that the combined maximum property tax rate on any given property may not exceed one percent (1%) of its assessed value unless an additional amount for general obligation debt has been approved by voters. The assessed value is calculated at 100% of market value as defined by Article XIII A and may be adjusted by no more than two percent (2%) per year unless the property is sold, transferred, or improved.

The State Legislature has determined the method of distribution of receipts from one percent (1%) tax levy among the counties, cities, school districts, and other districts.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING PRINCIPLES - CONT'D**

**J. Property Taxes - Cont'd**

Del Norte County assesses, bills for, and collects property taxes as follows:

	<u>Secured</u>	<u>Unsecured</u>
Lien Dates:	March 1	March 1
Levy Dates	July 1	July 1
Due Dates	50% on November 1 and 50% on March 1	July 1
Delinquent as of	December 10 (for November) and April 10 (for March)	August 31

The term "unsecured" refers to taxes on personal property other than real estate, land, and buildings. These taxes are secured by liens on the property being taxed.

Property taxes levied are recorded as revenue when received in the fiscal year of the levy because of the adoption of the "alternate method of property tax distribution," known as the Teeter Plan, by the District and the County of Del Norte (the County). The Teeter Plan authorizes the Controller of the County to allocate 100% of the secured property taxes billed but not yet paid.

The County remits tax monies to the District in three installments, as follows:

- 55% remitted on December 15
- 40% remitted on April 15
- 5% remitted on June 15

**K. Pension Plan**

All full-time and certain part-time employees are members of the State of California Public Employees Retirement System (CalPERS), an agent multiple-employer public employee defined benefit Pension Plan. The District's Commissioners, who are compensated, are excluded by statute. The District's policy is to fund all pension costs accrued; such costs to be funded are determined annually as of June 30 by the CalPERS's actuary. For purposes of measuring the net pension liability, deferred outflows/inflows of resources, and pension expense, information about the fiduciary net position of the CalPERS and additions to/deductions from CalPERS's fiduciary net position have been determined on the same basis as they are reported by CalPERS. For this purpose, the Plan contributions are recognized as employer payroll paid dates, and benefit payments and refunds are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

**L. Comparative data**

Prior year data has been included where practical for comparison purposes only. The prior year's data does not represent a complete presentation in accordance with generally accepted accounting principles. Certain amounts presented in the prior year have been reclassified in order to be consistent with the current year's presentation and to enhance the comparability with the current year's figures.

**M. Deficit Fund Balance/Net position**

The financial statements reflect no deficit fund balance/net position as of June 30, 2020, and June 30, 2019, respectively.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 2 - CASH AND INVESTMENTS**

Cash and Investments as of June 30, 2020 and 2019, were consisted of the following:

	<u>Carrying Value</u>	<u>Bank Balance</u>	<u>Category 1*</u>	<u>Category 2*</u>
Cash in banks:				
Checking and Savings	\$ 641,979	\$ 445,453	\$ 445,453	\$ -
Cash on hand:				
Petty Cash	1,366	-	-	-
Undeposited funds	31,118	-	-	-
Investments:				
LAIF	1,382,111	1,382,111	1,382,111	-
Total cash and investments 2020	<u>\$ 2,056,574</u>	<u>\$ 1,827,564</u>	<u>\$ 1,827,564</u>	<u>\$ -</u>
Total cash and investments 2019	<u>\$ 2,139,039</u>	<u>\$ 2,185,942</u>	<u>\$ 2,185,942</u>	<u>\$ -</u>

\* Category 1 balances are insured or registered for which securities are held by the District or its agent in the District's name. Category 2 balances include uninsured and unregistered deposits for which the security is held in a counterparty's trust department or agent but not in the District's name.

**Custodial Credit Risk for Deposits**

Custodial credit risk is the risk that, in the event of the failure of a depository financial institution, the District will not be able to recover its deposits or collateral securities that are in possession of an outside party. To mitigate the custodial credit risk, the District requires that all of its managed investments be held in the name of the District, and deposits in banks must meet the requirements of the California Government Code. Under this code, deposits of more than \$250,000 must be collateralized at 105 percent to 150 percent of the value of the deposit to guarantee the safety of the public funds. The first \$250,000 of the District's deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Deposits of more than the \$250,000 insured amount are uncollateralized. The District's investment policy does not further limit its deposits.

**Credit Risk**

Credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. State law and the District's investment policy limits investments in commercial paper to the rating of A or better by Standards & Poor's or P or better by Moody's Investors Service; corporate bonds to the rating of A or better by both Standards & Poor's and Moody's Investors Service. No limits are placed on U.S. government Agency securities and U.S. Treasuries. The District's investment policy does not further limit its investment choices.

**Concentration of Credit Risk**

The concentration of credit risk is the risk of loss attributed to the magnitude of the District's investment in a single issuer of securities. When investments are concentrated in one issuer, this concentration presents a heightened risk of potential loss. State law restricts the District's investments in commercial paper to 40% of its investment pool and to 10% per issuer and corporate bonds and medium-term notes to 30% of its investment pool and to 10% per issuer, and banker's acceptances to 15% of its investment pool and to 10% per issuer. As of June 30, 2020, the District's investments were in compliance with the concentration of credit risk State law.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 2 - CASH AND INVESTMENTS - CONT'D**

***Interest Rate Risk***

Interest rate risk is the risk of loss due to the fair value of an investment falling due to interest rates rising. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates.

***Fair Value of Investments***

The District's investments are valued at fair value based on quoted market price (Level 1). The entire investment of the District is in LAIF, the fair value of which, as of June 30, 2020, was \$1,382,111, and maturity of 12 months or less.

**NOTE 3 - CAPITAL ASSETS**

Changes in capital assets during the year ended June 30, 2020 and 2019, were as follows:

	Balance June 30, 2019	Additions	Deletions/ Adjustments	Balance June 30, 2020
Nondepreciable capital assets:				
Land	\$ 441,126	\$ -	\$ -	\$ 441,126
Total nondepreciable capital assets	441,126	-	-	441,126
Depreciable capital assets:				
Equipment	357,501	-	-	357,501
Vehicles	15,217	-	-	15,217
Wharves, Docks and Marinas	61,689,501	-	-	61,689,501
Streets, Roads and Parks	707,691	-	-	707,691
Sewer Lift Station	33,655	-	-	33,655
Buildings and Improvements	4,534,074	-	-	4,534,074
Total depreciable capital assets	67,337,639	-	-	67,337,639
Less: accumulated depreciation	(27,658,120)	(3,935,883)	(458,732)	(32,052,735)
Total depreciable capital assets, net	39,679,519	(3,935,883)	(458,732)	35,284,904
Total capital assets, net	<u>\$ 40,120,645</u>	<u>\$ (3,935,883)</u>	<u>\$ (458,732)</u>	<u>\$ 35,726,030</u>

Depreciation expense of \$3,935,883 and \$4,417,969 has been recorded in Statement of Revenues, Expenses, and Changes in Net Position for the year ended June 30, 2020, and 2019, respectively.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 4 - LONG-TERM DEBTS**

Long-term debt previously consisted of several loan agreements between the District and the California Department of Boating and Waterways. Revenues originating from within the boundaries of the related project areas constituted security for repayment of the loans.

The District entered into an agreement with the Crescent City Harbor Public Financing Corporation to borrow \$5,425,000 under a Certificate of Participation dated September 27, 2012. The agreement calls for 38 annual payments of principal and interest to be made on September 1st of each year. The agreement bears interest at 3.5%. The annual installment payable is \$260,303; the first installment repayment started on September 1, 2012.

In July 2019, the District entered into a buy-out arrangement for \$600,000 with the former lessees of the Bayside RV Park. The arrangement calls for 71 monthly payments of \$8,381 split evenly between the two former business partners and a final payment of \$4,949 due on August 1, 2025. The District commenced monthly payments on August 1, 2019. As of June 30, 2020, the outstanding balance was \$499,428.

The following was the summary of changes in long-term debts during fiscal year ended June 30, 2020, and 2019:

	Balance June 30, 2019	Additions	Deletions	Balance June 30, 2020	Current portion
USDA Harbor Reconstruction loan	\$ 5,128,150	\$ -	\$ (80,818)	\$ 5,047,332	\$ 83,647
Bayside RV Park Buy- out agreement	-	600,000	(100,572)	499,428	100,572
Total	<u>\$ 5,128,150</u>	<u>\$ 600,000</u>	<u>\$ (181,390)</u>	<u>\$ 5,546,760</u>	<u>\$ 184,219</u>

The following was the summary of annual debt service requirements to amortize USDA Harbor reconstruction debt outstanding as of June 30, 2020:

Year ended June 30	Principal	Interest
2021	\$ 83,647	\$ 176,657
2022	86,574	173,729
2023	89,604	170,699
2024	92,740	167,563
2025	95,986	160,957
2026-2030	532,739	768,777
2031-2035	632,726	668,789
2036-2040	751,480	550,035
2041-2045	892,523	408,993
2046-2050	1,060,037	241,478
2051-2053	729,276	51,634
Total	<u>5,047,332</u>	<u>\$ 3,539,311</u>
Less: Current portion	<u>83,647</u>	
Total noncurrent portion	<u>\$ 4,963,685</u>	

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 4 - LONG-TERM LIABILITIES - CONT'D**

The following was the summary of annual debt service requirements to amortize Bayside RV Park Buy-out agreement debts outstanding as of June 30, 2020:

<u>Year ended June 30</u>	<u>Former partner 1</u>	<u>Former partner 2</u>	<u>Total</u>
2021	\$ 50,286	\$ 50,286	\$ 100,572
2022	50,286	50,286	100,572
2023	50,286	50,286	100,572
2024	50,286	50,286	100,572
2025	48,570	48,570	97,140
Total	<u>\$ 249,714</u>	<u>\$ 249,714</u>	<u>\$ 499,428</u>

**NOTE 5 - POST-RETIREMENT BENEFITS**

The District offers its employees post-retirement health coverage if they retire within 120 days of leaving the District's employ and who were covered by the District's Health Plan at the time they left. The District has no current OPEB liability for the year ended June 30, 2020 and 2019.

**NOTE 6 - LEASES**

The District leases several properties to various types of private businesses with lease terms that range from month-to-month to 25 years at varying monthly rental amounts.

All of the arrangements are classified as operating leases, and the future minimum rentals due to the District for non-cancelable leases and for each of the next three years is as follows:

<u>Year ended June 30</u>	<u>Amount</u>
2021	\$ 118,987
2022	\$ 122,026
2023	\$ 125,142

**NOTE 7 - 2006 TSUNAMI DAMAGE**

During the afternoon of November 15, 2006, the harbor was affected by a tsunami generated by an earthquake in the Kuril Islands. Dock H was completely destroyed, as was a portion of Dock G and Dock F. The majority of the remaining floats in the inner boat basin were damaged. Due to the extent of the damage and the cost of replacing individual floats, it was determined that the least cost alternative is to replace the entire inner basin float system, including pilings and gangways. Changes to electrical codes and standards require upgrading the electrical system. The Americans with Disabilities Act requires improving handicap access. At the start of construction, the engineer's estimate of replacement cost was \$32,867,009. Due to the magnitude of the damage, a State Disaster was declared, resulting in the District receiving a grant from the California Office of Emergency Services (Cal OES) for 75% of the actual cost of repairing the tsunami damage. In partnership with the County of Del Norte, the District was awarded a \$5,000,000 Community Development Block Grant (CDBG) through the Over the Counter (OTC) program to help match the Cal OES funding. Of the CDBT OTC grant, \$200,000 is earmarked for administration and labor compliance, leaving \$4,800,000.00 for project funding. As a result, the project was fully funded.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 7 - 2006 TSUNAMI DAMAGE - CONT'D**

As of June 30, 2019, the project has been completed and closed out with Cal OES. Expenditures for construction were \$22,615,418 of which the District's share was approximately \$5,657,000. Retention of the project has been released by Cal OES to the District.

**NOTE 8 - 2011 TSUNAMI DAMAGE**

The morning of March 11, 2011, the District was again struck by a tsunami. This tsunami resulted from a 9.0 magnitude earthquake that originated near Tohoku, Japan. Where the 2006 tsunami damaged the majority of the docks in the inner boat basin, the 2011 tsunami destroyed the docks. By the end of the day on March 11, 2011, there were very few usable mooring spaces in the inner boat basin.

Fortunately, nearly all of the active commercial fishing fleet based in the Harbor received sufficient warning and was able to evacuate before the tsunami struck. There was minor damage to Citizens' Dock (the main fish unloading facility) and no damage to the ice house or fueling facility. Although the main marina was destroyed, the commercial support facilities, the recreational marina, and all the land-based facilities remained intact.

Due to the widespread damage from the 2011 tsunami, a federal disaster was declared. The District was required to pay 6.25% of the actual repair cost; the remaining 93.75% was funded by the Federal Emergency Management Agency and Cal OES.

On a more positive note, when the 2011 tsunami struck, the District had just completed design, engineering, and permitting to replace the entire inner boat basin due to the 2006 tsunami. In the immediate aftermath of the 2011 tsunami, the District's priority was to remove damaged boats and docks from the inner boat basin, dredge the sand deposited in the inner boat basin by the tsunami, and install temporary docks for berthing the local fleet. By the beginning of the 2011/12 Dungeness crab season, these goals were accomplished, and there was no disruption of the local fleet's fishing activity. To finance the required tsunami repairs and consolidate all long-term debts, the District borrowed up to \$5.425 M from the USDA Rural Development program through the Crescent City Harbor Public Financing Corporation. See Note 4 for further discussion of this loan. With this loan, all tsunami repairs are fully funded.

As of June 30, 2019, the project has been completed and closed out with Cal OES. Construction costs amounted to approximately \$21,837,000 of which the District's share was approximately \$1,364,800. Most of the 2011 tsunami projects were completed by the summer of 2017, with the remaining projects completed by December 31, 2017. Retention of the project has been released by Cal OES and FEMA to the District.

**NOTE 9 - PENSION PLAN**

**A. Plan Description**

The District contributes to the California Public Employees Retirement System (CalPERS), agent multiple-employer public employee defined benefit Pension Plan. CalPERS provides retirement, death and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. CalPERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefits provisions and all other requirements are established by state statute and District ordinance. The Plan is included as a pension trust fund in the CalPERS Comprehensive Annual Financial Report, which is available online at [www.calpers.ca.gov](http://www.calpers.ca.gov).



**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 9 - PENSION PLAN - CONT'D**

***B. Funding Policy***

Active plan members in the Plan are required to contribute 7% of their covered salary. The District contributes 6% of the employee portion. The District is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The actuarial methods and assumptions used are those adopted by the CalPERS Board of Administration. The required employer contribution rate for the fiscal year ended June 30, 2020, was 8.377% for the miscellaneous plan.

The contribution requirements of plan members are established by State statute, and the employer contribution is established and may be amended by CalPERS.

The Plan's provisions and benefits in effect as of June 30, 2020, are summarized as follows:

	<u>Miscellaneous</u>	
Hire date	Prior to January 1, 2013	On or after January 1, 2013
Benefit formula	2.0% at 55; maximum 2% COLA	2.0% at 62; maximum 2% COLA
Benefit vesting schedule	5 years' service	5 years' service
Benefit payments	Monthly for life	Monthly for life
Retirement age	50	55
Monthly benefits, as a % of eligible compensation	2.418%	1.0% to 2.5%
Required employee contribution rates	6.886%	6.25%
Required employer contribution rates	8.377%	6.555%

Employees hired on January 1, 2013, and thereafter pay the full 6.25% employee contribution per adopted Mutual of Understanding if the employee is considered a "Classic" employee under PEPRA.

