

VENTURA PORT DISTRICT BOARD OF PORT COMMISSIONERS

Michael Blumenberg, Chair Jackie Gardina, Vice-Chair Anthony Rainey, Secretary Brian Brennan, Commissioner Chris Stephens, Commissioner

Brian D. Pendleton, General Manager Todd Mitchell, Sr. Business Operations Manager Tom Bunn, Legal Counsel Jessica Rauch, Clerk of the Board

REGULAR MEETING WEDNESDAY, JUNE 21, 2023

VENTURA PORT DISTRICT OFFICE 1603 ANCHORS WAY DRIVE VENTURA, CA 93001

AND

#10 DAILYSFORT ROAD SALTHILL GALWAY, IRELAND

CLOSED SESSION – 6:15PM OPEN SESSION – 7:00PM

PUBLIC PARTICIPATION OPTIONS

MEETINGS WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION.

WATCH THE MEETING LIVE

https://us02web.zoom.us/j/83276329300 Webinar ID: 832 7632 9300 1-669-900-6833 1-253-215-8782

PUBLIC COMMENT VIA ZOOM

To request to speak on an item, use the "raise hand" button to notify the Clerk. The Clerk will announce public speakers and unmute participants to speak. Please be mindful that the meeting will be recorded, and all rules of procedure and decorum apply for in-person attendees and those participating virtually.

SUBMIT PUBLIC COMMENT VIA EMAIL

To submit written comments on a specific agenda item, please do so via email by 4:00PM on the day of the meeting. When sending an email, please indicate in the subject line, the agenda item number (i.e. General Public Comment or Consent Item A). Written comments should be no more than 1,000 characters in length. Written comments will be distributed to the Commission and will be posted as a supplemental packet on the District's website at https://venturaharbor.com/board-meeting-documents/. Please submit your comment to the Clerk of the Board at irrauch@venturaharbor.com.

CLOSED SESSION 6:15PM

CALL TO ORDER: By Chair Michael Blumenberg.

ROLL CALL: By the Clerk of the Board.

PUBLIC COMMUNICATIONS (3 minutes)

The Public Communications period is set aside to allow public testimony on items only on the Closed Session Agenda. Each person may address the Commission for up to three minutes or at the discretion of the Chair.

CONVENE IN CLOSED SESSION

CLOSED SESSION AGENDA

- 1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PER GOVERNMENT CODE SECTION 54956.8:
- a) Property: Negotiating Parties:
 b) Property: Negotiating Parties:
 c) Property: Negotiating Parties:
 <lic) Property: Negotiating Parties:
 <lic) Property: N

Coastal Cone, Inc.Under Negotiation:Terms of New Restaurant Lease Agreement

 CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION: (Verbal Report) (Paragraph (1) of subdivision (d) of Section 54956.9) Name of case: Ventura Harbor Restaurant Associates, Inc. and Andria's Seafood Specialties, Inc. v Ventura Port District Ventura County Superior Court Case No. 56-2022-00572144-CU-MC-VTA

ADJOURNMENT

OPEN SESSION
7:00PM

CALL TO ORDER: By Chair Michael Blumenberg.

PLEDGE OF ALLEGIANCE: By Chair Michael Blumenberg.

ROLL CALL: By the Clerk of the Board.

ADOPTION OF AGENDA

Consider and approve, by majority vote, minor revisions to agenda items and/or attachments and any item added to or removed/continued from the Port Commission's agenda. Administrative Reports relating to this agenda and materials related to an item on this agenda submitted after distribution of the agenda packet are available for public review at the Port District's office located at 1603 Anchors Way Drive, Ventura, CA during business hours as well as on the District's website - <u>www.venturaharbor.com</u>.

APPROVAL OF MINUTES

The Minutes of the June 7, 2023 Port Commission Regular Meeting will be considered for approval.

PUBLIC COMMUNICATIONS

The Public Communications period is set aside to allow public testimony on items not on today's agenda. Each person may address the Commission for up to three minutes or at the discretion of the Chair.

CLOSED SESSION REPORT

Closed Sessions are not open to the public pursuant to the Brown Act. Any reportable actions taken by the Commission during Closed Session will be announced at this time.

BOARD COMMUNICATIONS

Port Commissioner's may present brief reports on port issues, such as seminars, meetings and literature that would be of interest to the public and/or Commission, as a whole. Port Commissioner's must provide a brief summary and disclose any discussions he or she may have had with any Port District Tenants related to Port District business.

STAFF AND GENERAL MANAGER REPORTS

Ventura Port District Staff, Legal Counsel and General Manager will give the Commission updates on important topics or items of general interest if needed.

CONSENT AGENDA:

Matters appearing on the Consent Calendar are expected to be non-controversial and will be acted upon by the Board at one time, without discussion, unless a member of the Board or the public requests an opportunity to address any given item. Approval by the Board of Consent Items means that the recommendation is approved along with the terms set forth in the applicable staff reports.

A) Award of Bid for the FY2023-2024 Janitorial Services for Ventura Harbor Village Restrooms and District Administration Office

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners award the FY2023-2024 Janitorial Services Contract to Jani-King International Inc. in the amount of \$85,000.

B) Rejection of Low Bid and Award of Second Low Bid for the FY2023-2024 Security Services for Ventura Harbor Village and Marina

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Find that the low bidder, Dial Security, is not responsible, and reject its bid on that basis.
- Award second low bid from Medallion Protective Services for the FY2023-2024 Security Services Contract in the amount of \$2,800/month, \$33,600/year with a contract ceiling of \$50,000.

C) Award of Bid for the 1559 Spinnaker Drive Office Tenant Improvement Project Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve the low bid from FCT Construction LLC in the amount of \$755,000 for the 1559 Spinnaker Drive, Tenant Improvement Modernization Project of approximately 4,000 square feet of office space.

STANDARD AGENDA:

1) Ventura West Marina Parcel 17 Preliminary Development Concept and Master Lease Negotiations

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Receive an informational report regarding a preliminary development concept for Ventura West Marina (Parcel 17) by Master Tenant TBBW Company, L.P., a California limited partnership, associated entity Beauchamp Realty, Inc. and Aldersgate Investment.
- b) Authorize the General Manager to initiate formal lease negotiations with TBBW pursuant to the Master Lease.

2) Adoption of Resolution No. 3478 Approving a Notice of Proposed Ordinance for a New 10-Year Lease between the Ventura Port District and The Boatyard, Inc. dba The Boatyard Pub

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3478 authorizing the Ventura Port District to publish a Notice of Proposed Ordinance for a New Restaurant Lease Agreement between the Ventura Port District dba Ventura Harbor Village and The Boatyard, Inc. dba The Boatyard Pub for the premises located at 1583 Spinnaker Drive #109 consisting of a total of 2,675 square feet of interior space, 1,681 square feet of patio, and 90 square feet of storage and mechanical equipment space for a five-year term with one five-year option.

3) Adoption of Resolution No. 3479 Approving the FY2023-2024 Harbor Patrol Departmental Budget

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3479 approving the FY2023-2024 Harbor Patrol Departmental Budget.

4) Adoption of Resolution No. 3480 and No. 3481 Approving the FY2023-2024 Final Budget, Five-Year Capital Improvement Plan and Salary Schedule for Non-Represented Employees Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt:

- a) Resolution No. 3480 approving the FY2023-2024 Ventura Port District Annual Budget and Five-Year Capital Improvement Plan.
- b) Resolution No. 3481 approving the FY2023-2024 Salary Schedule for Non-Represented Employees of the District.

5) Approval of Annual Professional Services Agreements for Administrative, Advocacy, Technical, and Legal Support Services

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve the Professional Services Agreements with:

- a) Swift Chip, Inc. in the amount of \$110,000 from July 1, 2023 to June 30, 2024, \$113,500 from July 1, 2024 to June 30, 2025 and \$116,500 from July 1, 2025 to June 30, 2026 to provide information technology services.
- b) Carpi & Clay, Inc. in the amount of \$60,000 to provide the District with federal advocacy services from July 1, 2023 to June 30, 2024.
- c) K&L Gates in the amount of up to \$80,000 to provide advocacy for the establishment of aquaculture in proximity to Ventura Harbor and legal support for regulatory agency permitting particularly as it concerns inner harbor dredging and beach maintenance.
- d) Liebert Cassidy Whitmore in the amount of up to \$60,000 to provide human resources legal services from July 1, 2023 to June 30, 2024.