***C. Contributions***

Section 20814(c) of the California Public Employees' Retirement Law (PERL) requires that the employer contribution rates for all public employers be determined on an annual basis by the actuary. It shall be effective on July 1 following notice of a change in the rate. Funding contributions for both Plans are determined annually on an actuarial basis as of June 30 by CalPERS. The actuarially determined rate is the estimated amount necessary to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability. The District is required to contribute the difference between the actuarially determined rate and the contribution rate of employees.

For the year ended June 30, 2020, the contributions recognized as part of the pension expense are as follows:

Contributions – employer	\$35,558
Contributions – employee	\$32,695

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 9 - PENSION PLAN - CONT'D**

**D. Pension Liabilities, Pension Expenses, and Deferred Outflows/Inflows of Resources Related to Pensions**

As of June 30, 2020, and 2019 the District reported net pension liabilities for its proportionate shares of the net pension liability of the Miscellaneous Risk Pool Plan as follows:

*Proportionate share of net pension liability*

	2020	2019
Miscellaneous	\$ 791,023	\$ 755,972
Total Net Pension Liability	\$ 791,023	\$ 755,972

The District's net pension liability for each Plan is measured as the proportionate share of the net pension liability of the Miscellaneous Risk Pool Plan. The net pension liability of each of the Plan is measured as of June 30, 2020, and the total pension liability for the Plan used to calculate the net pension liability was determined by an actuarial valuation as of June 30, 2018. The District's proportion of the net pension liability was based on a projection of the District's long-term share of contributions to the pension plans relative to the projected contributions of all participating employers, actuarially determined. The District's proportionate share of the net pension liability for the Plan as of June 30, 2020, was as follows:

	Miscellaneous
Proportion – June 30, 2020	0.01975 %
Proportion – June 30, 2019	0.02006 %
Change – Increase/(Decrease)	(0.00031)%

For the year ended June 30, 2020, and 2019 the District recognized a pension expense of \$121,118 and \$117,301, respectively. As of June 30, 2020, and 2019 the District reported deferred outflows of resources and deferred inflows of resources related to the pension from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Pension contributions subsequent to measurement date	\$ 35,558	\$ -
Changes of Assumptions	37,720	13,371
Differences Between Expected and Actual	54,940	4,257
Net Difference Between Projected and Actual Investment		
Earnings on Pension Plan Investments	-	13,830
Difference Between actual and proportionated contribution	-	44,511
Difference Between proportionate share of beginning balance	-	8,965
Total 2020	\$ 128,218	\$ 84,934
Total 2019	\$ 195,140	\$ 62,508

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 9 - PENSION PLAN - CONT'D**

**D. Pension Liabilities, Pension Expenses, and Deferred Outflows/Inflows of Resources Related to Pensions - Cont'd**

Any amount reported as deferred outflows of resources related to contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ended June 30, 2020. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized as pension expenses as follows:

Measurement periods ended June 30	Miscellaneous
2020	\$ 31,771
2021	(26,476)
2022	(364)
2023	2,795
2024	-
Thereafter	-
Total	\$ 7,726

**E. Actuarial Assumptions**

The total pension liability for the measurement date June 30, 2019, actuarial valuations were determined using the following actuarial assumptions:

Valuation Date	June 30, 2018
Measurement Date	June 30, 2019
Actuarial Cost Method	Entry-Age Normal Cost Method
Amortization Method	Level Percent of Payroll
Asset Valuation Method	Market Value
Actuarial Assumptions:	
Discount Rate	7.15%
Inflation	2.50%
Salary Increase	Varies by Entry Age and Service
Investment Rate of Return	7.15%
Mortality <sup>1</sup>	Derived using CalPERS' Membership Data for all Funds

<sup>1</sup>The mortality table used was developed based on CalPERS' specific data. The table includes 15 years of mortality improvements using Society of Actuaries Scale 90% of scale MP 2016.

All other actuarial assumptions used in the June 30, 2018 valuation were based on the results of an actuarial experience study for fiscal years 1997-2014, including updates to salary increase.

**F. Discount rate**

The discount rate used to measure the total pension liability was 7.15 percent. To determine whether the municipal bond rate should be used in the calculation of a discount rate for each plan, CalPERS stress-tested plans that would most likely result in a discount rate that would be different from the actuarially assumed discount rate. Based on the testing, none of the tested plans run out of assets. Therefore, the current 7.15 percent discount rate is adequate, and the use of municipal bond rate calculation is not necessary. The long-term expected discount rate of 7.15 percent is applied to all plans in the Public Employees Retirement Fund.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 9 - PENSION PLAN - CONT'D**

**F. Discount rate - Cont'd**

The long-term expected rate of return on pension plan investments was determined using a building-block method in which expected future real rates of return (expected rate of returns, net of inflation) are developed for each major asset class.

The table below reflects the long-term expected real rate of return by asset class. The rate of return was calculated using the capital market assumptions applied to determine the discount rate and asset allocation. The geometric rates of return are net of administrative expenses.

<u>Asset Class (1)</u>	<u>New Strategic Allocation</u>	<u>Real Return Years 1-10 (2)</u>	<u>Real Return Years 11+(3)</u>
Global Equity	50.00 %	4.80 %	5.98 %
Global Fixed Income	28.00 %	1.00 %	2.62 %
Inflation assets	- %	0.77 %	1.81 %
Private Equity	8.00 %	6.30 %	7.23 %
Real Estate	13.00 %	3.75 %	4.93 %
Liquidity	1.00 %	- %	0.92 %

(1) In the System's CAFR, Fixed Income is included in Global Debt Securities; Liquidity is included in Short-term Investments; Inflation Assets are included in both Global Equity Securities and Global Debt Securities.

(2) An expected inflation of 2.00% used for this period.

(3) An expected inflation of 2.92% used for this period.

**G. Sensitivity of the Proportionate Share of the Net Pension Liability to Changes in the Discount Rate**

The following presents the District's proportionate share of the net pension liability for each Plan, calculating using the discount rate of each Plan, as well as what the District's proportionate share of the net pension liability would be if it were calculated using a discount rate that is a 1-percentage point lower (6.15%) or 1-percentage point higher (8.15%) than the current rate:

	<u>Discount Rate Less 1% (6.15%)</u>	<u>Current Discount (7.15%)</u>	<u>Discount Rate plus 1% (8.15%)</u>
Miscellaneous Risk Pool	<u>\$ 1,268,842</u>	<u>\$ 791,023</u>	<u>\$ 396,617</u>

Pension Plan Fiduciary Net Position – Detailed information about each pension plan's fiduciary net position is available in the separately issued CalPERS financial reports.

**H. Payable to the Pension Plan**

As of June 30, 2020, the District has no outstanding contributions to the pension plan required for the year ended June 30, 2020.

**CRESCENT CITY HARBOR DISTRICT  
NOTES TO THE FINANCIAL STATEMENTS  
JUNE 30, 2020**

**NOTE 10 - SUBSEQUENT EVENTS**

Management has evaluated subsequent events through November 11, 2021, the date at which the financial statements were available to be issued, and have determined that no adjustments are necessary to the amounts reported in the accompanying financial statements nor have any subsequent events occurred, the nature of which would require disclosure.

As the COVID-19 pandemic is complex and rapidly evolving, at this point, we cannot reasonably estimate the duration and severity of this pandemic, which could have a material adverse impact on our business, results of operations, and financial position.

**NOTE 11 - PRIOR PERIOD ADJUSTMENTS**

During the year ended June 30, 2020, the District restated its beginning net position by \$(1,058,732) as a result of the following prior period adjustment made to financial statements.

- Beginning accumulated depreciation of capital assets was understated by \$458,732; the District corrected the accumulated depreciation balances during the year.
- The District recorded the amount payable to two former business partners for the Bayside RV Park buy-out during the fiscal year as debts by adjustment beginning net assets; as a result, the net position was understated by \$600,000.

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**REQUIRED SUPPLEMENTARY INFORMATION**

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**CRESCENT CITY HARBOR DISTRICT**  
**SCHEDULE OF THE DISTRICT'S PROPORTIONATE SHARE OF THE NET PENSION LIABILITY**  
**FOR THE LAST 10 YEARS\***

	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
District's proportion of the net pension liability	0.01975 %	0.02006 %	0.00338 %	0.00338 %	0.00338 %	0.00338 %
District's proportionate share of the net pension liability	\$ 791,023	\$ 755,972	\$ 766,970	\$ 738,808	\$ 738,808	\$ 607,204
District's covered-employee payroll	\$ 719,185	\$ 864,627	\$ 557,255	\$ 466,299	\$ 469,699	\$ 487,084
District's proportionate share of the net pension liability as a percentage of its covered employee payroll	109.99 %	87.43 %	137.63 %	158.44 %	157.29 %	124.66 %
Plan fiduciary net position as a percentage of the total pension liability	75.06 %	74.34 %	82.70 %	82.70 %	82.70 %	82.70 %

**Notes to the Schedule of the District's Proportionate Share of Net Pension Liability**

**Changes in Benefit Terms**

Public agencies can make changes to their plan provisions, and such changes occur on an ongoing basis. A summary of the plan provisions that were used for a specific plan can be found in the plan's annual valuation report.

**Change of Assumptions and Methods**

In Fiscal Year 2018-19, CalPERS implemented a new actuarial valuation software system for the June 30, 2018, valuation. This new system has refined and improved calculation methodology.

In December 2017, the Board adopted new mortality assumptions for plans participating in the PERF. The new mortality table was developed from the December 2017 experience study and includes 15 years of projected ongoing mortality improvement using 90 percent of scale MP 2016 published by the Society of Actuaries. The inflation assumption was reduced from 2.75 percent to 2.50 percent. The assumptions for individual salary increases and overall payroll growth were reduced from 3.00 percent to 2.75 percent. These changes will be implemented in two steps commencing in the June 30, 2017 funding valuation. For financial reporting purposes, these assumption changes are fully reflected in the results for Fiscal Year 2017-18.

**CRESCENT CITY HARBOR DISTRICT  
SCHEDULE OF THE DISTRICT'S PROPORTIONATE SHARE OF THE NET PENSION LIABILITY  
FOR THE LAST 10 YEARS\***

**Notes to the Schedule of the District's Proportionate Share of Net Pension Liability - Cont'd**

In Fiscal Year 2016-17, the financial reporting discount rate for the PERF C was lowered from 7.65 percent to 7.15 percent. In December 2016, the Board approved lowering the funding discount rate used in the PERF C from 7.50 percent to 7.00 percent, which is to be phased in over a three-year period (7.50 percent to 7.375 percent, 7.375 percent to 7.25 percent, and 7.25 percent to 7.00 percent) beginning with the June 30, 2016, valuation reports. The funding discount rate includes a 15 basis-point reduction for administrative expenses, and the remaining decrease is consistent with the change in the financial reporting discount rate.

In Fiscal Year 2014-15, the financial reporting discount rate was increased from 7.50 percent to 7.65 percent resulting from eliminating the 15 basis-point reduction for administrative expenses. The funding discount rate remained at 7.50 percent during this period, and remained adjusted for administrative expenses.

\* - Fiscal year 2015 was the 1st year of implementation, therefore only six years are shown.

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**CRESCENT CITY HARBOR DISTRICT  
SCHEDULE OF THE DISTRICT'S CONTRIBUTION  
FOR THE LAST TEN YEARS\***

	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
Contractually required contribution (actuarially determined)	\$ 35,558	\$ 76,215	\$ 50,484	\$ 85,778	\$ 60,880	\$ 70,766
Contributions in relation to the contractually required contributions	<u>(35,558)</u>	<u>(76,215)</u>	<u>(50,484)</u>	<u>(85,778)</u>	<u>(60,880)</u>	<u>(70,766)</u>
Contribution deficiency (excess)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
District's covered-employee payroll	\$ 719,185	\$ 864,627	\$ 557,255	\$ 466,299	\$ 469,699	\$ 487,084
Contributions as a percentage of covered-employee payroll	4.94 %	8.81 %	9.06 %	18.40 %	12.96 %	14.53 %

\* - Fiscal year 2015 was the 1st year of implementation, therefore only six years are shown.

## COMPLIANCE SECTION

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**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL  
REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF  
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH  
*GOVERNMENT AUDITING STANDARDS***

To the Board of Commissioners  
Crescent City Harbor District  
Crescent City, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities of the Crescent City Harbor District (the "District") as of and for the year ended June 30, 2020, and the related notes to the financial statements which collectively comprise the District's basic financial statements, and have issued our report thereon dated November 11, 2021.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the District's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies, and therefore, material weaknesses or significant deficiencies may exist that have not been identified. We did identify certain deficiencies in internal control described in the accompanying schedule of findings and responses. We consider the deficiencies described in the accompanying schedule of findings and responses as item 2020-001 that we consider to be material weakness.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### **The District's Response to the Finding**

The District's response to the finding identified in our audit is described in the accompanying schedule of findings and responses. The District's response was not subjected to the auditing procedures applied in the audit of the financial statements, and accordingly, we express no opinion on it.

### **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Oakland, California  
November 11, 2021

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**CRESCENT CITY HARBOR DISTRICT  
SCHEDULE OF FINDINGS AND RESPONSES  
FOR THE YEAR ENDED JUNE 30, 2020**

**SECTION I - SUMMARY OF AUDITOR'S RESULTS**

**Financial Statements**

Type of auditor's report issued:	Unmodified
Internal control over financial reporting:	
• Material weakness(es) identified?	Yes
• Significant deficiency(ies) identified that are not considered to be material weakness?	No
Noncompliance material to financial statements noted?	No

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**CRESCENT CITY HARBOR DISTRICT  
SCHEDULE OF FINDINGS AND RESPONSES  
FOR THE YEAR ENDED JUNE 30, 2020**

**SECTION II. - FINANCIAL STATEMENTS FINDINGS**

**2020-001 - Financial Statement Close Process (Material Weakness) - Repeated and Modified**

*Condition* - The District lacks an effective internal control structure over the financial statement close and reporting process to allow for timely and accurate financial reporting. The District's internal controls were not in place or were not followed to ensure that the financial statements were presented in accordance with accounting principles generally accepted in the United States of America (GAAP).

During our audit, we encountered numerous issues related to the District's financial statement close process and underlying records that were provided to us to substantiate account balances in the District's trial balance and financial statements.

- a) Bank Reconciliation: The District could not provide all required bank reconciliations for our review. Also, the District did not provide bank statements for one bank account. Consequently, we are unable to test differences in balances per bank statement and general ledger balances for all the months.
- b) Credit cards: The District could not present credit card statements and respective reconciliations for all the months of the fiscal year for our review.
- c) Disbursement: For 4 out of 36 disbursements instances tested, there were no approvals on invoices, and for one instance, there was no supporting documentation to review. Also, during payroll expenses testing, the District could not provide timesheets for 6 out of 9 instances tested and payroll records for 3 out of 9 instances tested for our review.
- d) Journal Entry testing: For 2 out of 3 instances tested, the District was unable to present any supporting documentation for our review.
- e) Accounts Receivable: The District does not have internal control procedures to track individual grants and other receivables to ensure receivables are recorded accurately in a timely manner. We noted that the District does not reconcile the accounts receivable, and the grant receivable reported on the general ledger to the listing maintained by the District.
- f) The District does not have internal control procedures to track the existence, completeness, and accuracy of various general ledger accounts. During our testing, the District was unable to present any underlying documentation or other evidence for inventory, prepaid expenses, accrued payroll, and compensated absences.
- g) Fund Balance: An adjustment was necessary to correct the beginning fund balance, account payable, account receivable, accrued expenses, cash and cash equivalent, long-term liabilities and, capital assets.