- e) Rincon Consultants, Inc. in the amount of up to \$165,000 to provide dredging support, inner harbor dredging technical support, and coastal development permitting support from July 1, 2023 to June 30, 2024.
- f) Dixon Consultants, Inc. in the amount of up to \$55,000 to provide managed parking consulting, permitting, stakeholder engagement, and procurement support from July 1, 2023 to June 30, 2024.
- g) RRM Design Group, Inc. in the amount of \$40,000 to provide architectural design services for the planning of developing the Parcel 5 grass lawn area from July 1, 2023 to June 30, 2024.

ADJOURNMENT

This agenda was posted on June 16, 2023 by 5:30 p.m. at the Port District Office and online at https://venturaharbor.com/board-meeting-documents/

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Ventura Port District at (805) 642-8538 or the California Relay Service at 711 or (800) 855-7100. Notification 72 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

APPROVAL OF MINUTES JUNE 7, 2023 REGULAR MEETING

VENTURA PORT DISTRICT

BOARD OF PORT COMMISSIONERS MINUTES OF JUNE 7, 2023

CLOSED SESSION

CALL TO ORDER:

The Ventura Board of Port Commissioners Regular Closed Session Meeting was called to order by Chair Blumenberg at 6:01PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom meeting.

ROLL CALL:

Commissioners Present:

Michael Blumenberg, Chair Jackie Gardina, Vice-Chair Anthony Rainey, Secretary at 6:08PM Brian Brennan via Zoom Chris Stephens

Commissioners Absent: None.

Port District Staff:

Brian Pendleton, General Manager Todd Mitchell, Sr. Business Operations Manager Jessica Rauch, Clerk of the Board via Zoom

Legal Counsel:

Tom Bunn, Lagerlof Lawyers LLP

Number of interested persons:

0 via zoom; 0 in-person

PUBLIC COMMUNICATIONS: None. Closed at 6:02PM.

CONVENED TO CLOSED SESSION AT 6:03PM.

ADJOURNMENT: Closed Session was adjourned at 6:44PM.



OPEN SESSION

ADMINISTRATIVE AGENDA:

CALL TO ORDER:

The Ventura Board of Port Commissioners Regular Open Session Meeting was called to order by Chair Blumenberg at 7:00PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom meeting.

PLEDGE OF ALLEGIANCE: By Commissioner Stephens.

ROLL CALL:

Commissioners Present:

Michael Blumenberg, Chair Jackie Gardina, Vice-Chair Anthony Rainey, Secretary Brian Brennan via Zoom left at 8:35PM Chris Stephens

Commissioners Absent:

None.

Port District Staff:

Brian Pendleton, General Manager Todd Mitchell, Sr. Business Operations Manager via Zoom Jessica Rauch, Clerk of the Board John Higgins, Harbormaster Gloria Adkins, Accounting Manager Joe Gonzalez, Capital Projects Manager Jessica Snipas, Business Operations Analyst Jennifer Talt-Lundin, Marketing Manager Ruby Hedrick, Sr. Marketing & Events Coordinator Wayne Hatch, Maintenance Supervisor Dave Werneburg, Marina Supervisor via Zoom Jessica Perkins, Accountant via Zoom

Legal Counsel:

Tom Bunn, Lagerlof Lawyers LLP

City of Ventura Liaisons

Councilmember McReynolds, City Council Liaison – Absent

Number of interested persons:

6 via zoom; 4 in person

ADOPTION OF AGENDA

ACTION: Commissioner Stephens moved to adopt the June 7, 2023 agenda.

Commissioner Brennan seconded. The vote was as follows:

AYES: Commissioners Blumenberg, Gardina, Rainey, Brennan, Stephens NOES: None ABSTAINED: None ABSENT: None

Motion carried 5-0.

APPROVAL OF MINUTES

The Minutes of the May 17, 2023 Regular Port Commission Meeting were considered as follows:

ACTION: Vice-Chair Gardina moved to approve the Minutes of the May 17, 2023 Regular Port Commission meeting.

Commissioner Rainey seconded. The vote was as follows:

AYES: Commissioners Blumenberg, Gardina, Rainey, NOES: None ABSTAINED: Commissioners Brennan, Stephens ABSENT: None

Motion carried 3-0.

PUBLIC COMMUNICATIONS: Sam Sadove referred to the legal proceeding's agenda item on closed session and hoped there would be a reportable action on the item. Closed at 7:05PM.

CLOSED SESSION REPORT: Mr. Bunn stated that the Board met in closed session; discussed and reviewed Item 1a and 3 on the closed session agenda. The Board gave direction to staff as to how to proceed. No action was taken that is reportable under The Brown Act.

Item 2, the Board voted unanimously to approve a Settlement Agreement. Under the Settlement Agreement the District agreed not to violate the Brown Act, the District will be recording closed sessions that include items on aquaculture for a determined time period, and Lagerlof will pay on the settlement amount of \$80,000 on behalf of the District.

BOARD COMMUNICATIONS: Vice-Chair Gardina appreciated the Wellness Festival held at the Village over the weekend. Chair Blumenberg enjoyed visiting Deep Sea Winery and on Monday, June 12th the City Council appoints one of the Commissioners. Commissioner Brennan thanked Mr. Mitchell for his participation in the BEACON sand summit.

STAFF AND GENERAL MANAGER REPORTS: Mr. Pendleton reported on the current, past and upcoming marketing promotions and events. He also reported on the VCSDA meeting where he was guest speaker.

CONSENT AGENDA:

A) Approval of a New Office Lease Agreement with Brian Spaak dba NFP and Lindsey Buechler dba Sun Coast Real Estate for 1567 Spinnaker Drive #205

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Brian Spaak dba NFP and Lindsey Buechler dba Sun Coast Real Estate for the premises located at 1567 Spinnaker Drive #205, consisting of approximately 290 square feet, for a two-year term with one three-year option.

Public Comment: None.

ACTION: Commissioner Stephens moved to approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Brian Spaak dba NFP and Lindsey Buechler dba Sun Coast Real Estate for the premises located at 1567 Spinnaker Drive #205, consisting of approximately 290 square feet, for a two-year term with one three-year option.

Commissioner Brennan seconded. The vote was as follows:

AYES: Commissioners Blumenberg, Gardina, Rainey, Brennan, Stephens NOES: None ABSTAINED: None ABSENT: None

Motion carried 5-0.

STANDARD AGENDA:

1) Adoption of Resolution No. 3475 Approving the Addendum to the Final IS-MND, Ventura Port District Project Approval Conditions and Parcels 20 and 14 Redevelopment Project Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3475:

- a) Approving the Addendum to the Final Initial Study-Mitigated Negative Declaration.
- b) Approving the Ventura Port District Project Approval Conditions.
- c) Approving the Parcels 20 and 14 Redevelopment Project.
- d) Authorize the General Manager to File the Notice of Determination with the State Office of Planning and Research and the Ventura County Clerk.

Report by Jennifer Haddow, Rincon Consultants.

Public Comment: Mike Leary shared concerns about the maneuverability of sail boats in the main turning basin near the new proposed marina and being able to raise sails. Graham Dawson shared handouts and asked for modification to the marina design to provide sufficient room to raise and lower sails and furling and flaking larger main sails on larger boats. Tom Derecktor responded to Mr. Dawson's comments and offered to meet to rectify the issue. Closed at 7:40PM.

ACTION: Commissioner Rainey moved adopt Resolution No. 3475:

- a) Approving the Addendum to the Final Initial Study-Mitigated Negative Declaration.
- b) Approving the Ventura Port District Project Approval Conditions.
- c) Approving the Parcels 20 and 14 Redevelopment Project.
- d) Authorize the General Manager to File the Notice of Determination with the State Office of Planning and Research and the Ventura County Clerk.

Commissioner Brennan seconded. The vote was as follows:

AYES: Commissioners Blumenberg, Gardina, Rainey, Brennan, Stephens NOES: None ABSTAINED: None ABSENT: None

Motion carried 5-0.

2) Proposed Temporary Easement Over Parcel 19A

Recommended Action: Informational.

That the Board of Port Commissioners:

- a) Receive an informational status report on an offer by the City of Ventura to purchase a temporary easement for creation of a temporary boat storage area over Parcel 19A, at the northwest corner of Schooner Drive and Harbor Boulevard.
- b) Provide direction to General Manager regarding request by City of Ventura to enter into a Right of Entry Agreement in a form approved by General Counsel for Parcel 19A, at the northwest corner of Schooner Drive and Harbor Boulevard.

Report by Brian D. Pendleton, General Manager and Tom Bunn, Legal Counsel.

Public Comment: None. Closed 7:56PM.

ACTION: Commissioner Stephens moved to authorize the General Manager to enter into a Right of Entry Agreement with the City of Ventura in a form approved by General Counsel for Parcel 19A,

3) Approval of the Fiscal Year 2023-2024 Harbor Village Leasing Strategy and Action Plan Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve the FY2023-2024 Harbor Village Leasing Strategy and Action Plan.

Report by Todd Mitchell, Sr. Business Operations Manager and Jessica Snipas, Business Operations Analyst II.

Public Comment: None. Closed at 8:22PM.

ACTION: Vice-Chair Gardina moved to approve the FY2023-2024 Harbor Village Leasing Strategy and Action Plan.

Commissioner Rainey seconded. The vote was as follows:

AYES: Commissioners Blumenberg, Gardina, Rainey, Brennan, Stephens NOES: None ABSTAINED: None ABSENT: None

Motion carried 5-0.

4) Approval of the Fiscal Year 2023-2024 Ventura Harbor Village Visitor Attraction Plan Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve the FY2022-2023 Ventura Harbor Village Visitor Attraction Plan.

Report by Jennifer Talt-Lundin, Marketing Manager and Ruby Hedrick, Sr. Marketing & Events Coordinator.

Public Comment: None. Closed at 8:43PM.

ACTION: Commissioner Stephens moved to approve the FY2022-2023 Ventura Harbor Village Visitor Attraction Plan.

Commissioner Rainey seconded. The vote was as follows:

AYES: Commissioners Blumenberg, Gardina, Rainey, Stephens NOES: None ABSTAINED: None ABSENT: Commissioner Brennan

Motion carried 4-0.

5) Adoption of Resolution No. 3476 Approving the Financial Statements and Checks for January 2023 through March 2023

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopts Resolution No. 3476 to:

- a) Accept the financial statements for the Quarter ending March 31, 2023.
- b) Review the payroll and regular checks for January through March 2023.

Report by Gloria Adkins, Accounting Manager.

Public Comment: None. Closed at 8:53PM.

ACTION: Commissioner Stephens moved to adopt Resolution No. 3476 to: a) Accept the financial statements for the Quarter ending March 31, 2023. b) Review the payroll and regular checks for January through March 2023.

Vice-Chair Gardina seconded. The vote was as follows:

AYES: Commissioners Blumenberg, Gardina, Rainey, Stephens NOES: None ABSTAINED: None

ABSENT: Commissioner Brennan

Motion carried 4-0.

6) Adoption of Resolution No. 3477 Approving the Fiscal Year 2023-2024 Preliminary Budget and Five-Year Capital Improvement Plan

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3477 approving the FY2023–2024 Ventura Port District Preliminary Budget and Five-Year Capital Improvement Plan.

Chair Blumenberg announced that his son was employed by the Harbor Patrol, and because of that he would not participate in the discussion or the vote on this item. He passed the gavel to Vice Chair Gardina.

Report by Brian D. Pendleton, General Manager, Gloria Adkins, Accounting Manager and Todd Mitchell, Sr. Business Operations Manager.

Public Comment: Jean Getchell asked six questions which are posted on the District website under supplemental packet. Closed at 9:13PM.

ACTION: Commissioner Stephens moved to adopt Resolution No. 3477 approving the FY2023–2024 Ventura Port District Preliminary Budget and Five-Year Capital Improvement Plan.

Commissioner Rainey seconded. The vote was as follows:

AYES: Commissioners Gardina, Rainey, Stephens NOES: None ABSTAINED: Chair Blumenberg ABSENT: Commissioner Brennan

Motion carried 3-0.

ADJOURNMENT: The meeting was adjourned at 9:23PM.

The next regular meeting is Wednesday, June 21, 2023.

Anthony Rainey, Secretary



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

DEPARTMENTAL STAFF REPORTS MAY 2023 & GUIDING PRINCIPLES FIVE-YEAR OBJECTIVES INDEX

GUIDING PRINCIPLES		
1)	Maintain a safe, navigable, and resilient harbor.	
2)	Advance the harbor's vibrant, working waterfront in support of commercial and recreational fishing and boating.	
3)	Grow financial sustainability through a reliable, recurring revenue stream supplemented with grants and public-private partnership investment while maintaining responsible budgeting practices.	
4)	Establish and implement harbor-wide environmental sustainability policies and practices through collaboration with our business partners.	
5)	Build respectful, productive relationships with employees, tenants, residents, visitors, stakeholders, public officials, and elected representatives while promoting diversity, equity, and inclusion.	
6)	Provide exceptional public service and organizational transparency.	
7)	Provide high-quality Harbor and coastal visitor-serving amenities, services, facilities and infrastructure.	
8)	Support the Channel Islands National Park in its efforts to provide a first-class visitor center, educational resources, and ferry boat services to the islands.	

5-YEAR OBJECTIVES		STRATEGY		
D)	Ensure dredging occurs annually at the federal Harbor entrance and as needed in the inner Harbor.	1)	Support and advocate for congressional funding to the Army Corps of Engineers in support of the Harbor's annual dredging program	
		2)	On-going leadership and participation with California Marine Affairs and Navigation Conference (CMANC) and other relevant organizations in support of federal and state assistance	
			Ventura Port District Dredging	
	Encourage public and civic engagement; maintain high levels of organizational transparency; and promote Harbor-wide diversity, equity and inclusion through District policies, procedures and programs.	1)	Collaborate with business partners and stakeholders through increased engagement, communication, and participation.	
		2)	Collaborate with City, regional, state, and federal agency officials in pursuit of mutually beneficial projects, programs	
		3)	Public and Civic Engagement Planning	
		4)	Updates to District policies to reflect improved transparency and DEI	
			Engage with commercial fishing and sustainable aquaculture interests in Ventura Harbor	
F)	Support current and future commercial fishing and sustainable aquaculture industries. Maintain and improve working waterfront facilities and infrastructure.	2)	Continue improvements of District's Working Waterfront infrastructure	
		3)	Continue to pursue opportunities for diversifying commercial fishing and sustainable aquaculture	
		1)	Engagement and support of Master Tenants for successful business operations at the Harbor	
	Collaborate with Master Tenants and National Park Service to plan, improve, and develop the Harbor in a financially and environmentally sustainable way.	2)	Evaluate opportunities for Parcel Development	
		3)	Implement sustainability technologies at the Harbor	
		4)	VenturaWaterPure	
	N) Maintain and grow Channel Islands National Park Service (NPS) presence and customer visitation to the Harbor.	1)	Work with NPS and harbor visitors regarding enhancement of visitor experience.	
N)		2)	Coordinate with NPS Superintendent to evaluate long-term goals and improvement needs for the Channel Islands National Park Visitor Center	
		3)	Coordinate with National & California State Parks, and City to develop destination-based ecotourism offerings	
		1)	Work with City to improve access between the City and Harbor	
P)	Implement parking management, traffic circulation, and multi-modal transportation strategies.	2)	Evaluate alternative and active methods for people to travel to and within the Harbor and pursue needed improvements and strategies in partnership with the City	
		3)	Pursue and implement parking management solutions to increase vehicle circulation	
R)	Seek opportunities to grow revenues and secure grants; continue to improve the quality, efficiency, and transparency of financial reporting, monitoring, and property management.	1)	Utilize grant funding opportunities for sustainable Harbor infrastructure	
		2)	Seek additional grant funding for improving/replacing District capital assets.	
		3)	Leasing/Property Management	
		4)	Update of Financial Management System	
		5)	Financial Reporting	
10		1)	Ongoing investment in Harbor Village Infrastructure	
V)	V) Maintain and improve Harbor Village facilities, infrastructure, and amenities.		Develop and implement an Annual Visitation Plan for Ventura Harbor Village.	