*Criteria* - The District is responsible for maintaining adequate internal controls over its accounting records, account balances, and financial statement disclosures. Accounting records should include a complete, balanced general ledger that records all transactions supported by appropriate subsidiary records to prepare accurate financial statements. Procedures should be in place to ensure that balance sheet accounts are independently reviewed and reconciled to subsidiary records, at the very least, on a monthly basis.

*Effect* - Without established and adequate internal controls, lack of maintenance of subsidiary records, and year-end reconciliation procedures, the District's balances lack certainty about the accuracy of the balances.

**CRESCENT CITY HARBOR DISTRICT  
SCHEDULE OF FINDINGS AND RESPONSES  
FOR THE YEAR ENDED JUNE 30, 2020**

**SECTION II. - FINANCIAL STATEMENTS FINDINGS - CONT'D**

**2020-001 - Financial Statement Close Process (Material Weakness) - Cont'd**

*Auditor's Recommendation:* We recommend management evaluate all aspects of the financial close and reporting process and establish adequate internal controls and reconciliation and review procedures to ensure timely and accurate financial statements and supporting schedules.

*Management Response:* The District has undertaken significant measures to improve internal controls over financial reporting, document retention, and accounting procedures. The District completed the software migration from legacy systems to modern marina management and accounting software as of May 2021. The District issued a request for proposals and awarded a financial services contract to an experienced financial consulting firm in July 2021 to perform a comprehensive organizational and operational assessment of the District's financial operations. The underlying objectives of the initiative are to determine the District's current financial state and develop a roadmap to proactively manage financial resources, implement an organizational structure to support effective financial operations, and maximize the District's stewardship and transparency of public resources and assets. Because of these actions, the District is of the opinion that proper internal controls will be established and material weaknesses in financial reporting will be resolved.

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**CRESCENT CITY HARBOR DISTRICT  
SUMMARY SCHEDULE OF PRIOR YEAR'S AUDIT FINDINGS  
FOR THE YEAR ENDED JUNE 30, 2020**

<u>Prior Year Audit Findings</u>	<u>Status</u>
2019-001 Financial Statement Close Process	Repeated and Modified

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## **2. New Business**

**d. Update from Financial Ad Hoc, Commissioners White and Weber.**

***Public Comment?***



## **2. New Business**

**e. Solar Update and SLA Payment Agreement.**

***Public Comment?***



December 30, 2021

Mr. Tim Petrick  
CEO/Harbormaster  
Crescent City Harbor District  
101 Citizen's Dock Road  
Crescent City, CA 95531

RE: Solar PPA SLA Payment

Dear Mr. Petrick,

This letter is to update you and the Crescent City Harbor District (CCHD) Commissioners on the status of the SLA payment that was incorporated into the Solar PPA.

The legal owner of Phase One of the Solar PPA is ADE-Crescent City, LLC (ADECC). ADECC's responsibilities are to collect the PPA revenue and to pay all of the project expenses, including the SLA payment to CCHD.

The SLA Payment was due and payable to CCHD after the Commercial Operation Date (COD). While there is some debate about the exact date of COD, there is no debate that as of today, ADECC does not have the funds necessary to make the SLA payment.

ADECC has only one asset, the 577KW solar system built and commissioned by Pacific Power in February of 2021. Since CCHD is not making any PPA payments to ADECC, the project company continues to struggle with cash flow. They have not been successful in selling the excess solar panels inside the storage containers onsite, nor have they been successful in securing any outside financing for the company.

Renewable Energy Capital, LLC (REC) knows how important this payment is to CCHD. We do not want to see CCHD use any of its resources to pay for legal fees for an unknown legal/financial outcome. Since we do not envision anything changing in 2022 for ADECC that would materially change their financial situation, we need to work together and develop a plan to collect the SLA Payment for CCHD.

REC wants to assist with the SLA work out plan that avoids any financial repercussions for CCHD as a result of ADECC's current situation.

***To assist CCHD in collecting the SLA, REC is willing to add the SLA Payment to the redevelopment costs for Phase One of the Harbor Redevelopment Project.*** Since Phase One is currently estimated at \$10 million USD, REC can add the SLA Payment to our development budget without negatively impacting our debt service ratios on the project.

In closing, REC is very excited about 2022 and beginning the Redevelopment of Crescent City Harbor.

Regards,

Alex Lemus  
Renewable Energy Capital, LLC  
Managing Member



## **2. New Business**

**f. Approve Resolution No. 2022-001 Authorizing The CEO & Harbormaster To Execute A Ground Lease With Renewable Energy Capital, LLC For The Development Of The Bayside RV Park And Determining that the Project Is Categorically Exempt From CEQA.**

***Public Comment?***



# CCHD Staff Report

For Consideration by the Board of Harbor Commissioners

**01/04/2022 MEETING AGENDA ITEM 2(f)**

**APPROVE RESOLUTION NO. 2022-01 AUTHORIZING THE CEO & HARBORMASTER TO EXECUTE A GROUND LEASE WITH RENEWABLE ENERGY CAPITAL, LLC FOR THE DEVELOPMENT OF THE BAYSIDE RV PARK AND DETERMINATION THAT PROJECT IS CATEGORICALLY EXEMPT FROM CEQA**

## EXECUTIVE SUMMARY

On September 21, 2020, the Crescent City Harbor District (“District”) released a Request for Proposal (“RFP”) to redevelop designated areas within the District’s boundaries to both support the mission of the District and to provide for future growth of the District’s facilities and grounds. Renewable Energy Capital, LLC (“REC”), a Nevada limited liability company, submitted a proposal for the RFP on November 2, 2020 (“REC Proposal”). On December 1, 2020, the REC Proposal was submitted to the Board of Harbor Commissioners (“Board”) for review and approval, which the Board did approve at the same meeting. This agenda item seeks the Board’s approval for a ground lease (“Ground Lease”) with REC, for the development of the Bayside RV Park (“Park”).

## DISCUSSION

The broader purpose of the RFP was in support of the District’s four strategic goals, which were developed through workshop discussions with the Board of Harbor Commissioners (“Board”), District staff, and community input, and are as follows:

1. Financial Management Objective: To develop a financial system that is resistant to economic shocks, fulfills basic functions, manages risks, diversifies revenue streams, and allows for growth.
2. Planned Development Objective: To plan for major development opportunities available to the Harbor District.
3. Infrastructure Objective: To improve existing infrastructure deficiencies, accommodate desired future growth, and replace worn-out facilities.
4. Increase Tourism Objective: To increase awareness of the Harbor District as an excellent tourism destination, as well as improving the Harbor District’s aesthetics and enhancing visitor experiences.

In order to develop the Park in a manner consistent with the four strategic objectives of the District provided above, the District will enter into a Ground Lease with Renewable Energy Capital, LLC, whereby it will lease the Park located between Citizens Dock Road and Neptune Way, a portion of Section 28, Township 16 North, Range 1 West of the Humboldt Base and Meridian, consisting of approximately 161,000 square feet to Renewable Energy Capital, LLC. The Ground Lease will have an initial term of twenty five (25) years, and REC will have the option to extend for up to three (3) periods of five (5) years. REC will pay the District a monthly rent of Thirty Three Thousand Three Hundred Thirty Three Dollars and Thirty Four Cents (\$33,333.34) per month (\$400,000 annually), subject to an annual increase by the greater of two percent (2%) or the increase in Consumer Price Index, with the increase not less than 2% and not more than 5%.

Pursuant to the Ground Lease, Renewable Energy Capital, LLC will have the right to make any infrastructure upgrades necessary to the Park. All improvements, changes or alterations to the Park that exceed \$10,000, will be subject to approval from the District.

Developing the Park will generate additional revenue for the District and will promote public recreation in the District by providing additional opportunities for the public to access the harbor.

## **FISCAL IMPACT**

Approval of the attached Ground Lease will provide the District with additional revenue in the amount of \$400,000 annually in Rent, subject to an annual escalation rate of two (2) to five (5) percent, for a period of 25 to 40 years.

## **ENVIRONMENTAL REVIEW**

The approval of the Ground Lease and Renewable Energy Capital, LLC's operation of the Park (collectively, the "Project") is categorically exempt from the California Environmental Quality Act ("CEQA"). The Project includes operation of the Park and various improvements and infrastructure upgrades to the Park, including water-efficient landscaping, drainage improvements, trenching, grading, carports, patios, fences, gates, and the construction of a public restroom. As further explained below, the Project is categorically exempt from CEQA under the Class 1, Class 3, and Class 4 exemptions set forth, respectively, in State CEQA Guidelines sections 15301, 15303, and 15304.

The Project falls within the Class 1 exemption, which applies to the operation, maintenance, permitting, leasing, and minor alteration of existing public or private structures, facilities, or topographical features involving negligible or no expansion of existing or former use. (State CEQA Guidelines, § 15301.) Here, the Park's existing use is a RV Park facility, and the Project proposes only a negligible expansion of that existing use. The leasing of the Park, the operation of the Park, and the minor alterations that comprise the Project are thus all exempt from CEQA.

The Project further falls within the Class 3 exemption, which applies to the construction and location of limited numbers of new, small facilities or structures. (State CEQA Guidelines, § 15303.) The Class 3 exemption explicitly applies to accessory (appurtenant) structures including carports, patios, and fences—the very type of infrastructure upgrades at issue in the Project here.

Finally, the Project is additionally exempt from CEQA under the Class 4 exemption, which applies to minor public or private alterations in the condition of land that does not involve removal of healthy, mature, and scenic trees; the exemption explicitly applies to grading on land with a slope of less than ten percent (with exceptions not relevant here) and to “new gardening or landscaping,” which is a feature of the Project here. (State CEQA Guidelines, § 15303(a)-(b).) Here, any grading as part of the Project would not occur on land with a slope of over ten percent, and the Project would not result in the removal of any healthy, mature, and scenic trees. The Project is therefore exempt from CEQA.

None of the exceptions to the categorical exemptions set forth in State CEQA Guidelines section 15300.2 have any applicability here. The Project will not impact any environmental resource of hazardous or critical concern, will not result in significant cumulative impacts, is not subject to any unusual circumstances that could result in a significant environmental impact, would not damage any scenic resources within a scenic highway, is not located on a hazardous waste site identified on any list compiled pursuant to Government Code section 65962.5, and would not impact any historical resource.

For all of the foregoing reasons, the entirety of the Project is categorically exempt from CEQA.

## **OPERATIVE DOCUMENTS**

By approving the Resolution attached to this staff report, the Board will authorize the CEO & Harbormaster to take any and all necessary steps to review with the advice of counsel and consultants, comment on, negotiate, approve and execute on behalf of the District the Ground Lease.

## **RECOMMENDATION:**

Approve Resolution No. 2022-01 Authorizing The CEO & Harbormaster To Execute A Ground Lease With Renewable Energy Capital For Development Of The Bayside RV Park, and Find the Project Categorically Exempt from CEQA

## **ATTACHMENT(S):**

1. Resolution No. 2022-01
2. Ground Lease with Renewable Energy Capital, LLC

**RESOLUTION NO. 2022-01**

**A RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE CRESCENT CITY HARBOR DISTRICT AUTHORIZING THE CEO & HARBORMASTER TO EXECUTE A GROUND LEASE WITH RENEWABLE ENERGY CAPITAL, LLC FOR THE DEVELOPMENT OF THE BAYSIDE RV PARK, AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM CEQA**

**WHEREAS**, the State of California (“State”) granted Crescent City Harbor District (the “District”) right, title and interest in certain tidelands and submerged lands to be held in trust to promote and accommodate commerce, navigation, and fisheries, and for public recreation purposes; and

**WHEREAS**, Harbors and Navigation Code section 6075(a), authorizes the District to develop facilities within the limits of the District’s established boundaries; and

**WHEREAS**, Harbors and Navigation Code section 6075(b) provides that no interest in lands owned and operated by the District, including a lease interest, may be acquired without the prior consent of the Board of Harbor Commissioners of the District (“Board) by resolution; and

**WHEREAS**, the California Coastal Act (Public Resources Code § 3000 *et seq.*) does not require a coastal development permit from the District for development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled; and

**WHEREAS**, the California Surplus Land Act (Government Code § 54220 *et seq.*) defines “surplus lands” to mean land owned in fee simple by any local agency, and because the District does not own its tidelands and submerged lands in fee simple and instead holds the lands in trust for the State, the District’s tidelands and submerged lands are not surplus lands; and

**WHEREAS**, the District is the owner of record of certain real property commonly known as the Bayside RV Park, located in the City of Crescent City, Del Norte County California, commonly known as the Bayside RV Park located at between Citizens Dock Road and Neptune Way, a portion of Section 28, Township 16 North, Range 1 West of the Humboldt Base and Meridian, consisting of approximately 161,000 square feet and more particularly described in Exhibit “A” attached hereto (“Park”); and

**WHEREAS**, the Park is located in the District’s granted tidelands and submerged lands; and

**WHEREAS**, the District has embarked upon the development of facilities and properties within the District by issuing a Request for Proposals (“RFP”) for the Development of the Harbor on September 21, 2020, including the Bayside RV Park (the “Bayside RV Park”); and



**WHEREAS**, on December 1, 2020, the Board approved the acceptance of a proposal by Renewal Energy Capital, LLC for the development of various facilities within the District; and

**WHEREAS**, in order to develop the Park and in order to make mutually agreed upon improvements for the proposed development and operation of a Recreational Vehicle Park (“RV Park”), Renewable Energy Capital, LLC will enter into a long-term ground lease (“Ground Lease) with the District; and

**WHEREAS**, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.), and the District’s local CEQA Guidelines (collectively, “CEQA”), the District is the lead agency for the Bayside RV Park; and

**WHEREAS**, in accordance with State CEQA Guidelines section 15061, the District evaluated the Bayside RV Park Project and considered existing conditions at the subject site and surrounding vicinity, to evaluate whether an exemption from CEQA applied; and

**WHEREAS**, in accordance with Del Norte County Code (“County Code”) Title 21, Chapter 50, Section 30(A)(2), the District determined that Bayside RV Park Project does not require a coastal development permit because the proposed improvements do not (1) involve a risk of adverse environmental effect, (2) adversely affect public access, or (3) involve a change in use contrary to the County’s policy; and

**WHEREAS**, the Bayside RV Park Project would support the four strategic goals, identified in the District’s ten (10) year strategic plan (2018-2028), including developing a new revenue stream, developing and improving harbor infrastructure, and increasing awareness of the District as a tourism destination; and

**WHEREAS**, the Board hereby finds that the Bayside RV Project is in the best interests of the District because it promotes public recreation by providing additional opportunities for the public to access and enjoy the harbor.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF HARBOR COMMISSIONERS OF THE CRESCENT CITY HARBOR DISTRICT THAT:**

Section 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. The Board finds that Bayside RV Park Project , including the approval of the Ground Lease and improvements to the Park ( e.g., landscaping, trenching, grading, carports, patios, fences, and construction of a public restroom), is categorically exempt from CEQA under the Class 1, Class 3, and Class 4 exemptions. An RV park currently operates at the Park, and the leasing of the Park and operation of the Project would involve only a negligible expansion of that existing use. (State CEQA Guidelines, § 15301 [Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, or minor alteration of existing structures, facilities, or topographical features where the project involves negligible or no expansion of existing or former use].) Additionally, the construction of accessory structures, including the construction of fences, patios, and a restroom facility—all of which are part of the Project here—are exempt from CEQA. (State CEQA Guidelines, § 15303.) Moreover, minor

alterations in the condition of land is exempt from CEQA where, as here, such alterations would not involve removal of healthy, mature, and scenic trees. (State CEQA Guidelines, § 15304.) For all of the foregoing reasons, the Board finds that the Bayside RV Park Project is categorically exempt from CEQA.