VENTURA PORT DISTRICT DEPARTMENTAL STAFE REPORT

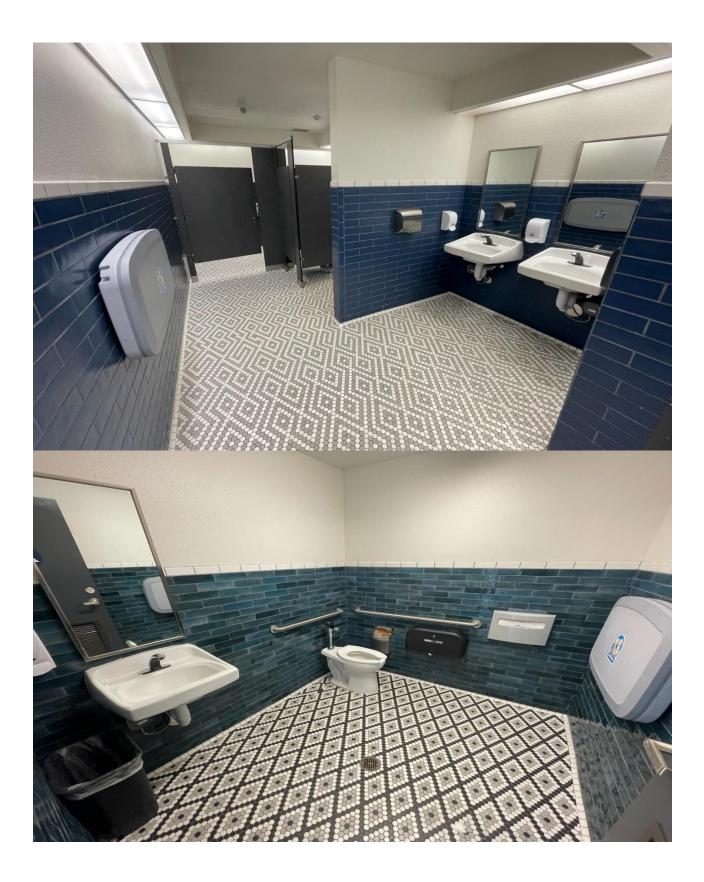
DEPARTMENTAL STAFF REPORT		Meeting Date: June 21, 2023
TO:	Board of Port Commissioners	
FROM:	Todd Mitchell, Sr. Business Operations Manager	
	Joe A. Gonzalez, Capital Projects Manager	
SUBJECT:	May 2023 Capital Projects Report	

ADA RESTROOMS UPGRADES 1567, 1575, 1691 Status: On Going

Budget: Over budget (Partially grant funded)

Tomar Construction (Tomar) has materially completed the restroom work for all three locations. Due to backorders from materials from the punch list, the replacement of materials was delayed. This delay does not prevent the restrooms from being open to the public. Staff anticipates the punch list being completed and bringing the Notice of Completion to the Board on July 5th for approval.





1567 SPINNAKER DR. SUITE 101, FACADE RENOVATION Status: On Going Budget: On Budget

The contractor has finished installing all windows and doors, including the bi-fold doors, exterior stucco, front entry door, stone veneer and all the exterior hard wiring. The contractor is currently finishing all the interior drywall repairs and texture.





NEW TRASH ENCLOSURES 1559 AND 1691 Status: On going

Budget: On budget (Grant funded)

Carjul Engineering is waiting for the special-order stainless-steel mesh to arrive to finish the project. Both trash enclosures have been constructed, primed, and painted and have been open for service for over a month. As of today, it's performing as planned. There is plenty of room for the trash service to maneuver all the trash bins as needed for services. Additionally, there is enough space for the bins required by the City's Public Works Department.





The old enclosures have been removed and new pavers have been installed while making space for drought tolerant plants. This improvement was something that staff wanted to expand to other planters closest to the Village buildings. Staff received approval from the Board at the May 3rd meeting to amend Carjul Engineering's contract to reflect this expanded task. Carjul has finished with the installation of all pavers on all approved planters. Unfortunately, the Contractor is still waiting for the delivery of the special-order stainless-steel mesh and once received will install in a timely manner.

1567 BUILDING A WATERPROOFING Status: Ongoing Budget: On Budget



The Capital Improvements Project budget for the current fiscal year includes roof replacement for the equipment area behind the Margarita Villa (Suite 200) patio. In addition, the rear (east) patio of Margarita Villa is due for resurfacing of waterproofing material.

The roof work has begun and has advanced quickly despite some weather delays. The

restaurant's patio was started first with the objective of being complete prior to May 5 (Cinco de Mayo). The adjacent equipment roof will be started after the restaurant's decking has been 100%

completed. The construction work for the project has been periodically inspected by City inspectors and District consultants. As of today, there has been no issues.



1559 WEST SIDE WATERPROOFING DECKING: Status: Ongoing Budget: On budget

The Tenant Improvement Budget for the current fiscal year includes waterproofing for the 1559 west side second level walkway. New copper metal flashing will be installed rather than regular metal for longevity. The walkway work has begun and has advanced quickly despite some weather delays. The exterior walkway leaked into tenant spaces below during our past storms. The waterproofing materials were reviewed and approved by Port District Consultants. This will be a 100% new waterproofing that will help with longevity. Additionally, it's good timing for this project, since the District will be remodeling the adjacent space into multiple suites for prospect tenants.

Before



In Progress



90% Completed



ADDITIONAL PROJECT:

- 1559 Suite 205 Tenant Improvements
- 1603 Administration Emergency Generator
- 1603 EV charging units' installation
- Marketing Promenade sign installation
- 1559 Suite #104 Tenant Improvements

Status: Bids under review Status: Waiting on back-order gate Status: Started Status: Waiting on parts Status: Started IVE & SPOR

VENTURA PORT DISTRICT DEPARTMENTAL STAFF REPORT

TO:	Board of Port Commissioners	
FROM:	Brian D. Pendleton, General Manager	
	Todd Mitchell, Sr. Business Operations Manager	
SUBJECT:	May 2023 Dredging Report	

OUTER HARBOR DREDGING (FEDERAL NAVIGATION CHANNEL)

The LA District Commander, Col. Julie Balten, and the Navigation Section staff visited the District on May 22. District staff were able to show the Colonel how the dredging in March restored the beach at the harbor and to thank the Corps for executing their mission.

The Sr. Business Operations Manager attended the California Marine Affairs and Navigation Consortium (CMANC) conference in Morro Bay on May 17-19. During the CMANC Board Meeting, Mr. Mitchell was elected Chair of the Board of Directors for the 2023-2024 term effective July 1, 2023. This is consistent with the District's 5-Year Objectives for dredging.

2024 Dredging Funding

The PBUD was released on March 9th and the Ventura Harbor entrance channel dredging was included in the amount of \$8.471 million – an exceptional amount for the harbor's maintenance dredging. This amount is anticipated to cover:

- 1. 2024 dredging, which will be slightly higher due to some sand remaining in the sand trap
- 2. An update to the Environmental Impact Statement (required every six years)
- 3. Soliciting for dredging prior to 2025.

2025 Dredging Funding

The Corps is expected to provide their recommendations on funding to OMB in late summer/early fall. The District has re-engaged the local Corps Los Angeles District to discuss an appropriate funding amount for FY25 with the intention of discussion during the upcoming dredging program.

INNER HARBOR DREDGING

Atmospheric Rain Events Will Mean Inner Harbor Dredging in 2024

Due to the inflow of sediment during the atmospheric river events in January, it has been determined that the inner harbor will need to be dredged in 2024. The principal area of infill is in the basin between Marina Park and the harbor entrance. This area generally acts as a "sand trap" for material, which it did in this event. There is no hazard to navigation here, but the basin needs to be dredged.

District staff are in discussions with FEMA regarding emergency funding being made available for the work. In order to perform the work, permits for inner harbor dredging must be obtained.

Permit Amendments (Long-Term)

District staff and Rincon Consultants (Rincon) have been working on renewals and amendments to the inner harbor dredging permits with the Corps and the Los Angeles Regional Water Quality Control Board for over two years.

The Water Board issued a new permit in April and the Corps' permit is unofficially completed, but due to Corp staff workload, the permit itself will not be prepared until August.

On February 22nd, Rincon submitted a Coastal Development Permit application to the California Coastal Commission (CCC) to mirror the updated Corps and Water Board permits. The CCC responded with a number of additional questions and comments. A meeting with the CCC is being scheduled for June 2 to review the questions and provide guidance for the District and Rincon on a response. The current Coastal Development Permit does not expire until 2026, so this effort is less time sensitive provided that the Santa Clara River mouth is open when dredging is to be performed.

ATTACHMENT:

Attachment 1 – May 2023 Federal Advocacy Reports by Carpi & Clay



Federal Update

Debt Ceiling Package Clears the House

Over the weekend, President Joe Biden and Speaker of the House Kevin McCarthy (R-CA) announced that they reached a deal to lift the debt limit for two years. The *Fiscal Responsibility Act* (H.R. 3746) would also:

- Cap federal government spending for Fiscal Year (FY) 2024 and 2025;
- Rescind unspent federal American Rescue Plan Act funding;
- Rescind some FY23 funding for the Internal Revenue Service (IRS);
- Institute new requirements and time limits for the Supplemental Nutrition Assistance Program (SNAP) and the Temporary Assistance to Needy Families (TANF); and
- Streamline federal permitting for energy projects.

Importantly, the legislation safeguards the advanced appropriations in the Bipartisan Infrastructure Law. With the support of the President and the Speaker of the House, the package passed the House of Representatives on a bipartisan 314-117 vote. 165 democrats joined 149 republicans to clear the measure. It now moves on to the Senate for consideration. Treasury Secretary Janet Yellen sent a letter to Congress last week saying that June 5th is the deadline in which the U.S. will default on its debts unless a deal is reached.