Section 3. The Board hereby approves the Ground Lease with Renewable Energy Capital, LLC, in substantially the form attached to this Resolution as Exhibit “A.”

Section 4. The CEO & Harbormaster (“Authorized Officer”) is hereby authorized and directed to execute the Ground Lease to which the District is a party, with such changes, insertions and omissions as may be approved by the Authorized Officer and District Counsel.

Section 5. The Authorized Officer is hereby authorized and directed, to do any and all things necessary to execute the Ground Lease, and to execute and deliver any and all documents which the Authorized Officer or District Counsel deem necessary or advisable, in order to consummate the transactions contemplated by the Ground Lease and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution and the documents referred to herein.

Section 6. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application and, to this end, the provisions of this Resolution are severable. The Board declares that the Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 7. This Resolution shall take effect immediately upon its adoption.

APPROVED, ADOPTED AND SIGNED this 4th day of January, 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Rick Shepherd, President  
Board of Harbor Commissioners  
Crescent City Harbor District

ATTEST:

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Clerk of the Board of Harbor Commissioners  
Crescent City Harbor District

EXHIBIT "A"

GROUND LEASE

[Attached behind this cover page]

## GROUND LEASE

THIS GROUND LEASE (“**Lease**”) is dated for reference purposes as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”), by and between CRESCENT CITY HARBOR DISTRICT (“**Landlord**”) and RENEWABLE ENERGY CAPITAL, LLC, a California limited liability company (“**Tenant**”), who, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, agree as follows:

**1. Background.** Pursuant to Chapter 1510, Statutes of 1963, Landlord is the owner of record of that certain real property (“**Property**”) located in the City of Crescent City, Del Norte County California, commonly known as the Bayside RV Park located at between Citizens Dock Road and Neptune Way, Assessor Parcel No. \_\_\_\_\_, consisting of approximately 161,000 square feet and more particularly described in Exhibit “A” attached hereto. Tenant wishes to lease the Property from Landlord, together with all rights, privileges and easements appurtenant thereto. Landlord is willing to lease the Property to Tenant. The Property and such appurtenant rights, privileges and easements are collectively referred to as the “**Premises.**” The rights granted herein shall be subject to the terms and conditions of Chapter 1510, Statues of 1963.

**2. Lease of Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases and takes from Landlord, the Premises for the purpose of the Approved Use, on the terms and conditions set forth herein.

**3. Term; Options to Extend.**

(a). Initial Term. The initial term (“**Initial Term**”) of this Lease commences at the end of the Due Diligence Period, unless Tenant terminates the Lease during such period in accordance with Section 5 below (“**Commencement Date**”), and shall continue for a period of twenty-five (25) Lease Years. Should the Initial Term commence on a date other than the first day of a calendar month, the Term shall be extended by this fractional month. Each period of twelve (12) consecutive calendar months during the term (following any adjustment for a fractional month as described in the preceding sentence) is referred to hereafter as a “**Lease Year.**” Tenant shall record the Memorandum of Lease described in Section 38 below, in the form attached hereto as Exhibit “B” (“**Memorandum**”).

(b). Options to Extend. Upon the terms and conditions described in the Addendum attached hereto, Tenant will have the right to extend the term of this Lease for up to three (3) periods of five (5) Lease Years each (each an “**Extension Period**”). Unless otherwise specifically stated herein, all provisions of this Lease will be applicable during the Initial Term and any Extension Periods. The date upon which the Initial Term or an Extension Period expires is referred to hereafter as the “**Termination Date.**”

4. **Monthly Rent and Rent Adjustments.** Tenant shall pay to Landlord as rent for the use and occupancy of the Premises, at the times and in the manner described herein, the following sums of money:

(a) Monthly Rent. Beginning at the expiration of the Construction Period (defined below) (“**Rent Commencement Date**”), on the first day of each calendar month, Tenant shall pay to Landlord a monthly rent payment (“**Rent**”) in the amount of \$33,333.34 (“**Monthly Rent**”) (\$400,000.00 annually). The Monthly Rent will be prorated with respect to any partial month at the commencement of the Initial Term.

(b) Adjustments to Monthly Rent During the Lease. At each anniversary from the Rent Commencement Date (each an “**Adjustment Date**”), Monthly Rent will be increased by the greater of two percent (2%) or the increase in the Consumer Price Index as determined by the U.S. Bureau of Labor Statistics for all Urban Consumers for the West Region over the previous year (“**Index**”), provided, however, in no event will the increase be less than two percent (2%) or more than five percent (5%). Should the Index be discontinued, the index used for comparison shall be a comparable index designated by the Bureau. It is recognized by both parties that the Index for any month is not published for approximately two months. Tenant shall, therefore, continue to pay the current rental paid by Tenant until such time as the new Index is available and, at that time, Tenant shall pay within ten (10) days of notice of the new Monthly Rent the new amount plus arrearages. In no event will Monthly Rent ever decrease below the prior year’s Monthly Rent even if the Index is negative. In such event, the Monthly Rent shall increase at the minimum rate specified in this Section 4(b). Subject to the determination of fair market value during the first year of any Extension Period set forth in Section 45(a) hereof, the annual adjustments to Monthly Rent shall continue through any Extension Period exercised by Tenant.

(c) Percentage Rent.

(1) During the Term, Tenant will pay to Landlord, as provided below, the dollar amount by which six percent (6%) of Tenant’s “Gross Sales” (as hereinafter defined) exceeds the Monthly Rent paid by Tenant to Landlord during each month of the Term (“**Percentage Rent**”). Calculations of Monthly Rent and Percentage Rent shall not include any consideration for operating expense contributions. Percentage Rent will be calculated and reported on a monthly basis, and shall be paid in accordance with this Section 4(c). Tenant shall furnish or cause to be furnished to Landlord a statement of the monthly Gross Sales of Tenant within ten (10) days after the close of each month and a statement of the annual Gross Sales of Tenant within thirty (30) days after the close of each fiscal year. Such statements will be certified as an accurate accounting of Tenant's Gross Sales by an authorized representative of Tenant. Within ten (10) calendar days after the end of each month, Tenant shall pay to Landlord the amount, if any, by which the product of six percent (6%) multiplied by the Gross Sales for such month exceeds the Monthly Rent paid by Tenant for such month. Annual reconciliation shall verify or correct the original reported Gross Sales but shall not recalculate the Percentage Rent on an annual basis. Within ninety (90) days after the close of each fiscal year, an accounting of Tenant's Gross Sales during said fiscal year and the amounts paid to Landlord as Monthly Rent and as Percentage Rent during each month of such fiscal year will be

made by Landlord and, on such accounting, an adjustment will be made with respect to Percentage Rent as follows: if Tenant has paid to Landlord an amount greater than Tenant is required to pay under the terms of this Section 4(c), Landlord shall issue a check in the amount of such excess Percentage Rent within thirty (30) days of such determination; or if Tenant has paid an amount less than the Percentage Rent required to be paid under this Section 4(c), Tenant will pay to Landlord such difference within thirty (30) days of such determination. On termination of this Lease, if Tenant is not in default under this Lease, Landlord will refund to Tenant the amount of any excess, promptly on Landlord's receipt of Tenant's request therefore.

(2) “**Gross Sales**” as used in this lease means the gross selling price of all merchandise or services sold or rented on a monthly basis or from the Premises by Tenant, its subtenants, licensees, and concessionaires (including food and beverages; provided that this reference to food and beverages does not permit the sale of food or beverages from the Premises if not otherwise expressly permitted by this Lease), whether for cash or on credit, whether made by store personnel or by machines, or whether made by catalogue or Internet sale (from on or off the Premises), excluding therefrom the following: (i) sales taxes, excise taxes, or gross receipts taxes imposed by governmental entities on the sale of merchandise or services, but only if collected from customers separately from the selling price and paid directly to the respective governmental entities; and (ii) proceeds from the sale of fixtures, equipment, or property that are not stock in trade (“**Exclusions from Gross Sales**”). Tenant will use its reasonable good faith efforts to maximize Gross Sales from the Premises.

(3) At the time of a sale or other transaction, Tenant must record the sale or other transaction in a cash register with sealed continuous tape, or on a computer, or by using any other method of recording sequentially numbered purchases and keeping a cumulative total.

(4) For a period of three (3) years following the submittal of its certified annual statement for each calendar or fiscal year, Tenant must keep and maintain full and accurate accounting books and records relative to transactions from the Premises in accordance with generally accepted accounting principles consistently applied. The accounting books and records kept and maintained by Tenant for audit purposes must include all records, receipts, journals, ledgers, and documents reasonably necessary to enable Landlord or its auditors to perform a complete and accurate audit of Gross Sales and Exclusions from Gross Sales in accordance with generally accepted accounting principles.

(5) Landlord, at any time within three (3) years after receipt of any certified annual statement and on not less than ten (10) days' prior written notice to Tenant, may cause an audit to be made of Gross Sales and Exclusions from Gross Sales and all of Tenant's records and accounting books necessary (in Landlord's judgment) to audit such items. Tenant will make all such books and records available for the audit at the Premises or at Tenant's offices in the state in which the Premises is situated. If the audit discloses an underpayment of Percentage Rent, Tenant will immediately pay to Landlord the amount of the underpayment with interest, which will accrue from the date the payment should have been made through and including the date of payment. If the audit



discloses an underreporting of Gross Sales in excess of two percent (2%) of the reported Gross Sales, whether or not additional Percentage Rent is due, then Tenant will also immediately pay to Landlord all reasonable costs and expenses incurred in the audit and in collecting the underpayment, including auditing costs and attorney fees. If the audit discloses an overpayment of Percentage Rent, Tenant will be entitled to a credit in the amount of the overpayment against the next payment(s) of Percentage Rent due, unless the audit was for the last year of the Term, in which event Landlord will refund to Tenant the overpayment within sixty (60) days following the date of the finalization of the audit.

(6) For the purpose of computing Percentage Rent, Tenant's Gross Sales for any period during which Tenant does not continuously and uninterruptedly conduct its business, as required by Section 40, will be deemed to be Tenant's Gross Sales for the corresponding period during the last calendar year in which Tenant operated continuously and uninterruptedly.

(7) Landlord is a public entity subject to the Public Records Act. Information provided to Landlord pursuant to this Section III may be disclosed publicly as required by law. If Landlord receives a request for records related to information obtained from Tenant pursuant to this section, Landlord agrees to promptly provide Tenant with written notice of the request. Tenant will then have the time specified in the Landlord's notice to determine whether it considers any of the information confidential proprietary information and whether it will take legal action to preclude disclosure of the requested information. Tenant understands that the Landlord's notice of a request for records under the California Public Records Act (Gov. Code, section 6250, et seq.) will require a prompt response from Tenant given the Landlord's obligation to respond to such a request within 10 days of its receipt. Absent a timely response, Landlord may release the requested records. Landlord shall have no monetary liability to Tenant for release of information pursuant to a request under the California Public Records Act or any subpoena; nor shall Landlord be obligated to defend against any challenge related to a California Public Records Act request or a subpoena for records that Tenant asserts are confidential. Tenant further agrees to be liable for and pay all judgments against the Landlord, as well as attorney fees and costs, resulting from a challenge related to a records request or subpoena for records that Tenant asserts are confidential.

(d) Location for Payment. All Monthly Rent and all other moneys and charges payable by Tenant to Landlord hereunder shall be paid by Tenant to Landlord in lawful money of the United States of America at Landlord's address for notices hereunder, or to such other person or at such other place as Landlord may from time to time designate by notice in writing to Tenant.

## **5. Conditions To Commencement.**

(a) No Representations or Warranties. It is expressly understood by the parties hereto that the physical condition of the Premises as of the Effective Date is such that it is leased to Tenant as-is without any representation or warranty. Landlord makes no express or implied representations or warranties concerning the Premises or its fitness for any particular purpose. Tenant shall bear the costs of any action necessary to place the Premises in a condition that meets the requirements of law or that is otherwise suitable

for any of its contemplated uses. Landlord shall not be held liable to Tenant for any losses incurred or damages sustained as a direct or indirect result of the condition of the Premises or any use or failure thereof.

(b) Tenant's Feasibility and Due Diligence. Tenant shall have a period of two hundred seventy (270) days from the Effective Date (“**Due Diligence Period**”) to conduct due diligence activities, to examine the physical condition of the Premises and to perform other non-invasive investigations, including, without limitation review of title, obtaining a survey, and a Phase I environmental assessment. Landlord shall provide Tenant with copies of any existing leases, as well as any surveys, environmental studies, and notifications relating to environmental conditions, and other documents requested by Tenant that are in Landlord's possession and that relate to the Premises, in their full, unedited form (“**Landlord Deliveries**”). Landlord makes no representation whatsoever about the content, accuracy, or value of any of Landlord's Deliveries. All Landlord's Deliveries will be provided to Tenant without warranty from Landlord regarding the accuracy of the information contained therein, and such documents may or may not be assignable to Tenant. The delivery of such reports and studies shall be subject to the proprietary rights of any engineer or other consultant preparing the same and any limitations on use imposed by them. Tenant assumes all risk of reviewing and understanding any and all information contained in Landlord's Deliveries. Tenant may terminate this Lease for any reason at any time during the Due Diligence Period, at which point Landlord's obligations under this Lease shall terminate with no liability to Tenant whatsoever. Tenant will give notice to Landlord of its approval of the physical condition of the Premises by 5:00 pm PST on the expiration of Due Diligence Period.

(c) Tenant's Due Diligence Extension. Tenant shall have the unilateral right, no later than fifteen (15) days prior to the expiration of the Due Diligence Period, to extend the Due Diligence Period by an additional ninety (90) days (“**Due Diligence Extension**”).

(d) Landlord's Approval of Tenant's Finances. Landlord shall have one hundred eighty (180) days from the Effective Date to review and approve Tenant's financials and credit enhancements. The Lease is contingent upon Landlord's approval and determination, in its reasonable discretion, that Tenant's financial condition is sufficient to meet its obligations under this Lease. If Landlord determines that Tenant's financial condition is not sufficient to meet its obligations under this Lease, Landlord shall have the right to terminate this Lease, and the parties shall have no obligations or responsibilities pursuant to this lease, except for those obligations which expressly survive.

(e) CEQA. The Lease is contingent upon all of the procedures of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (Title 14, California Code of Regulations section 1500 et seq.) (collectively “**CEQA**”) being met with respect to this Lease. Landlord and Tenant will make good faith efforts to complete the environmental analysis or otherwise comply with CEQA requirements as required with respect to Tenant's proposed use, which must be evidenced by a document that is certified, or adopted, or if applicable, a notice of exemption that is filed, in accordance with

CEQA and the District's CEQA procedures. The environmental review shall be deemed completed for purposes of this Lease once the notice of determination or notice of exemption, as applicable, has been posted and filed and the appeal period has run without a legal challenge or appeal being brought against said notice, or if a challenge appeal is timely filed, the resolution of any such challenge or appeal in a manner that results in the environmental review no longer being subject to challenge or appeal and in the granting or issuance, without modification, of the environmental review. The parties' sole obligations shall be to use good faith efforts and the failure to complete the environmental review shall not create liability under this Lease.

If the conditions in this Section 5 are not satisfied, all obligations and responsibilities of and between the Parties pursuant to this Lease shall be terminated except for those obligations which expressly survive.

## **6. Taxes and Assessments.**

(a) Tenant Responsibility. Tenant covenants and agrees to pay and discharge, during the entire Term, before delinquency, all taxes, assessments, water charges, sewer charges, utility rates and fees, levies or other charges, general, special, ordinary, extraordinary and otherwise, of every kind and character which are or may during the Term be levied, charged, assessed or imposed upon or against the Premises or any buildings or improvements located thereon, or against any of Tenant's personal property located thereon, or which may be levied, charged, assessed or imposed upon or against the leasehold estate created hereby. In addition, Tenant shall pay any tax assessed exclusively on rental income of Landlord to the extent such income is allocable to this Lease, if and only if such tax is assessed by State or local authorities upon the elimination of and in lieu of taxation based on the ownership of real property. At the commencement and at the end of the Term, such taxes, assessments and other charges to be paid by Tenant shall be prorated on the basis of the fiscal year of the taxing authority in question so that, at the commencement and at the end of the Term, as to any such taxes, assessments and other charges levied or assessed for a fiscal year preceding the commencement or extending beyond the end of the Term, Tenant will pay only such proportion of such taxes, assessments and other charges as the portion of such fiscal year following the commencement and preceding the end of the Term bears to the entire fiscal year.

(b) Revenue & Taxation Code Section 107.6. Possessory Interest Tax. Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxes and that, if a possessory interest is created, Tenant shall, in accordance with this Paragraph 6 hereof, be responsible for payment of property taxes levied against such possessory interest

(c) Improvement or Special Assessment District. If at any time during the Term of this Lease any governmental subdivision shall undertake to create a new improvement or special assessment district (including lighting and landscape districts and community facilities districts) the proposed boundaries of which shall include any portion of the Land, Tenant shall be entitled to appear in any proceeding relating thereto and to present its position as to whether the Property should be included or excluded from the proposed improvement or assessment district and as to the degree of benefit to the Property resulting therefrom. Landlord shall

promptly advise Tenant in writing of the receipt of any notice or other information relating to the proposed creation of any such improvement or special assessment district, the boundaries of which include any portion of the Land.

(d) Personal Property. Tenant covenants and agrees to pay (or to cause other responsible parties to pay) before delinquency all personal property taxes, assessments and liens upon all personalty situated within the Premises.

(e) Payment by Landlord. In the event Tenant fails to pay any real estate taxes or taxes or assessments on personal property, Landlord may, at its option, after giving ten (10) days' notice to Tenant, pay any such taxes or assessments together with all penalties and interest which may have been added thereto by reason of any such delinquency or failure to pay, and may likewise redeem the Premises or any part thereof, or the buildings or improvements located thereon, from any tax sale or sales. Any such amounts so paid by Landlord shall become immediately due and payable as additional rent by Tenant to Landlord, together with interest thereon at the maximum lawful rate from the date of payment by Landlord until paid by Tenant. Any such payment shall not be deemed to be a waiver of any other rights of Landlord hereunder.

**7. Utilities/Expenses.** Landlord represents and warrants to Tenant that water, sewage, gas, electricity, and telephone service are either on the Premises or that they are located within five (5) feet of the boundary of the Premises. Tenant shall pay for any Tenant Improvements, alterations, or other costs to occupy the land in any way, at its sole cost and expense. Tenant shall determine the availability of and shall cause to be installed in, on, and about the Premises all additional facilities necessary to supply thereto all water, sewage, gas, electricity, telephone and other services required in connection with the construction and operation of the Premises, and, during the Term hereof, Tenant shall pay all charges and expenses associated with the use of said facilities and shall protect and hold harmless Landlord and the Premises therefrom. Tenant shall pay all connection, service and other charges pertaining to the Premises levied by public utilities or municipalities with respect to utilities during the Term. Tenant shall pay all expenses associated with operating and occupying the Premises. This is a triple net lease and Tenant is responsible for the operation and expenses of its occupancy in every way, and Landlord shall have no expense.

**8. Quiet Enjoyment.** Landlord covenants that upon payment by Tenant of the rent herein reserved and upon performance and observance by Tenant of all of the agreements, covenants and conditions herein contained on the part of Tenant to be performed and observed, and subject to all covenants, conditions, restrictions and encumbrances of record, Tenant shall peaceably hold and quietly enjoy the Premises during the entire Term without hindrance, molestation or interruption by Landlord or by anyone lawfully or equitably claiming by, through or under Landlord.

**9. Use.**

(a) Tenant shall have the right to use the Premises as an operating recreational vehicle park and for no other purpose (“**Permitted Use**”). Subject to Tenant’s compliance with all then applicable codes, ordinances, regulations, requirements for permits and approvals, and Landlord’s written approval, which shall not be unreasonably withheld, Tenant may, at Tenant’s sole cost and expense, install temporary and/or permanent structures, including, without limitation, paving and improvements necessary for the Permitted Use. Without limiting the foregoing, Tenant acknowledges and agrees the Permitted Use shall not be changed without written approval from the Commissioners of the Crescent City Harbor District, in such Commissioner’s sole and absolute discretion. In no event shall the Premises be used for long-term rental purposes.

(b) Without limiting the foregoing, Tenant agrees that in connection with the use and operation of the Premises it will not: (i) cause or permit substantial and obnoxious odors to emanate or be dispelled from the improvements; (ii) permit undue accumulations of garbage, trash, rubbish or any other refuse; (iii) create, cause, maintain or permit any nuisance (as defined under applicable law) in, on or about the Premises; (iv) commit or suffer to be committed any waste (as defined under applicable law) in, on or about the Premises; (v) knowingly use or allow the Premises to be used for any unlawful purpose, or for any purpose which violates the terms of any recorded instrument which affects the Premises and which is senior in priority to this Lease; (vi) Cause or permit any insurance coverage on the Premises or the improvements thereon to become void or voidable (unless Tenant has previously obtained replacement coverage in the same amounts) or make it impossible to obtain any required insurance at commercially feasible rates; or violate any law, ordinance or regulation applicable to the Premises and the improvements thereon.

(c) Tenant shall at all times comply with, and shall pay all costs and expenses which may be incurred or required to be paid in order to comply with, any and all laws, statutes, ordinances, rules and regulations (“**Laws**”) which apply to the operation and use of the Premises on a nondiscriminatory basis, including those requiring alterations or additions to be made to, or safety appliances and devices to be maintained or installed in, on or about the Premises on a nondiscriminatory basis under any Laws now or hereafter adopted, enacted or made and applicable to the Premises, and payment of any fees, charges or assessments arising out of or in any way related to the Premises on a nondiscriminatory basis as a source of adverse environmental impacts or effects.

(d) There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, age, handicaps, sex, marital status, sexual orientation, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Premises or the improvements thereon, or any part thereof, and Tenant itself, or any person claiming under or through it, shall not establish or permit any such practice of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subtenants or vendees of the Premises or the improvements thereon, or any part thereof.

## **10. Construction and Covenant to Open and Operate**

(a) Construction Period. If Tenant does not terminate this Lease on or before the expiration of the Due Diligence Period, Tenant shall pay the first installment of Monthly Rent, and shall have ninety (90) days (“**Construction Period**”) to obtain all necessary permits and approvals, and, once permits have been received, begin construction.

(b) Covenant to Open and Operate. Tenant covenants to open for business to the public within five (5) business days of the expiration of the Construction period, as such period may be extended, and thereafter, subject to temporary closures for casualty, condemnation, remodel (to the extent approved by Landlord), or Force Majeure (as defined below), which prevent Tenant from conducting its normal business operations in the Premises, to operate continuously and uninterrupted in the entirety of the Premises throughout the Term the business described in Section 3.

#### **11. Title to Buildings and Improvements.**

(a) Title to all buildings, structures and improvements that now, or may from time to time constitute a part of the Premises shall be and remain in Tenant until the termination of this Lease. Upon termination of this Lease, Tenant may remove from the Premises all machinery, equipment and fixtures. Landlord may, by written notice to Tenant given not less than one (1) year prior to the expiration of the Term of this Lease, elect (i) to require that Tenant remove all improvements from the Premises; or (ii) leave building improvements (but not machinery, equipment and fixtures) in place, in which case title will pass to and vest in Landlord without cost or charge to it.

(b) Tenant, on termination of this Lease, shall execute and deliver any and all deeds, bills of sale, assignments, and other documents which in Landlord’s sole judgment may be necessary or appropriate to transfer, to evidence or to vest in Landlord clear title to any of the property described in the foregoing subsection (a) located on the Premises at the time of such termination.

**12. Permits, Licenses, Etc.** Landlord will from time to time during the Term execute, acknowledge and deliver any and all instruments required to grant rights-of-way and easements in favor of municipal and other governmental authorities or public utility companies incident to the installation of water lines, fire hydrants, sewers, electricity, telephone, gas, steam, and other facilities and utilities reasonably required for the use and occupancy of the Premises. Tenant shall reimburse Landlord for any sum paid by Landlord in respect of the matters specified in this Section 12, including reasonable attorney fees.

#### **13. Maintenance, Repair and Condition of Premises.**

(a) Tenant acknowledges that prior to the Commencement Date, Tenant shall have completed its due diligence investigation and otherwise satisfied itself regarding the physical condition of the Property and its suitability for Tenant’s intended use and construction of improvements thereon. Tenant’s execution of this Lease constitutes Tenant’s acceptance of the Property in its

“AS-IS” condition, with all faults. Tenant releases Landlord and any of its subsidiaries and affiliates and their respective officers, directors, shareholders, employees and attorneys from any and all liabilities and claims of any type concerning the condition of the Property. Tenant further agrees that, if Tenant wishes to construct any improvement in the Premises, Tenant shall comply with all requirements in Section 14 (Improvements) of this Lease. Landlord makes no representations regarding the condition, status, compliance with laws or suitability for a particular purpose for Tenant's use. Tenant agrees to comply with all laws in demolition and destruction of the building with regard to any Hazardous Materials and the possible presence of same on the Premises.

(b) Tenant shall, during the Term, at its own cost and expense and without any cost or expense to Landlord:

(1) Keep and maintain all buildings and improvements (including, but not limited to, all landscaping located on the Property and all appurtenances thereto) in good and neat order and repair and shall allow no nuisances to exist or be maintained therein. Landlord shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Premises or any buildings or improvements located thereon, and Tenant hereby expressly waives all right to make repairs at Landlord's expense under sections 1941 and 1942 of the California Civil Code, or any amendments thereof; and

(2) Comply with and abide by all federal, state, county, municipal and other governmental statutes, ordinances, laws and regulations affecting the Premises, all buildings and improvements located thereon, or any activity or condition on or in the Premises.

(c) Tenant agrees that it will not commit or permit waste upon the Premises.

(d) Tenant will not cause or permit any Hazardous Materials to be released in, on, under or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Tenant's expense, comply with all statutory requirements with respect to any contamination of the Premises that was caused or materially contributed to by Tenant or pertaining to or involving any Hazardous Materials brought onto the Premises during the term of this Lease by or for Tenant or any third party who enters on the Premises at Tenant's request or direction. Tenant will defend, indemnify and hold Landlord free and harmless from and against any and all claims, damages and liabilities with respect to any such contamination of the Premises occurring following the Commencement Date and before the Termination Date or such earlier or later date on which Tenant actually surrenders possession of the Premises to Landlord. Tenant will immediately notify Landlord if Tenant becomes aware that any release of Hazardous Materials has come to be located in, on, under or about the Premises at any time during the Term. “**Hazardous Materials**” shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to those substances, materials or wastes regulated now or in the future under any of the following statutes or regulations promulgated thereto: (1) any “hazardous substance” within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”) 42 U.S.C. § 9601, et seq. or the California Hazardous Substance



Account Act, Cal. Health and Safety Code § 25300 et seq. or the Porter-Cologne Water Quality Act, Cal. Water Code § 13000 et seq. or the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; (2) any “hazardous waste” within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; or (3) any other substance, chemical, waste, toxicant, pollutant or contaminant regulated by any federal, state or local law, statute, rule, regulation or ordinance for the protection of health or the environment, including, without limitation, any petroleum products or fractions thereof.

#### **14. Improvements, Changes, Alterations, Demolition and Replacement.**

(a) Tenant shall have the right at any time and from time to time during the Term to make such improvements to the Premises and such changes and alterations, structural or otherwise, to any buildings, improvements, fixtures and equipment located on the Property, as Tenant shall deem necessary or desirable.

(b) Following the Effective Date, if Tenant so elects, Tenant shall proceed with due diligence and dispatch to complete the construction on the Premises of the Tenant Improvements.

(c) All improvements, changes and alterations (other than changes or alterations of moveable trade fixtures and equipment) shall be undertaken in all cases subject to the following conditions which Tenant covenants to observe and perform:

(1) No improvement, change or alteration (“**Tenant Improvements**”), shall be undertaken until:

(i) Landlord shall have approved the site plan and plans and specifications for such Tenant Improvements (other than Tenant Improvements with a cost of Ten Thousand Dollars (\$10,000) or less).

(ii) Tenant shall have procured and paid for, so far as the same may be required from time to time, all municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction, and Landlord agrees to join in the application for such permits or authorizations whenever such action is necessary.

(d) In the event that any future Tenant Improvement qualifies as a “project” under CEQA requiring discretionary approval from Landlord, any such project shall be subject to CEQA, and Landlord shall make a determination of whether such project is exempt from CEQA or whether additional environmental review is necessary.

(e) All work done in connection with any Tenant Improvement, change or alteration shall be done promptly and in a good and workmanlike manner and in compliance with all laws, ordinances, orders, rules, regulations and requirements of all

Federal, state and municipal governments and the appropriate departments, commissions, boards and officers thereof. All such work shall be at the sole cost and expense of Tenant.

(f) Tenant has been alerted to the requirements of Labor Code Sections 1720 et seq. and 1770 et seq. (“**Prevailing Wage Laws**”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If any of the work to be performed under this Lease by Tenant is being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Tenant agrees to fully comply with such Prevailing Wage Laws. Tenant shall defend, indemnify and hold the Landlord, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. If any of the work to be performed under this Lease by Tenant is being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, it shall be mandatory upon the Tenant and its contractors to comply with all applicable California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815), public works contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). It shall be the sole responsibility of Tenant to determine whether to comply with Prevailing Wage Laws for any or all work required by this Lease. As a material part of this Lease, Tenant agrees to assume all risk of liability arising from any decision not to comply with Prevailing Wage Laws.

(g) In addition to the insurance coverage referred to in Section 19 below, Workers’ Compensation Insurance covering all persons employed in connection with the work and with respect to whom death or injury claims could be asserted against Landlord, Tenant or the Premises, and a general liability policy coverage, naming Landlord with limits of not less than One Million Dollars (\$1,000,000), shall be maintained by Tenant, at Tenant’s sole cost and expense, at all times when any work is in process in connection with any improvement, change or alteration. Tenant may provide such coverage by means of a blanket policy, covering other locations in addition to the Premises, provided that such blanket policy provides aggregate coverage of not less than Three Million Dollars (\$3,000,000). All such insurance shall be obtained and kept in force as otherwise provided in Section 19 below.