FY24 Appropriations Update

During the month of May, the House Appropriations Committee began to turn its attention to the markup process for the FY24 appropriations bills. The House passed the first tranche of four bills out of subcommittee before the process was abruptly halted to allow Speaker McCarthy with maximum flexibility for debt ceiling negotiations with the White House. When the House resumes legislative session the week of June 5th the House full Appropriations Committee is expected to pick up where they left off with the FY24 Agriculture, Military-Construction/Veterans Affairs, Legislative Branch and Homeland Security Appropriations bills. While the schedule for these markups is still pending the full Committee did post the FY24 community funded project selections for the Agriculture and Homeland Security bills. Overall, the two bills provide \$662.1 million in funding for 514 projects. Below is a quick overview of an early look at community funded projects under the new House republican majority:

Bill	Republican	Democrat	Total
Agriculture	199 projects/\$336 million	193 projects/142.9 million	395 projects/\$482.4 million
Homeland Security	42 projects/\$105.5 million	77 projects/\$74.1 million	119 projects/\$179.7 million

Senator Patty Murray (D-WA), the Chair of the full Senate Appropriations Committee, had intended to start the Senate FY24 markup process on May 18th. A schedule of Senate subcommittee and full committee action has yet to be announced.

Supreme Court Issues WOTUS Decision

The Supreme Court issued its decision in the *Sackett v. EPA* case regarding the Biden Administration's Waters of the United States (WOTUS) rule. The 5-4 decision limits protections under the Clean Water Act (CWA) for wetlands, tributaries, and streams. The Biden Administration must now revise its rule based on the Supreme Court's decision. The Court's opinion can be found <u>HERE</u>.

Bipartisan Bill to Restore Tax-Exempt Advanced Refunding Bonds Introduced in Senate

A bipartisan group of Senators, led by Sens. Roger Wicker (R-MS) and Debbie Stabenow (D-MI), introduced the *Lifting Our Communities through Advance Liquidity for Infrastructure (LOCAL Infrastructure) Act* (S. 1453). The bill would restore the tax-exempt status of advanced refunding bonds for state and local governments and other bond issuers. The tax-exempt status was rescinded by the *Tax Cuts and Jobs Act* in 2017. The bill was referred to the Senate Finance Committee.

California Senators Reintroduce PUBLIC Lands Act

California Senators Padilla and Feinstein reintroduced the *Protecting Unique and Beautiful Landscapes by Investing in California (PUBLIC) Lands Act.* The legislation would designate 600,000 acres of new wilderness, 583 miles of new wild and scenic rivers, and over 100,000 acres of expanded national monuments in California. More information can be found <u>HERE</u>.

Representatives Relaunch PFAS Task Force

A bipartisan group of Representatives announced the relaunch of the Congressional PFAS Taskforce, led by Reps. Dan Kildee (D-MI) and Brian Fitzpatrick (R-PA). The group of 55 Representatives will focus on legislation that increases awareness and funding for contamination issues related to per- and polyfluoroalkyl (PFAS) substances.

Federal Funding Opportunities & Announcements

DOE Announces \$60 Million for Clean Hydrogen and Grid Improvement Technologies. DOE announced \$42 million in funding for 22 projects in 14 states to improve production, storage, and distribution of clean hydrogen. DOE also announced \$17.8 million in funding for

ATTACHMENT 1

a university consortium at Stanford University to assist states and tribes in implementing grid resilience programs. The list of projects and more information can be found <u>HERE</u>.

DOT and DOE Issue Ride and Drive Electric NOFO. The Department of Transportation (DOT) and DOE's Joint Office of Energy and Transportation issued a notice of funding opportunity (NOFO) for the availability of \$51 million to help fund:

- Electric vehicle (EV) charging resiliency planning for continuity of operations and services for all EV users;
- Equitable business model development and deployment for EV charging;
- Workforce development to support EV charging;
- Increased industrial capacity, competition, and redundancy for validation testing and certification in the United States of Alternating Current (AC) Level 2 and/or Direct Current (DC) fast chargers; and
- Assessing performance and reliability of DC fast charging stations.

Concept papers are due by June 16th and applications are due by July 28th. More information can be found <u>HERE</u>.

EPA Announces \$10.6 Million in BEACH Act Grants. EPA announced \$10.6 million in Beaches Environmental Assessment and Coastal Health (BEACH) Act grants to assist states, tribes, and territories and their local government partners in monitoring water quality at coastal and Great Lakes beaches. The list of awardees and more information can be found <u>HERE</u>.

EPA Releases RFIs for Clean Ports and Clean Heavy-Duty Vehicle Programs. EPA issued two Requests for Information (RFI) for the development of the \$3 billion Clean Ports Program and the \$1 billion Clean Heavy-Duty Vehicle Program. The Clean Ports Program will fund projects that reduce pollutant emissions and advance clean shipping technologies. The Clean Heavy-Duty Truck Program will fund projects to reduce heavy-duty vehicle emissions in communities adjacent to ports, schools, and truck routes. Input for both programs is due by June 5th. More information on the Clean Ports Program can be found <u>HERE</u> and more information on the Clean Heavy-Duty Vehicle Program can be found <u>HERE</u>.

FTA Publishes Passenger Ferry Grant NOFO. FTA issued a NOFO for the availability of \$220.2 million in competitive grants for the Passenger Ferry Grant Program and Ferry Service for Rural Communities Program. Of the amount being made available, \$50.1 million is for the Passenger Ferry Program and approximately \$170 million is for the Rural Ferry Program. FTA may award additional funding made available to the program prior to the announcement of project selections. Applications are due by July 17th and more information can be found <u>HERE</u>.

Federal Agency Personnel & Regulatory Announcements

President Biden Withdraws NHTSA Nominee. In late May, President Biden withdrew the nomination of Ann Carlson to be Administrator of the National Highway Transportation Safety Administration (NHTSA). Currently, Carlson serves as Acting Administrator of NHTSA and is expected to continue in that role.

DOE Announces Clean Fuels & Products Shot. DOE announced the launch of the Clean Fuels & Products Shot. This new initiative aims to decarbonize the transportation and chemical industries through a staged research, development, and demonstration strategy. The fact sheet can be found <u>HERE</u> and the FAQ can be found <u>HERE</u>.

DOT Publishes Urban Electric Mobility Toolkit. DOT published the Urban Electric Mobility Toolkit which serves as a resource to help urban communities scope, plan, and identify ways to fund EV charging infrastructure, supporting diverse forms of electric mobility including travel by personal vehicle, transit, micromobility (e.g., electric bicycles and scooters), and ride-sharing services. Urban communities, metropolitan planning organizations (MPOs), transportation providers, businesses, and property owners and developers can use the toolkit to identify key partners for an electric charging project, take advantage of relevant planning tools, and identify available funding or financing to help make that project a reality. The toolkit can be found <u>HERE</u>.

DOT Launches ETC Tool and Story Map. DOT released the Equitable Transportation Community (ETC) Explorer and accompanying story map to support the Department's implementation of the Justice40 initiative. The ETC Explorer is an interactive application that uses 2020 Census Tracts and data to explore the cumulative burden communities experience caused by underinvestment in transportation. Its purpose is to provide a deeper understanding into how communities experience transportation disadvantages to help ensure the benefits of investments address the transportation-related causes of disadvantage. The story map presents three case studies to demonstrate how a project's benefits can reverse or mitigate how a community is experiencing disadvantage. The ETC Explorer can be found <u>HERE</u> and the story map can be found <u>HERE</u>.

EPA Releases Annual Air Quality Report. EPA released its annual air quality report entitled "Our Nation's Air: Trends Through 2022." The report provides information on the health and environmental impacts of air pollution, trends in air quality and emissions data, and efforts to improve air quality. More information can be found <u>HERE</u>.

EPA Releases Integrated Planning Toolkit for Permitting Authorities. EPA released its "Integrated Planning Toolkit for Permitting Authorities" to provide municipalities and permitting authorities with technical assistance related to stormwater and wastewater infrastructure. The Toolkit can be found <u>HERE</u>.

FHWA Requests Nominations for Alternative Fuel Corridors. FHWA published a request for nominations for state and local officials to nominate Alternative Fuel Corridors for

ATTACHMENT 1

designation. The nomination/designation process of Alternative Fuel Corridors has grown in importance because it is now tied to funding provisions under the Bipartisan Infrastructure Law (BIL). BIL established the National Electric Vehicle Infrastructure Formula Program and the Charging and Fueling Infrastructure Discretionary Grant Program, both of which provide eligibility based on Alternative Fuel Corridor designations. The memo can be found <u>HERE</u>.

##

VENTURA PORT DISTRICT

DEPARTMENTAL STAFF REPORT

TO:	Board of Port Commissioners	
FROM:	Todd Mitchell, Sr. Business Operations Manager	
	Sergio Gonzalez, Facilities Manager	
SUBJECT:	May 2023 Facilities Report	

MAINTENANCE ACTIVITES

VHV 1449 LOADING BAY LIGHTING IMPROVEMENT

Status: Completed

Budget: Budgeted (Building Maintenance)

After having a couple of lights fail in the VHV 1449 loading bay, to be more environmentally sustainable staff decided to replace all six 400-watt non-inefficient halogen light fixtures with 150-watt LED efficient light fixtures producing equivalent lighting. This will save the District 1500 watts per hour in energy usage and decrease the need of service due to LED's longer life span. The project was commenced and completed by Maintenance Tech II Luis Quezada.



VHV 1567 CHANNEL ISLAND COURTYARD PALM TREES Status: COMPLETED

Budget: Budgeted (Ground Maintenance)

The department took advantage of the rented scissor lift for the 1449 lighting project and trimmed all the accessible palm trees located inside the VHV 1567 Channel Islands courtyard. The project was spearheaded and completed by Lead Worker Abel Gamino and Maintenance Worker I Martin Lopez.



VHV 1559 & 1567 PLANTERS REHAB

Status: Completed

Budget: Budgeted (Ground Maintenance)

Through the efforts of Landscaper Manuel Valencia, the planter in front of VHV 1559 (near Top This Chocolate) was rehabbed with new environmentally friendly vegetation, dedicated irrigation drip system, and topped with decomposed granite. The round fountain planter inside the VHV 1567 courtyard was also rehabbed.



SPINNAKER DRIVE WAYFINDING STREET SIGNAGE INSTALATION Status: Completed

Budget: Budgeted (Ground Maintenance)

The District had three old street wayfinding signs in storage. Those signs have been rehabilitated with updated verbiage by a sign company. Signs were installed on poles near the end of Spinnaker Drive to enhance direction to incoming traffic. Project was started and completed by Lead Worker Abel Gamino, Maintenance Tech II Luis Quezada and Maintenance Worker II Hector Valdez.



VHV PARKING LOT "STOP" PAINTING Status: Completed

Budget: Budgeted (Grounds Maintenance)

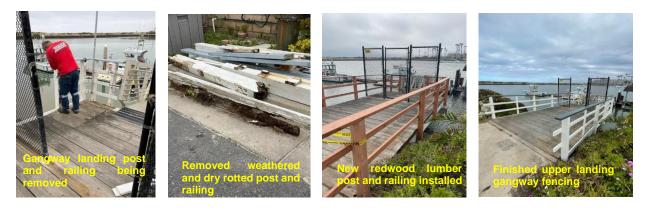
The department started and completed the repainting of all roadway exit "STOP" stenciling to improve traffic exiting of the VHV parking lots. Project was completed by a group effort consisting of Lead Worker Abel Gamino, Maintenance Worker II Hector Valdez and Maintenance Worker I Santos Reyes.



HARBOR PATROL DOCK UPPER GANGWAY LANDING RAILING REPLACEMENT Status: Completed

Budget: budgeted (Docks)

Due to severe weathering and dry rot the entire post and railing fencing on the upper landing of the VPD Harbor Patrol dock gangway had to be replace. A contractor was sourced to remove the old railing and post and replace with redwood lumber to be painted to match the VPD building aesthetics.



FACILITIES:

Staff continues to perform everyday maintenance and on the spot repairs throughout Ventura Harbor Village, other District properties, equipment, vehicles, and vessels. Also assists other Departments on special projects.

VENTURA PORT DISTRICT

DEPARIME	NTAL STAFF REPORT	Meeting Date: June 21, 2023
TO:	Board of Port Commissioners	
FROM:	Brian D. Pendleton, General Manager	
	John Higgins, Harbormaster	
	Pat Hummer, Senior Patrol Officer	
SUBJECT:	April and May Harbor Patrol Report	

PUBLIC SAFETY

Overview:

April and May were very active months for Ventura Harbor and our Harbor Patrol. As we were given a reprieve from the adverse weather the gray days of Summer fell upon us. Traditionally, Harbor Patrol staff start preparations for the increase in Summer visitors and focus on equipment repairs. This year has been no different.

The gray days and intermittent fog are a good reminder that within the past ten years the US Coast Guard changed their coastal foghorn system to an On-Demand system. No longer will the foghorn run continuously throughout a fog event. Instead, the system relies on a manual activation by the boater or Harbor Patrol. To turn the foghorn on, a boater on the vhf marine radio channel 81 needs to key the microphone five times within 10 seconds. This will activate the foghorn for 30-45 minutes at a time.

BEACHES

Lifequarding:

The Summer Lifeguard contract with California State Parks has begun and all towers are in place. The contract provides for three towers that are evenly spaced from Harbor Cove North to Surfers Knoll to the South. In addition to the towers the contract provides for a Supervisor vehicle that is used to back up Lifeguards on rescues and ensure the contract is being met. There have already been minor rescues along with the annual sting ray issues.

Stingray Signs:

Due to the annual stingray season the Harbormaster along with support from both the Maintenance Department and Harbor Patrol installed stingray warning signs at beach entry points throughout the Harbor. The season usually beings in June and lasts until October.

Lifequards and Harbor Patrol try to remind the public to shuffle their feet when walking in the nearshore area. When stings occur the Harbor Patrol and Lifeguards will treat the victims with hot water and assess their overall condition. While rare, some victims will require treatment at a local hospital, but the majority are often relieved within 15 minutes of soaking in hot water.





Harbor Cove:

The Port District Team with maintenance leading the efforts contracted a vendor to do the beach maintenance. To accommodate the beach access trail mat the area needs to be somewhat level. The equipment removed sand at the base of the ramp where it meets the showers and followed the trail out to the water. Additional hazards, like sand on the walkways, were also removed.

The beach access trail was deployed and now provides enhanced access onto the beach. With the success of this access trail mat we have purchased 300 feet of new mat under our grant which may provide for additional trails at both Harbor Cove and Surfers Knoll.

South Beach:

The South Beach is doing much better with the sand replenishment by way of our annual dredging. While some of the initial sand was eroded due to continued storms after the dredging concluded we are entering the time of the year where the beach naturally will rebuild. This summer profile will add additional sand to the beach. We are also looking at the high probability of Southern Hemisphere Storms this year due to the newly established El Nino. These storms will erode beach south of the river and bring the sand back to our beach. When this occurs, it provides the additional reinforcement for the following winter storms and erosion.

The Harbor Patrol has also been experiencing a high number of bon fires and beach trash as a result of illegal parties and bon fires. These groups are more than likely a result of the recent graduations, but we will continue to evaluate the impact and work with local authorities to handle these groups. Already there have been large, unexpected gatherings that have overwhelmed the Harbor Patrol and as a result Ventura Police have been called to assist.



The Harbor Patrol staff, out of a sense of pride, will routinely pick up trash after these events.

OTHER ITEMS

Surplus Boat Update:

We continue to be on track to receive the surplus State Parks Surf Watch boats. While the delays on the new boats have taken them from October to now June, they expect to receive the first boats in the coming weeks. The Harbormaster has been in communications with the California State Parks Superintendent along with California State General Services to facilitate the process.

We will be receiving two of the boats in the surplus process. These two boats come with no restrictions from the State. They are both turn-key for the most part and are



still currently in service. This will bring our fleet back to a healthy state and allow the Fireboat to have routine maintenance done. Previously, with the two boats, some repairs have been deferred but will now be able to be addressed.

California State Parks Division of Boating Trial Coastal Boat Operator Course:

For the past two years the Harbormaster along with professional experts and California State Parks have been developing a Coastal Boat Operator Course. After much time and planning we hosted the first trial course for Harbor Patrols and Lifeguards throughout the State. The 40-hour course addressed current training deficiencies within the California Division of Boating and Waterways training program.

Students were immersed in everything from nomenclature to search patterns. The instruction included a 50/50 mix of classroom and training on the boats. Throughout the course the instructors obtained feedback on what was helpful and suggestions on how to improve.

The California Division of Boating representative audited the course and delivered an enthusiastic approval to the Director upon the conclusion. The Director of the Division of Boating has expressed support for it to be added to the curriculum and has asked the Ventura Port District if we could continue to be a host for the class.