**15. Damage or Destruction.** No loss or damage by fire or other cause required to be insured against hereunder resulting in either partial or total destruction of any building, structure, or other improvement on the Property, shall operate to terminate this Lease, or to relieve or discharge Tenant from the payment of rents or amounts payable as rent as they become due and payable, or from the performance and observance of any of the agreements, covenants and conditions herein contained on the part of Tenant to be performed and observed. Tenant hereby waives the provisions of subsection 2 of section 1932 and subsection 4 of section 1933 of the California Civil Code, as amended from time to time.

**16. Assignment and Subletting.** Tenant shall have no right to assign all or any part of its interest in this Lease without Landlord's prior consent, not to be unreasonably withheld. Without limiting the foregoing, Tenant shall not have the right or power to request or effect a Transfer at any time an Event of Default shall exist, and no right to Transfer prior to the Commencement Date or the first forty-eight (48) months after the Commencement Date without Landlord's prior consent, which may be withheld in its sole and absolute discretion. By way of example and without limitation, the parties agree that it shall be reasonable for Landlord to withhold its consent to a Transfer if any of the following situations exist or may exist: (a) in Landlord's reasonable business judgment, the transferee lacks sufficient experience to manage a successful development and project of the type and quality being conducted at the Premises; or (b) in Landlord's reasonable business judgment, the then net worth of the transferee is inadequate (after taking into account the net worth of the guarantor of Tenant's obligations under this Lease, if any) to manage a successful development and project of the type and quality being conducted at the Premises. Tenant shall be free to sublet retail shop space constructed by Tenant, with prior written consent of the Landlord and in compliance with Section 14, above, on the Premises with Landlord's prior consent.

(a) Procedures. Should Tenant desire to assign, transfer, sublet, mortgage, pledge, hypothecate or encumber this Lease or any interest therein (a "**Transfer**"), Tenant shall give notice thereof to Landlord by requesting in writing Landlord's consent to such Transfer at least thirty (30) days before the effective date of the Transfer and shall provide Landlord with the following: (a) The full particulars of the proposed transaction, including its nature, effective date, and material terms and conditions, including the purchase price and payment terms of the purchase price. Such documentation shall include, without limitation, an executed copy of the agreement(s) effecting the Transfer. (b) A description of the identity, net worth, and previous business experience of the transferee, including, without limitation, copies of such transferee's latest income statement, balance sheet, and statement of cash flows (with accompanying notes and disclosures of all material changes thereto) in audited form only if available at the time, and certified as accurate by the transferee along with a written statement authorizing Landlord or its designated representative(s) to investigate such transferee's business experience, credit, and financial responsibility; (c) A statement that Tenant intends to consummate the transaction if Landlord consents to the Transfer; and (d) Any further information relevant to the transaction that Landlord reasonably requests within ten (10) days after receipt of Tenant's written request for consent.

(b) Void Without Consent. A proposed Transfer without such consent shall be void, and shall, at the option of the Landlord, constitute a default under the terms of this Lease. No sublease or assignment shall release Tenant from continuing liability hereunder. Within forty-five (45) days after receipt of Tenant's written request for consent in accordance with this section, Landlord shall respond in writing to the proposed Transfer. If Landlord refuses to consent to a proposed Transfer, it shall state in writing the specific reason(s) for its refusal to consent. If Landlord fails to respond in writing to a request for consent within the forty-five (45)-day period, or if Landlord refuses to consent in writing within the forty-five (45)-day period but does not state in writing the specific reason(s) for its refusal, Landlord shall conclusively be deemed to have consented to the proposed Transfer.

(c) Documentation and Expenses. Each Transfer that requires Landlord's consent that Tenant effects shall be evidenced by an instrument reasonably acceptable to Landlord, which shall be executed by Landlord, Tenant, and the transferee. By such instrument, the transferee shall assume and promise to perform the terms, covenants, and conditions of this Lease, which are obligations of Tenant. Tenant shall, on demand of Landlord, reimburse Landlord for Landlord's reasonable costs, including legal fees, incurred in obtaining advice and reviewing or preparing documentation for each Transfer that requires Landlord's consent, not to exceed \$2,500; however, this fee may be reasonably adjusted by Landlord from time to time based on increases in costs.

**17. Mortgage of Leasehold.** Tenant shall have the right to encumber the leasehold estate created by this Lease by a mortgage, deed of trust or other security instrument, including, without limitation, an assignment of the rents, issues and profits from the Premises, (the "**Leasehold Mortgage**") to secure repayment of any loan to Tenant, and associated obligations, from any lender (a "**Lender**"). Notwithstanding the foregoing, Tenant shall not, and shall have no right to, encumber Landlord's fee or reversionary interest in the Premises. Tenant covenants to keep Landlord's fee and reversionary interest in the Premises and every part thereof at all times free and clear of any and all liens and encumbrances of any kind whatsoever arising out of the acts or omissions of Tenant, including those liens and encumbrances created by the performance of Tenant of any construction, labor, or furnishing of any material, supplies or equipment to Tenant.

**18. Protection of Lender.** During the continuance of any Leasehold Mortgage and until such time as the lien of any Leasehold Mortgage has been extinguished:

(a) Landlord shall not accept any surrender of this Lease, nor shall Landlord consent to any amendment or modification of this Lease, without the prior written consent of any Lender.

(b) Notwithstanding any default by Tenant in the performance or observance of any agreement, covenant or condition of this Lease on the part of Tenant to be performed or observed, Landlord shall have no right to terminate this Lease or interfere with the occupancy, use, and enjoyment of the Premises unless (i) an event of default shall have occurred and is continuing, (ii) Landlord shall have given any Lender written notice of such event of default, and (iii) the Lender(s) shall have failed to remedy such default, acquire Tenant's leasehold estate created hereby, or commence foreclosure or other appropriate proceedings, all as set forth in, and within the time specified by, this Section 18.

(c) Any Lender shall have the right, but not the obligation, at any time prior to termination of this Lease and without payment of any penalty, to pay all of the rents due hereunder, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent

termination of this Lease. All payments so made and all things so done and performed by a Lender shall be as effective to prevent a termination of this Lease as the same would have been if made, done and performed by Tenant instead of by a Lender.

(d) Should any event of default under this Lease occur, any Lender shall have thirty (30) days after receipt of written notice from Landlord setting forth the nature of such event of default, or ten (10) in the event of non-payment of rent, within which to remedy the default; provided that in the case of a default which cannot with due diligence be cured within such thirty (30) day period, the Lender(s) shall have the additional time reasonably necessary to accomplish the cure, provided that (i) such Lender has commenced the curing within such thirty (30) days and (ii) thereafter diligently prosecutes the cure to completion. If the default is such that possession of the Premises may be reasonably necessary to remedy the default, the Lender(s) shall have a reasonable additional time after the expiration of such thirty-day period, within which to remedy such default, provided that (i) the Lender(s) shall have fully cured any default in the payment of any monetary obligations of Tenant under this Lease within such thirty day period and shall continue to pay currently such monetary obligations as and when the same are due and (ii) the Lender(s) shall have acquired Tenant's leasehold estate or commenced foreclosure or other appropriate proceedings seeking such acquisition within such period, or prior thereto, and is diligently prosecuting any such proceedings.

(e) Any event of default under this Lease which is not susceptible to remedy by a Lender shall be deemed to be remedied if (i) within thirty (30) days after receiving written notice from Landlord setting forth the nature of such event of default, or prior thereto, a Lender shall have acquired Tenant's leasehold estate created hereby or shall have commenced foreclosure or other appropriate proceedings seeking such acquisition, (ii) a Lender shall diligently prosecute any such proceedings to completion, and (iii) a Lender shall have fully cured any default in the payment and performance of any monetary or other obligations of Tenant hereunder which do not require possession of the Premises within such sixty day period and shall thereafter continue faithfully to perform all such monetary obligations which do not require possession of the Premises, and (iv) after gaining possession of the Premises, a Lender shall perform all other obligations of Tenant hereunder as and when the same are due.

(f) If a Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings the times specified in subsections (d) and (e) above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition; provided that Lender shall have fully cured any default in the payment of any monetary obligations of Tenant under this Lease and shall continue to pay currently such monetary obligations as and when the same fall due.

(g) Landlord shall mail by certified or registered post, return receipt requested, or personally deliver to any Lender a duplicate copy of any and all notices in writing which Landlord may from time to time give to or serve upon Tenant pursuant to the provisions of this Lease, and such copy shall be mailed or delivered to any Lender at, or as near as possible to, the same time such

notices are given or served by Landlord. No notice by Landlord to Tenant hereunder shall be deemed to have been given unless and until a copy thereof shall have been so mailed or delivered to any Lender. Upon the execution of any Leasehold Mortgage, Landlord shall be informed in writing of the vesting of the security interest evidenced by the Leasehold Mortgage and of the address to which all notices to the Lender are to be sent. Notwithstanding any other provision of this Section 18, any Lender shall be deemed to have waived any right to receive notice pursuant to this Section unless and until Landlord has received such information.

(h) Foreclosure of the Leasehold Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the leasehold mortgage, or any assignment or conveyance of the leasehold estate created by this Lease from Tenant to a Lender or other purchaser through, or in lieu of, foreclosure or other appropriate proceedings of a similar nature shall not constitute a breach of any provision of or a default under this Lease. Upon such foreclosure, sale or conveyance Landlord shall recognize the Lender, or any other foreclosure sale purchaser, as Tenant hereunder. In the event a Lender becomes Tenant under this Lease, such Lender shall be liable for the obligations of Tenant under this Lease only for the period of time that such Lender remains Tenant. Such Lender shall have the right to assign this Lease at any time after becoming Tenant without any restriction otherwise imposed on Tenant hereunder and shall be fully released from liability under the Lease from and after the date of such assignment.

(i) Should Landlord terminate this Lease by reason of any default by Tenant hereunder, Landlord shall, upon written request by a Lender given within thirty (30) days after such termination, immediately execute and deliver a new lease of the Premises to such Lender, or its nominee, purchaser, assignee or transferee, for the remainder of the Term with the same agreements, covenants and conditions (except for any requirements which have been fulfilled by Tenant prior to termination) as are contained herein and with priority equal to that hereof; provided, however, that such Lender shall promptly cure any defaults of Tenant susceptible to cure by such Lender and that such Lender's right to possession of the Premises under the new lease shall commence only upon Tenant's vacating of the Premises. Upon execution and delivery of such new lease Landlord, at the expense of the new lessee, which expenses shall be paid by the new Tenant as they are incurred, shall take such action as shall be necessary to cancel and discharge this Lease and to remove Tenant named herein from the Premises.

## **19. Fire and Extended Coverage and Liability Insurance**

(a) During the period of the construction of any improvements upon the Property, Tenant shall at its sole expense obtain and keep in force builder's risk insurance, insuring Tenant, Landlord, Lender, and such other parties as Tenant may designate as an additional insured hereunder, against all risks of physical loss and/or damage from any cause (exclusive of earthquake and subject to usual policy exclusions) to all buildings, structures, materials and real property to be improved located on or forming a part of the Premises under improvement.

(b) Tenant shall, at its sole expense, obtain and keep in force during the Term, after substantial completion of any improvements upon the Premises fire and extended coverage insurance (excluding earthquake insurance) naming Landlord, Lender, and such other parties as Tenant may designate, as additional insureds thereunder.

(c) Tenant shall, at its sole expense, obtain and keep in force during the Term general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) for injury to or death of any number of persons in one occurrence, and not less than One Million Dollars (\$1,000,000) for damage to property, insuring against any and all liability of Landlord and Tenant including, without limitation, coverage for contractual liability, broad form property damage, personal injury, and non-owned automobile liability, with respect to the Premises or arising out of the maintenance, use or occupancy thereof, and insurance on all boilers and other pressure vessels, whether fired or unfired, located in, on, or about the Premises, without exclusion for explosion, collapse and underground damage, in an amount not less than One Million Dollars (\$1,000,000). Tenant may provide coverage for general liability insurance under a blanket policy, provided that such blanket policy provides aggregate coverage of not less than Four Million Dollars (\$4,000,000) as specified in Section 14(c)(3). All of such insurance shall insure the performance by Tenant of the indemnity agreement as to liability for injury to or death of persons and damage to property set forth in Section 21(b) hereof. All of such insurance shall be noncontributing with any insurance which may be carried by Landlord and shall contain a provision that Landlord, although named as an insured, shall nevertheless be entitled to recover under the policy for any loss, injury or damage to Landlord, its agents and employees, or the property of such persons.

(d) The limits and coverage of all such insurance shall be adjusted by agreement of Landlord and Tenant on every fifth anniversary of the Commencement Date during the Term in conformity with the then prevailing custom of insuring property similar to the Premises and any disagreement regarding such adjustment shall be settled by arbitration in the manner provided in Section 32 hereof. Upon the issuance thereof, each insurance policy or a duplicate or certificate thereof shall be delivered to Landlord and Lender. Nothing herein shall be construed to limit the right of Lender to cause Tenant to carry or procure other insurance covering the same or other risks in addition to the insurance specified in this Lease.

(e) All amounts that shall be received under any insurance policy specified in subsections (a) and (b) above shall be first applied to the payment of the cost of repair, reconstruction or replacement of any buildings or improvements, or furniture, fixtures, equipment and machinery, that is damaged or destroyed.

**20. Mechanics' and Other Liens.** Tenant shall promptly discharge or remove by bond or otherwise prior to foreclosure thereof any and all mechanics', materialmen's and other liens for work or labor done, services performed, materials, appliances, teams or power contributed, used or furnished to be used in or about the Premises for or in connection with any operations of Tenant, any construction of Tenant Improvements, alterations, improvements, repairs or additions which Tenant may make or permit or cause to be made, or any work or construction by, for or permitted by Tenant on or about the Premises, and to indemnify, save and hold

Landlord and all of the Premises and all buildings and improvements thereon free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto. Tenant covenants and agrees to give Landlord written notice not less than twenty (20) days in advance of the commencement of any construction, alteration, addition, improvement or repair costing in excess of Twenty-Five Thousand Dollars (\$25,000) in order that Landlord may post appropriate notices of Landlord's non-responsibility.

## **21. Indemnity.**

(a) Tenant shall have the right to contest the amount or validity of any lien of the nature set forth in Section 20 hereof or the amount or validity of any tax, assessment, charge, or other item to be paid by Tenant under Section 6 hereof by giving Landlord written notice of Tenant's intention to do so within twenty (20) days after the recording of such lien or at least ten days prior to the delinquency of such tax, assessment, charge, or other item, as the case may be. In any such case, Tenant shall not be in default hereunder, and Landlord shall not satisfy and discharge such lien nor pay such tax, assessment, charge or other item, as the case may be, until ten (10) days after the final determination of the amount or validity thereof, within which time Tenant shall satisfy and discharge such lien or pay such tax, assessment, charge or other item to the extent held valid and all penalties, interest, and costs in connection therewith; provided, however, that the satisfaction and discharge of any such lien shall not, in any case, be delayed until execution is had upon any judgment rendered thereon, nor shall the payment of any such tax, assessment, charge or other item, together with penalties interest, and costs, in any case be delayed until sale is made or threatened to be made of the whole or any part of the Premises on account thereof, and any such delay shall be a default of Tenant hereunder. In the event of any such contest, Tenant shall protect and indemnify Landlord against all loss, cost, expense, and damage resulting therefrom, and upon notice from Landlord so to do, shall furnish Landlord a corporate surety bond payable to Landlord, in one hundred and twenty percent (120%) of the amount of the lien, tax, assessment, charge, or item contested, as the case may be, conditioned upon the satisfaction and discharge of such lien or the payment of such tax, assessment, charge, or other item, and all penalties, interest, and costs in connection therewith.

(b) To the fullest extent allowed by law, Tenant covenants and agrees that Landlord shall not at any time or to any extent whatsoever be liable, responsible or in anywise accountable for any loss, injury, death, or damage to persons or property which, at any time may be suffered or sustained by Tenant or by any person who may at any time be using, occupying, or visiting the Premises or be in, on or about the Premises, from any cause whatsoever, except when whether such loss, injury, death, or damage shall be caused by or in anywise result from or arise out of the negligent or intentional acts or omissions of Landlord. Furthermore, Tenant shall forever indemnify, defend, hold, and save Landlord free and harmless of, from and against any and all claims, liability, loss, or damage whatsoever, including, without limitation, attorneys' fees, on account of any such loss, injury, death or damage occasioned by any cause other than Landlord's intentional or grossly negligent acts or omissions. Tenant hereby waives all claims against Landlord for damages to the buildings and improvements now or hereafter located on the Property and to the property of Tenant in, upon or about the Premises, and for injuries to persons or property in, on or about the Premises, from any cause arising at any time, except for



any such claims arising from negligent or intentional acts or omissions committed by Landlord. Tenant's indemnity obligation set forth in this Section shall survive the termination or expiration of this Lease with respect to any claims or liabilities arising out of injury or damage to person or property which occurs during the Term.

(c) Tenant shall indemnify, protect, defend, and hold Landlord, and/or any of Landlord's officials, officers, employees, agents, departments, and instrumentalities (collectively, the "Indemnified Parties") harmless from any and all claims, demands, lawsuits, petitions for writ of mandamus, alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and other such procedures), judgments, orders, decisions, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature) (collectively "Actions") brought against the Indemnified Parties that challenge, attack, or seek to modify, set aside, void, or annul any action of, or any permit or approval issued by, Landlord and/or any of its officials, officers, employees, agents, departments, and instrumentalities, for or concerning this Lease, the operation of a recreational vehicle park on the Premises (collectively, the "Project"), or any other permits, entitlements, or approvals related to the Project; Tenant's obligation to indemnify against the Actions shall apply whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the California Coastal Act, the Planning and Zoning Law, the Subdivision Map Act, Community Redevelopment Law, Code of Civil Procedure Sections 1085 or 1094.5, or any other federal, state, or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. Applicant's obligation under this condition of approval shall extend to indemnifying and holding harmless the Indemnified Parties against any damages, fees, or costs awarded in connection with any Action challenging the Project. Landlord and Tenant expressly agree that Landlord shall have the right to choose the legal counsel providing Landlord's defense, and that Tenant shall reimburse, on a monthly basis, Landlord for any costs, fees, and expenses incurred by Landlord in the course of the defense. Landlord shall promptly notify Tenant of any Action brought, and Tenant shall cooperate with Landlord in the defense of the Action. Tenant's obligation to fully indemnify Landlord shall survive the suspension, revocation, expiration or termination of any permit, entitlement, or approval issued by Landlord for or relating to the Project.

## **22. Eminent Domain.**

(a) If the whole of the Premises should be taken by any public or quasi- public authority under the power or threat of eminent domain during the Term, or if a substantial portion of the Premises should be taken so as to materially impair the use of the Premises contemplated by Tenant, and thereby frustrate Tenant's purpose in entering into this Lease, then, in either of such events, this Lease shall terminate at the time of such taking. In such event, of the compensation and damages payable for or on account of the Property, exclusive of the buildings and improvements thereon, Tenant and Lender, as their interests may appear, shall receive a sum equal to the worth at the time of the compensation award of the amount by which: the fair rental value of the Premises for the balance of the Term (including unexercised Extension Periods) *exceeds* the rental payable pursuant to the terms of this Lease for the balance of the Term (including unexercised Extension Periods); the balance of such compensation and damages shall be payable to and be the

sole property of Landlord. All compensation and damages payable for or on account of the buildings and improvements located on the Property and constituting a part of the Premises shall be divided among Landlord, Tenant, and Lender as follows:

(1) All compensation and damages payable for or on account of buildings and improvements having a remaining useful life less than the remaining Term as of the date of such taking shall be payable to and be the sole property of Tenant and Lender, as their interests may appear; and

(2) A proportionate share of all compensation and damages payable for or on account of buildings and improvements having a remaining useful life greater than the remaining Term as of the date of such taking, determined by the ratio that the then remaining Term bears to the then remaining useful life of such buildings and improvements, shall be payable to and be the sole property of Tenant and Lender, as their interests may appear, and the remaining share thereof shall be payable to and be the sole property of Landlord.

(b) If less than the whole of the Premises should be taken by any public or quasi-public authority under the power or threat of eminent domain during the Term and this Lease is not terminated as provided in subsection (a) above, Tenant shall promptly reconstruct and restore the Premises, with respect to the portion of the Premises not so taken, as an integral unit of the same quality and character as existed prior to such taking. The Monthly Rent payable by Tenant following such taking shall be equitably reduced by agreement of Landlord and Tenant in accordance with the reduced economic return to Tenant, if any, which will occur by reason of such taking. The compensation and damages payable for, or on account of, such taking shall be applied to the reconstruction and restoration of the Premises by Tenant pursuant to this subsection (b) by application, first, of any sums payable for or on account of the buildings and improvements situated on the Property, and second, of any sums payable for or on account of the Property exclusive of such buildings and improvements. The remainder, if any, after reconstruction and restoration shall be divided among Landlord, Tenant and Lender in the manner provided in subsection (a) above.

(c) No taking of any portion (but not all) of the remaining Term (including unexercised Extension Periods) of the leasehold interest in the Premises shall terminate this Lease or give Tenant the right to surrender this Lease, nor excuse Tenant from full performance of its covenants for the payment of rent and other charges or any other obligations hereunder capable of performance by Tenant after any such taking, but in such case all compensation and damages payable for or on account of such taking shall be payable to and be the sole property of Tenant and Lender.

(d) Should Landlord and Tenant for any reason disagree (i) as to whether any portion of the Premises taken is so substantial as materially to impair the use of the Premises contemplated by Tenant, (ii) on the division of any compensation or damages paid for or on account of any taking of all or any portion of the Premises, or (iii) on the amount by which the rent payable by

Tenant hereunder is to be equitably reduced in the event of a partial taking, then, and in any of such events, the matter shall be determined by arbitration in the manner provided in Section 33 hereof.

(e) The foregoing provisions shall apply to the Premises and the improvements located thereon; notwithstanding the foregoing, as between Landlord and Tenant, Tenant shall be solely entitled to all compensation for the relocation of businesses conducted from the Premises.

**23. Landlord's Right of Inspection.** Landlord shall have the right to inspect the Property upon not less than two (2) days prior written notice to Tenant.

**24. Tenant's Defaults and Landlord's Remedies.** It shall be an event of default hereunder (each an "Event of Default") if (i) default shall be made by Tenant in the punctual payment of any rent or other moneys due hereunder and shall continue for a period of five (5) days after written notice thereof to Tenant; (ii) default shall be made by Tenant in the performance or observance of any of the other agreements, covenants or conditions of this Lease on the part of Tenant to be performed and observed and such default shall continue for a period of thirty (30) days after written notice thereof to Tenant, or, in the case of a default which cannot be cured by the payment of money and cannot be cured within thirty (30) days, shall continue for an unreasonable period after such written notice; (iii) Tenant shall abandon the Premises; (iv) Tenant shall admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation under any law or statute of the federal government or any state government or any subdivision of either now or hereafter in effect, make an assignment for the benefit of its creditors, consent to, or acquiesce in the appointment of a receiver of itself or of the whole or any substantial part of the Premises; (v) a court of competent jurisdiction shall enter an order, judgment or decree appointing a receiver of Tenant or of the whole or any substantial part of the Premises, and such order, judgment or decree shall not be vacated, set aside or stayed within sixty (60) days from the date of entry of such order, judgment or decree, or a stay thereof be thereafter set aside; (vi) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Tenant under any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation law or statute of the Federal government or any state government or any subdivision of either now or hereafter in effect, and such order judgment or decree shall not be vacated, set aside or stayed within sixty (60) days from the date of entry of such order, judgment or decree, or a stay thereof be thereafter set aside; or (vii) under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of Tenant or of the whole or any substantial part of the Premises, and such custody or control shall not be terminated within sixty (60) days from the date of assumption of such custody or control. Upon the occurrence of any Event of Default by Tenant hereunder, Landlord shall have the following rights and remedies, in addition to all other rights and remedies of Landlord provided hereunder or by law:

(1) The right to terminate this Lease, in which event Tenant shall immediately surrender possession of the Premises, and pay to Landlord all rent and all other amounts payable by Tenant hereunder to the date of such termination;

(2) The remedies described in California Civil Code Section 1951.2, including, without limitation, the right to recover 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 for the same period that Tenant proves could be reasonably avoided, as computed pursuant to subdivision (b) of section 1951.2 of the California Civil Code;

(3) The remedies described in California Civil Code section 1951.4, including, without limitation, the right to collect, by suit or otherwise, each installment of rent or other sums that become due hereunder, or to enforce, by suit or otherwise, performance or observance of any agreement, covenant or condition hereof on the part of Tenant to be performed or observed; or

(4) The right to cause a receiver to be appointed in any action against Tenant to take possession of the Premises or to collect the rents or profits therefrom. Neither appointment of such receiver nor any other action taken by Landlord shall constitute an election on the part of Landlord to terminate this Lease unless written notice of termination is given to Tenant.

**25. Nonwaiver.** If any action or proceeding is instituted or if any other steps are taken by Landlord or Tenant, and a compromise part payment or settlement thereof shall be made, either before or after judgment, the same shall not constitute or operate as a waiver by Landlord or Tenant of any agreement, covenant or condition of this Lease or of any subsequent breach thereof. No waiver of any default under this Lease shall constitute or operate as a waiver of any subsequent default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege, or option under this Lease shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege, or option hereunder. No waiver of any provision hereof by Landlord or Tenant shall be deemed to have been made unless and until such waiver shall have been reduced to writing and signed by Landlord or Tenant, as the case may be. The receipt by Landlord of rent with knowledge of any default under this Lease shall not constitute or operate as a waiver of such default. Payment by Tenant or receipt by Landlord of a lesser amount than the stipulated rent or other sums due Landlord shall operate only as a payment on account of such rent or other sums. No endorsement or statement on any check or other remittance or in any communication accompanying or relating to such payment shall operate as a compromise or accord and satisfaction unless the same is approved in writing by Landlord, and Landlord may accept such check, remittance or payment without prejudice to its right to recover the balance of any rent or other sums due by Tenant and pursue any remedy provided under this Lease or by law.

**26. No Merger.**

(a) There shall be no merger of the leasehold estate created by this Lease with any other estate in the Premises, including the fee estate, by reason of the fact that the same person may own or hold the leasehold estate created by this Lease, or an interest in such leasehold estate, and such other estate in the Premises, including the fee estate, or any interest in such other estate; and

no merger shall occur unless and until Landlord, Tenant and any Lender shall join in a written instrument effecting such merger and shall duly record the same.

(b) No termination of this Lease shall cause a merger of the estates of Landlord and Tenant, unless Landlord so elects and any such termination shall, at the option of Landlord, either work a termination of any sublease in effect or act as an assignment to Landlord of Tenant's interest in any such sublease. Notwithstanding the foregoing, in the event of the termination of this Lease and the execution of a new lease with Lender or its nominee pursuant to Section 18(i) above, the termination of this Lease shall neither work a merger of estates nor a termination of any subleases in effect unless Lender so elects.

**27. No Partnership.** It is expressly understood and agreed that Landlord does not, in any way or for any purpose by executing this Lease, become a partner of Tenant in the conduct of Tenant's business, or otherwise, or a joint venturer or a member of a joint enterprise with Tenant.

**28. Covenants Run With Land.**

(a) The agreements, covenants and conditions in this Lease contained are and shall be deemed to be covenants running with the land and the reversion and shall be binding upon and shall inure to the benefit of Landlord and Tenant and their respective successors and assigns and all subsequent Landlords and Tenants respectively hereunder.

(b) All references in this Lease to "**Tenant**" or "**Landlord**" shall be deemed to refer to and include successors and assigns of Tenant or Landlord, respectively, without specific mention of such successors or assigns.

**29. Notices.** Except as otherwise provided hereunder; any notice or communication to Landlord, Tenant or Lender shall be in writing and be mailed by certified mail, postage prepaid. Notices or communications shall be addressed to Landlord at:

\_\_\_\_\_  
Attn: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

or such other address or addresses as Landlord shall from time to time designate, or to such agent of Landlord as it may from time to

time designate, by notice in writing to Tenant. Notices or communications shall be addressed to Tenant at:

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

or such other address or addresses as Tenant shall from time to time designate, or to such agent of Tenant as it may from time to time designate, by notice in writing to Landlord. Notices or communications to Lender shall be addressed to Lender at such address as Lender shall from time to time designate by notice in writing to Landlord. Any notice mailed in the manner above set forth shall be deemed to have been received unless returned to the sender by the post office.

**30. Limitation of Landlord's Liability.** In the event of any transfer of Landlord's interest in this Lease, the Landlord herein named (and in case of any subsequent transfer, the then transferor) shall be automatically freed and relieved from and after the date of such transfer of all personal liability for the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed; provided, however, that any funds in the hands of Landlord or the then transferor at the time of such transfer, in which Tenant has an interest shall be turned over to the transferee and any amount then due and payable to Tenant by Landlord or the then transferor under any provision of this Lease shall be paid to Tenant; and provided, further, that upon any such transfer, the transferee shall expressly assume, subject to the limitations of this Section 30, all of the agreements, covenants and conditions in this Lease to be performed on the part of Landlord, it being intended hereby that the covenants and obligations contained in this Lease on the part of Landlord shall, subject as aforesaid, be binding on each Landlord, its successors and assigns, only during its period of ownership.

**31. Estoppel Certificates.** Tenant or Landlord, as the case may be, will execute, acknowledge and deliver to the other and/or to Lender, promptly upon request, its certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which the Monthly Rent, and other monetary obligations have been paid, (c) whether there are then existing any charges, offsets or defenses against the enforcement by Landlord of any agreement, covenant or condition hereof on the part of Tenant to be performed or observed (and, if so, specifying the same), and (d) whether there are then existing any defaults by Tenant in the performance or observance by Tenant of any agreement, covenant or condition hereof on the part of Tenant to be performed or observed and whether any notice has been given to Tenant of any default which has not been cured (and, if so, specifying the same).

Any such certificate may be relied upon by a prospective purchaser, mortgagee or trustee under a deed of trust of the Premises or any part thereof.

**32. Holding Over.** This Lease shall terminate without further notice upon the expiration of the Term, and any holding over by Tenant after the expiration of the Term shall not constitute a renewal hereof or give Tenant any rights hereunder or in or to the Premises, except as otherwise herein provided, it being understood and agreed that this Lease cannot be renewed, extended or in any manner modified except in writing signed by Landlord and Tenant.