The Harbormaster and staff had a post training debriefing where no operational issues were noted. The course and students were respectful of the facilities and appreciative of the opportunity. The Harbormaster will work with Harbor Patrol and Port District staff to evaluate the frequency of which they could be done. At the same time the original group is looking at trying to develop the same course at a Northern California Harbor to ease the burden and diversify the training.



New Marine Safety Officers:

We have added three new Part-Time Marine Safety Officers to our staff. Each comes with a strong background in the ocean along with education and many other talents. We took advantage of a unique opportunity and placed them in the Coastal Boat Operator course that we hosted. Typically, this type of training would come much later and in some cases a year or more. Because

we were hosting the course the Harbormaster was able to secure the spots and offer them to the new MSO's.

After the 40-hour formal State Course, the new MSO's participated in a 40-hour in-house training. In total each Part-Time MSO have received approximately 80 hours of job-related training before they were allowed to work their first shift. They will continue on the job training moving forward with incremental increases in responsibilities such as operation of vehicles or vessels. New Part-Time Marine Safety Officers Left to Right: Jack Pickett, Grayson Delgado, and Aaron Blumenberg.



Girl Scout Visit:

Local Tow Boat US Owner Carson Shevitz and his wife brought a local Girl Scout group to the Harbor Patrol Office. The troop also visited Channel Islands Harbor Patrol and US Coast Guard Station Channel Islands as part of the activity. The young Scouts were provided a tour of the facility and boats. Harbor Patrol Officer Taylor Plasch also let them shoot water from the Fireboat. To show their appreciation the group left boxes of cookies. Of course, we did not want to hurt their feelings, so we kindly accepted.



Hokuloa Outrigger Race:

The Hokuloa Outrigger Race is one of the largest harbor events not hosted by the Ventura Port District. The Harbormaster and Harbor Patrol Staff take a supportive role in ensuring the safety of the visitors and racers. In the days leading up to the event there were some weather conditions that could have been a concern. The Harbormaster passed on these weather concerns to the club representative and stayed in communications up to the day of the event. The potential lightning that was forecasted was downgraded to



extremely low probability and the race was held.

Harbor Patrol staff provided on the water traffic control during the starts and finish as well as being a First Responder if required. No significant issues were encountered and while there was no sun, the weather provided for a great race.

EQUIPMENT REPAIRS & UPDATES

Harbor Patrol staff, in addition to a number of their normal duties, tackled several projects during these past two months. Like in the past, by doing this, there was both a cost savings to the Port District but also the equipment was brought back in service immediately after the repairs.

Items repaired in-house:

Harbor Patrol Truck Repair - Coil Pack, Plug, and Cables Portable Dewatering Pump - Cleaned out and repaired the Carburetor Boat 19 - Heat Exchanger replacement, Flushed Coolant RWC - Repairs were done to the battery cable resulting in better connection and performance Boathouse – Installed New Tool Cabinet and Temporary Flooring Tiles Swim Buoy – Maintenance and Deployment

The Rock the Dock Rehab was by far the biggest project taken on by staff. The dock had been seriously neglected after years of not being used. With broken wood supports the decision was made to rebuild most of the structure and seal off the bottom to prevent items from blowing into the water. The project was done over multiple days and with a variety of materials. The added

challenge was none of the structure was square, so it took focus and creativity to bring it together into a cohesive unit.



Before

After

The area will now be a break area for Port District and Harbor Patrol Staff.

This project was led by Harbor Patrol Officer Mason Alford with support from Garret Winter, George Kabris, Brendan Donohue, Taylor Plasch, Ryan Sutherland, and Mark Kidman. The other projects were all team projects done by the shifts on the given day of the problem.

TRAINING

Harbor Patrol Staff assisted Ventura City and County on multiple days with their Ocean Rescue Academy. Harbor Patrol Officers instructed the Firefighters on working with the boats with and without victims. Our Rescue Watercraft (RWC) Operators provided instructions on how to work as a crew on the craft and trained going in and out of the surf. This academy is part of the United States Lifeguard Association Aquatic Agency Responder Certification. This is a certification that the Harbor Patrol also is certified in.

The Port District and Harbormaster hosted Oxnard Fire Departments California State Fire Marshalls Office Open Water Rescuer Training here at the Port District. This class was similar but less comprehensive than Ventura City and County's Academy. Like the other, the Harbormaster and Harbor Patrol provided training on the boats and support in other areas over two days.

The Harbormaster attended the California Harbormasters and Port Captains conference in Sacramento. The conference spoke to many of the current trends and issues with Harbors and Ports throughout the State. Focused discussions and vendor areas provided for the ability to expand working relationships and develop better methods to dealing with challenges of Harbors and Ports.

CITY, COUNTY, AND STATE RELATIONS

The Harbormaster has been working with Ventura City Emergency Manager Mack Douglass on his Operations Plans pertaining to issues in the Harbor. To date we, have tackled high surf/storm and Tsunamis. These plans will be available to the Police Watch Commanders and allow for efficient and seamless workings with the Port District and City.

The Harbormaster has reached out to the Ventura County Office of Emergency Services Manager Patrick Maynard to explore whether the Port District can add an amendment to the Counties Hazard Mitigation Plan that was formalized last year. This five-year document includes all hazard planning from all the Cities as well as the County. The Port District fell under the umbrella of the City of Ventura, but our needs were not accurately included in the document. As a result, the Port District lost potential FEMA funding for hardening of infrastructure to address sea level rise and other disasters. A discussion is ongoing, and plans include a formal meeting where the Port District General Manager and Operations Manager will participate.

The Harbormaster took a City of Ventura team and vendor out to the Ventura Pier to assess the viability of a drone light show. The waterside testing was done in less than an hour and the response was favorable from the vendor. The city is looking at this option as it is more environmentally friendly and does no harm to the ocean.

The Port District Team took assistant City Manager Brad "Brick" Conners on a waterside area familiarization tour. Staff were able to efficiently point out items of interest as well as identify the City of Ventura areas. In all it was a very productive tour.

SOUNDINGS

No Soundings were performed as we are confident that no new hazards

VENTURA PORT DISTRICT

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TO:	Board of Port Commissioners	
FROM:	Todd Mitchell, Sr. Business Operations Manager	
	Dave Werneburg, Marina Manager / Commercial Fi	isheries
SUBJECT:	May 2023 Marina Report	

MARINA DEPARTMENT ACTIVITIES

Ventura Harbor Village Marina

Total Slip Count	103	100%
Slips Assigned	102	99%
Slips Occupied	87	84%
Slips Available	1	1%

Port District Dry Storage

Total Spaces	88	100%
Active Contracts	71	81%
Available	17	19%
	17	19%

COMMERCIAL FISHING

California Market Squid Harvest – Ventura Harbor

• 2023-24 Squid Season opened April 1, 2023

California Market Squid Statistics					
State-wide Seasonal Squid Limit:118,000 tons236,000,000 lbs.					
Ventura April '23 Squid Landings:	0 tons	0 lbs.			
Ventura Season-to-date:	0 tons	0 lbs.			

There have been no commercial squid landings to date for the 2023-2024 season. The fleet has been landing some sardine and anchovy down south. Mariners have been tending to net repairs, swapping nets, etc. El Nino (warming of the ocean) is predicted this summer. The first year or possibly two of an El Nino cycle will probably not have an immediate impact on commercial fishing in our area. By the end of the second year and forward, it is predicted that there will be a moderate to significant impact; the squid will go deeper or further out to sea for cooler waters. Currently anticipate the season here in Southern California will kick in September or October.

Annual Marina Survey

Santa Barbara conducts an annual survey of marinas from Newport Beach up to Santa Cruz. Not all marinas opt to participate. The new survey recently published includes 18 marinas, 12 which are Public and 6 Private, including our own Ventura Harbor Village Marina (VHVM). Within the Public sector there were 7,534 wet slips, the largest marina had 1,631 wet slips and the smallest marina had 23 slips. The Private sector, including VHVM, had a total of 2,054 wet slips, the largest (Safe Harbor Ventura Isle) has 522 wet slips, the smallest has 84 slips. In terms of slip rates, Santa Barbara has some of the highest rates overall. VHVM rates were higher than some but lower or in parity with most others. It is important to note VHVM rates are in line with market rates. The District also receives revenue from offloading of commercial product, currently at the rate of \$10.50 per ton. A copy of the survey is available by contacting the Marina Manager, dwerneburg@venturharbor.com.

ATTACHMENT:

Attachment 1 – Commercial Fishing and Aquaculture Advocacy Report by K&L Gates



Commercial Fishing & Aquaculture Advocacy Ventura Port District

Monthly Report – May 2023

Executive Summary

- Several federal bills were introduced or advanced in committee, including legislation that would amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to eliminate the prohibition on indirect costs with respect to aquaculture assistance.
- The National Marine Fisheries Service (NMFS) published an Advance Notice of Proposed Rulemaking (ANPR) to alert the public of potential future adjustments the agency may make to the implementing guidelines for National Standards 4, 8, or 9, of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).
- The National Oceanic and Atmospheric Administration's (NOAA) Office of Oceanic and Atmospheric Research (OAR) issued a notice to inform the public of the availability of the final programmatic environmental assessment (PEA) to fund aquaculture research and development projects and Finding of No Significant Impact.
- The United States Department of Agriculture (USDA) approved \$52 million to purchase Pacific Groundfish and Seafood Products. Purchases will be made under the authority of Section 32 of the Agricultural Adjustment Act, which supports the agriculture and fishing sectors and encourages the continued domestic consumption of locally grown products and caught seafood.
- The Environmental Protection Agency (EPA) announced two Water Infrastructure Finance and Innovation Act (WIFIA) loans totaling \$173 million for the City of Ventura to establish a new, local drought-resistant water supply to enhance the city's resilience to climate change.

Federal Legislation

The following fisheries-related bills were passed, considered, or introduced this month:

H.R.886 - Save Our Seas 2.0 Amendments Act

Sponsor: Rep. Bonamici, Suzanne [D-OR-1]

Latest Action: May 23, 2023 (Reported by Committee)

Summary: Amends the Save Our Seas 2.0 Act to improve the administration of the Marine Debris Foundation, and amends the Marine Debris Act to improve the administration of NOAA's Marine Debris Program.

H.R.2950 - Coastal Habitat Conservation Act of 2023

Sponsor: Rep. Huffman, Jared [D-CA-2]

Latest Action: May 22, 2023 (Referred to Subcommittee)

Summary: Authorizes the Secretary of the Interior, through the Coastal Program of the United States Fish and Wildlife Service, to work with willing partners and provide support to efforts to assess, protect, restore, and enhance important coastal landscapes that provide fish and wildlife habitat on which certain Federal trust species depend.

H.R.2735 - Coastal State Climate Preparedness Act of 2023

Sponsor: Rep. Carbajal, Salud [D-CA-24]

Latest Action: May 22, 2023 (Referred to Subcommittee)

Summary: Directs the Department of Commerce to establish a coastal climate change adaptation preparedness and response program that (1) assists coastal states with voluntarily developing coastal climate change adaptation plans, and (2) provides financial and technical assistance as well as training for coastal states to implement the adaptation plans.

H.R.3542 - National Agricultural Research, Extension, and Teaching Policy Act Amendments

Sponsor: Rep. Tokuda, Jill N. [D-HI-2]

Latest Action: May 18, 2023 (Introduced)

Summary: Amends the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to eliminate the prohibition on indirect costs with respect to aquaculture assistance.

S.J.Res.23 - Congressional Disapproval of National Marine Fisheries Service Rule

Sponsor: Rep. Tokuda, Jill N. [D-HI-2]

Latest Action: May 11, 2023 (Passed in Senate)

Summary: This joint resolution nullifies the final rule issued by the National Marine Fisheries Service titled Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat. The 2022 rule rescinds an earlier rule which limited the ability of the service to designate an area a critical habitat.

H.R.3187 - Rhode Island Fishermen's Fairness Act of 2023

Sponsor: Rep. Magaziner, Seth [D-RI-2]Latest Action: May 10, 2023 (*Introduced*)Summary: Amends the Magnuson-Stevens Fishery Conservation and Management Act to add Rhode Island to the Mid-Atlantic Fishery Management Council.

H.R.676 - Coastal Communities Ocean Acidification Act of 2023

Sponsor: Rep. Pingree, Chellie [D-ME-1]

Latest Action: May 9, 2023 (Passed in House)

Summary: Requires the NOAA and the Ocean Acidification Advisory Board to collaborate with various entities affected by ocean acidification and coastal acidification (i.e., the decrease in pH and changes in water chemistry of certain bodies of water and waterways).

S.1508 - Rhode Island Fishermen's Fairness Act of 2023

Sponsor: Sen. Reed, Jack [D-RI]
Latest Action: May 10, 2023 (*Introduced*)
Summary: Amends the Magnuson-Stevens Fishery Conservation and Management Act to add Rhode Island to the Mid-Atlantic Fishery Management Council.

In The Agencies

The following agency press releases have implications for activities related to commercial fisheries and aquaculture:

EPA Announces \$173 Million To Strengthen Drought Resilience In Ventura, California

Environmental Protection Agency (EPA) Assistant Administrator for Water Radhika Fox announced two Water Infrastructure Finance and Innovation Act (WIFIA) loans totaling \$173 million. With these loans, the City of Ventura will establish a new, local drought-resistant water supply to enhance the city's resilience to climate change. Due to local drought conditions, the City of Ventura is facing a projected water supply shortfall by 2035. EPA's WIFIA loans totaling \$173 million will support the city in designing and constructing projects to increase potable water supplies by 20% with a combination of purified local recycled water and groundwater.

FMC Charge Complaint Refunds Hit \$1 Million

More than \$1 million in disputed charges have now been waived or refunded through the Charge Compliant process established by the Ocean Shipping Reform Act of 2022 (OSRA) and administered by the Federal Maritime Commission (FMC). Charge Complaints provide a simplified and expedited process for shippers, consignees, truckers, and third parties to dispute charges which might have been wrongly assessed by a common carrier.

On The Hill

The following congressional press releases have implications for activities related to commercial fisheries and aquaculture:

\$52 Million USDA Seafood Purchasing Agreement To Boost Oregon's Economy

Oregon's U.S. Senators Jeff Merkley and Ron Wyden announced that the United States Department of Agriculture (USDA) has approved \$52 million to purchase Pacific Groundfish and Seafood Products. Purchases will be made under the authority of Section 32 of the Agricultural Adjustment Act, which supports the agriculture and fishing sectors and encourages the continued domestic consumption of locally grown products and caught seafood by diverting it from the normal channels of trade and commerce and into domestic food assistance programs.

Peltola Applauds NOAA Proposal To Revise National Standards For Fisheries Management

Representative Mary Peltola (D-AK) applauded NOAA's Fisheries division announcement of an advance notice of proposed rulemaking, which would allow revisions to the division's Guidelines for National Standards, specifically sections (NS) 4 (allocations), 8 (communities), and 9 (bycatch). These standards establish the goals and limits of our fisheries regulations, including allocations, impacts on fishery-dependent communities, and bycatch reduction.

<u>Cardin, Colleagues Urge Greater Action To Tackle Illegal, Unregulated And Unreported Fishing</u> U.S. Senator Ben Cardin (D-MD), joined Senator Jeff Merkley (D-OR), in writing a bipartisan letter to U.S. Department of Commerce Secretary Gina Raimondo, Under Secretary of Commerce for Oceans and Atmosphere Richard Spinrad, and National Marine Fisheries Service Janet Coit, pushing for a revised proposed rule to the Seafood Import Monitoring Plan (SIMP) current proposal to tackle Illegal, Unregulated, and Unreported (IUU) fishing.

Pingree's Bill to Support Coastal Communities Impacted by Ocean Acidification Passes House Congresswoman Chellie Pingree (D-ME) celebrated the passage of her bipartisan Coastal Communities Ocean Acidification Act of 2023 in the U.S. House of Representatives. The bill, introduced in January by Pingree and Congressman Michael Waltz (R-FL), would direct NOAA to support the current efforts of coastal communities, particularly those who are underserved and rural, that are already facing the impacts of ocean acidification and better equip them with the resources to respond.

Federal Register Notices

The following fisheries or aquaculture-related rules and regulations were published this month in the Federal Register:

2023 Harvest Specifications for Pacific Whiting, and 2023 Pacific Whiting Tribal Allocation

Agency: National Marine Fisheries Service Latest Action: May 31, 2023 (*Final Rule*)

Summary: This rule implements the domestic 2023 harvest specifications for Pacific whiting including the 2023 tribal allocation for the Pacific whiting fishery, the non-tribal sector allocations, and a set-aside for incidental mortality in research activities and non- groundfish fisheries. These measures are intended to help prevent overfishing, achieve optimum yield, ensure that management measures are based on the best scientific information available, and provide for the implementation of tribal treaty fishing rights.

Magnuson-Stevens Act; National Standard 4, 8, and 9 Guidelines

Agency: National Marine Fisheries Service

Latest Action: May 15, 2023 (Advance Notice of Proposed Rulemaking)

Summary: NMFS is publishing this ANPR to alert the public of potential future adjustments the agency may make to the implementing guidelines for National Standards 4, 8, or 9, of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