**33. Late Charge.** Tenant acknowledges that Tenant's failure to pay any installment of Monthly Rent or any other amounts due under this Lease as and when due may cause Landlord to incur costs not contemplated by Landlord when entering into this Lease, the exact nature and amount of which would be extremely difficult and impracticable to ascertain. Accordingly, if any installment of Monthly Rent or any other amount due under the Lease is not received by Landlord within ten (10) days after it is due, then, without any notice to Tenant, Tenant shall pay to Landlord an amount equal to five percent (5%) of the past due amount, which the parties agree represents a fair and reasonable estimate of the costs incurred by Landlord as a result of the late payment by Tenant.

**34. Default Interest.** In the event that Tenant shall fail to pay any amount of Monthly Rent, or any other monetary obligations owed to Landlord hereunder within thirty (30) days of the date that such amounts are due and payable, Tenant shall pay to Landlord, in addition to such amounts, interest thereon at the maximum interest rate permitted by law from the first day of the month in which such monetary obligation was payable to the date of actual payment thereof by Tenant to Landlord.

**35. Severability.** In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Lease, but this Lease shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

**36. Time of the Essence.** Time is of the essence of each and all of the agreements, covenants, and conditions of this Lease.

**37. Consents.** Whenever in this Lease the consent or approval of either Landlord or Tenant is required or permitted, the party requested to give such consent or approval will act promptly and will not unreasonably withhold its consent or approval.

**38. Memorandum of Lease.** Contemporaneously with the execution of this Lease, Landlord and Tenant will execute and acknowledge for recordation in the Official Records of the County of Del Norte a Memorandum of Lease in the form of Exhibit "B" hereto.

**39. Attorney Fees.** In the event of any action or proceeding at law or in equity between Landlord and Tenant to enforce any provision of this Lease or to protect or establish any right or remedy of either party hereunder, the unsuccessful party to such litigation shall pay to the prevailing party all costs and expenses, including reasonable attorney fees, incurred therein by such prevailing party, and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney fees shall be included in and as a part of such judgment.

**40. Integration.** This instrument constitutes the entire agreement between Landlord and Tenant with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by Landlord, Tenant and, if required by any Lender, by Lender.

**41. Amendments.** This Lease may be modified only in writing and only if signed by the parties at the time of the modification.

**42. Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the State of California.

**43. Commissions, Indemnity, Disclosure.** Each party represents to the other party that there is no broker representing such party in the current transaction, and that the representing party has incurred no liability for any brokerage commission or finder's fee arising from or relating to the transactions contemplated by this Lease. Each party hereby indemnifies and agrees to protect, defend and hold harmless the other party from and against all liability, cost, damage or expense (including without limitation attorneys' fees and costs incurred in connection therewith) on account of any brokerage commission or finder's fee which the indemnifying party has agreed to pay or which is claimed to be due as a result of the actions of the indemnifying party. This Section 44 is intended to be solely for the benefit of the parties hereto and is not intended to benefit, nor may it be relied upon by, any person or entity not a party to this Agreement.

**44. General Provisions Regarding Option to Extend.** The following provisions will apply to any option to extend the Term (the "Option(s)").

(a) Tenant shall have no right to exercise an Option (i) during the period commencing with the giving of any notice of default and continuing until such default is cured; (ii) during any period during which rent is unpaid (without regard to whether notice thereof has been given to Tenant); (iii) during any time Tenant is materially in default under this Lease; (iv) in the event that Tenant has been given two (2) or more notices of separate defaults, whether or not such defaults have been cured, during the twelve (12) month period immediately preceding the attempt to extend the Term.



(b) An Option shall terminate and be of no further force or effect (notwithstanding Tenant's due and timely exercise of such Option) if, after such exercise and prior to the commencement of an extended term or completion of the purchase, (i) Tenant fails to pay rent for a period of thirty (30) days after such rent becomes due; or (ii) if Tenant commits a material breach of this Lease.

**45. Options to Extend Termination Date.** Tenant will have the option to extend the Termination Date for up to three (3) periods of five (5) years each (each an "**Extension Period**"), upon the following terms and conditions:

(a) The Termination Date may not be extended for a later period unless the prior extension option has been validly exercised.

(b) Tenant shall give written notice to Landlord of its election to extend the Termination Date of this Lease not later than one hundred eighty (180) days prior to the Termination Date or the most recent Extension Period.

(c) Rent during the first year of any Extension Period will be fair market value as determined by a consultant hired by Landlord, based on the prevailing lease rate and/or property value of comparable recreational vehicle parks in Northern California, and Oregon.

**46. Landlord's Buyout Right.** At any time after the fifteenth (15) Lease Year, Landlord shall have the continuing right to purchase Tenant's leasehold interest and terminate this Lease upon no less than six (6) months' notice. As consideration for Landlord's buyout right set forth in this Section 46, Tenant shall receive a Buyout Fee (the "**Buyout Fee**"). The Buyout Fee shall consist of A, B and C below:

(a) the depreciated value of the improvements paid for by Tenant;

(b) the fair market value of the RV Park business based on the Industry Multiple (defined below) of Net Operating Income. For purposes of this Section 46, "Net Operating Income" shall mean Tenant's Gross Sales, less operating expenses, including, without limitation, real estate taxes, utilities, property and liability insurance and maintenance. The "Industry Multiple" shall mean the quotient of Net Operating Income divided by the Fair Market Value of the Premises.

Notwithstanding the foregoing, or anything herein to the contrary, Landlord shall not be responsible to assume any of Tenant's leasehold financing for the Premises and Tenant shall be required to surrender the Premises free and clear of any such leasehold mortgage.

**47. Quitclaim Deed Upon Termination.** Upon expiration or any early termination of the Lease Tenant shall deliver a duly executed and notarized quitclaim deed, disclaiming any and all interest in and to the Premises along with a bill of sale for purposes of transferring any furniture, fixtures and equipment used in operating the Premises for the Permitted Use.

**48. Leasehold Policy of Title Insurance.** Upon the recording of the Memorandum of Lease, Tenant may elect to obtain a leasehold policy of title insurance, insuring Tenant’s leasehold interest in the Property. Tenant will pay the premium for any such title policy.

**49. Force Majeure.** In the event that either party hereto shall be delayed or prevented from the performance of any of its obligations required hereunder due to circumstances beyond the reasonable control of the non-performing party, including but not limited to, strikes, lockouts or other differences with workers or unions, pandemic or epidemic, fire, flood, acts of God, hostilities, civil commotion, governmental acts, orders or regulations, failure of power, or other reason of a like or similar nature, not the fault of the party delayed in performing its services or doing acts required under the terms of this Lease, then performance of such acts shall be excused for the period of the delay. Notwithstanding the foregoing, this provision shall not apply to Tenant’s obligation to pay rent or other sums due hereunder, and Tenant shall continue to timely perform its payment obligations hereunder as and when due.

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

LANDLORD:

CRESCENT CITY HARBOR DISTRICT

By: \_\_\_\_\_

Its: \_\_\_\_\_

TENANT:

RENEWABLE ENERGY CAPITAL, LLC, a  
California limited liability company

By: \_\_\_\_\_

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

That certain real property located in the City of Crescent City, Del Norte County, California, described as follows:

**EXHIBIT "B"**

**MEMORANDUM OF LEASE**

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMORANDUM OF LEASE

This memorandum of lease ("**Memorandum of Lease**") is made as of \_\_\_\_\_, 2020 between \_\_\_\_\_ ("**Landlord**") and \_\_\_\_\_ ("**Tenant**"), who agree as follows:

1. The Lease. Landlord leases to Tenant, and Tenant leases from Landlord, the Premises (described below) on the terms and conditions of that certain unrecorded Ground Lease ("Lease") dated as of \_\_\_\_\_, 20\_\_, between the parties. (Unless expressly provided otherwise, all capitalized terms and phrases used in this Memorandum shall have the same meanings as set forth in the Lease.)

2. The Premises. The Premises which are the subject of the Lease are that certain real property situated in the City of Crescent City, Del Norte County, California, commonly known as Assessor Parcel No. \_\_\_\_\_ and more particularly described in Exhibit "1" attached hereto and made a part hereof by this reference.

3. Term. The initial term ("**Initial Term**") of the Lease shall commence on \_\_\_\_\_, and expire twenty-five (25) years thereafter; provided, however, if the Term commence on a date other than the first day of a calendar month, the Term shall be extended by this fractional month.

4. Option to Extend Termination Date. Tenant has three (3) consecutive options to extend the Termination Date of the Lease of five (5) years each on all the terms and conditions of the Lease.

5. Purpose of Memorandum. This Memorandum of Lease is prepared for the purpose of notice and recordation. This Memorandum of Lease does not and is not intended to modify the provisions of the Lease.

LANDLORD:

CRESCENT CITY HARBOR DISTRICT

By: \_\_\_\_\_  
Its: \_\_\_\_\_

TENANT:

RENEWABLE ENERGY CAPITAL, LLC, a  
California limited liability company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF ORANGE

On \_\_\_\_\_ before me, (here insert name and title of the officer), personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF ORANGE

On \_\_\_\_\_ before me, (here insert name and title of the officer), personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

EXHIBIT "1" TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION OF PREMISES

That certain real property located in the City of Crescent City, Del Norte County, California, described as follows:



### **3. Unfinished Business**

- a. Review Letter to the Regional Water Board.**

***Public Comment?***





## Board of Harbor Commissioners of the Crescent City Harbor District

Rick Shepherd, President; Harry Adams, Secretary  
Wes White, Commissioner; Brian Stone, Commissioner; Gerhard Weber, Commissioner  
101 Citizens Dock Road, Crescent City, CA 95531  
(707) 464-6174 <https://www.ccharbor.com/>

North Coast Regional Water Quality Control Board  
5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403

04 January 2022

### **REQUEST TO SPEAK AT REGIONAL WATER BOARD MEETING**

To Whom It May Concern,

The Crescent City Harbor District (CCHD) Board of Harbor Commissioners respectfully requests to be heard at the next scheduled North Coast Regional Water Quality Control Board Meeting.

As a California Special District, a public harbor, and a busy commercial fishing port we have had regular interaction with the Regional Board concerning dredging and permitting issues and are in the process of applying for beneficial use permits and dredging permits.

CCHD has over 65,000 cubic yards of dry dredge spoils stored on harbor property in an upland disposal site by the US Army Corps of Engineers with the original intent of having the soil removed to an offsite disposal. Due to restrictive testing levels the soil was too expensive to dispose of and has created a situation in which we are unable to complete maintenance dredging in the harbor area. We now have no upland disposal capacity and are unable to complete even the necessary emergency dredging in the harbor.

One of our longest standing tenant businesses, Fashion Blacksmith Boat Builders, believes the lack of dredging may bring them to the brink of bankruptcy. Fashion Blacksmith is a vital business servicing the commercial fishing industry not just for the local fishing boats but vessels from Alaska to Baja.

To alleviate this issue, we have begun the permitting process with the Regional Board for two separate essential projects. The first is an application for beneficial use of the soil in our own site dredge disposal ponds. We have identified multiple projects on harbor property for which we could use the soil as fill for sea level rise mitigation; however, those projects are on hold due to what amounts to a 1 year permitting process.

The second and most urgent project is emergency permitting for diver dredging of the area surrounding the synchrolift at Fashion Blacksmith. CCHD plans to employ divers with suction dredges to dredge material from around the pilings and under the lift depositing the material approximately 100 yards to the Southwest into a deeper area within the harbor. We have contracted with Planwest Partners to apply for the permitting for this project and expect to have the necessary documentation and testing completed in the first quarter of 2022.

With these current issues facing the Crescent City Harbor District, members of the CCHD Board of Commissioners request the opportunity to speak at the next meeting of the Regional Board and look forward to discussing how we can streamline the approval processes for these projects and future dredging and water projects on harbor property.

Thank you,

---

Rick Shepherd, President of the Board

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Harry Adams, Secretary of the Board

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Wes White, Commissioner

---

Brian Stone, Commissioner

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Gerhard Weber, Commissioner



### **3. Unfinished Business**

**b. Review and discuss modernization of the Harbor District's vehicle fleet.**

***Public Comment?***

## Financing Quote # 101858

December 7, 2021

Municipality: Crescent City Harbor District  
Dealer: Crater Lake Ford

Ford Credit Municipal Finance is pleased to provide the following quote for your consideration.  
Expiration Date: 2/5/2022

Description	Unit Price
2022 Ford F-150	\$37,582.00
2022 Ford F-150	\$37,582.00
2022 Ford F-150	\$37,582.00
2022 Ford F-150	\$37,582.00

Total Asset Cost	\$150,328.00
Underwriting Fee	\$545.00
Amount Financed	\$150,873.00
Number of Payments	48
Payment Timing	Monthly
Rate	4.85%
Payment Amount	\$3,450.31

This quote was prepared assuming the lease qualifies for Federal Income Tax Status for Ford Credit Company LLC under Section 103 of the IRS Code and is not a commitment by Ford Credit Municipal Finance. Financing is subject to credit review.

Thank you for the opportunity to provide this quote. If you have any questions, need additional options, or would like to proceed with the application process, please contact by using the information below.

Sincerely,

*Tom O'Donnell*

Tom O'Donnell  
Marketing Coordinator  
todonne8@ford.com  
1-800-241-4199, press 1



### **3. Unfinished Business**

**c. COVID Grant Award Update.**

***Public Comment?***



### **3. Unfinished Business**

#### **d. Dredge Permit Update.**

***Public Comment?***



## **4. Communication and Reports**

### **a. Financial Reports: Account Balances**

***Public Comment?***

<b>BANK BALANCES AS OF 12.17.21</b>		<b>BANK BALANCES AS OF 12.30.21</b>		<b>DIFFERENCE</b>
CCHD OPERATING	\$190,945.12	CCHD OPERATING	\$640,516.22	\$449,571.10
CCHD SAVINGS	\$30,021.29	CCHD SAVINGS	\$30,021.29	\$0.00
REDWOOD HARBOR	\$69,151.41	REDWOOD HARBOR	\$70,923.24	\$1,771.83
BAYSIDE RV PARK	\$22,662.83	BAYSIDE RV PARK	\$12,658.35	-\$10,004.48
LAIF ACCOUNT	\$1,395,806.52	LAIF ACCOUNT	\$1,395,806.52	\$0.00
<b>TOTALS</b>	<b>\$1,708,587.17</b>	<b>TOTALS</b>	<b>\$2,149,925.62</b>	<b>\$441,338.45</b>





## **4. Communications and Reports**

### **b. CEO/Harbormaster Report**

Sometime Monday morning the glass was broken out of the Old Englund Marine Building door. Nothing was stolen as far as we can tell. The door has been patched with plywood as of the writing of this and the glass company has been called for estimate.

A vehicle was driven down the coastal trail destroying many of the poles supporting the chain-link fence between the dredge ponds and the trail. The person responsible must have then backed their vehicle out the way they came and tried to stitch the fence back together.

Due to Christmas, New Year's, and a couple weeks of nasty weather there is very little update this meeting. We continue to work hard on the issues at hand.

***Public Comment?***



## **4. Communications and Reports**

### **c. Harbor Commissioner Reports**

Pursuant to the Brown Act, this item allows the Commissioners to briefly discuss activities engaged in since the previous public meeting.

**Commissioner Wes White**

**Commissioner Brian Stone**

**Commissioner Gerhard Weber**

**Commissioner Harry Adams (Secretary)**

**Commissioner Rick Shepherd (President)**

## 5. Adjournment

*Adjournment of the Board of Harbor Commissioners will be until the next meeting scheduled for Tuesday, January 18, 2022, 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.*

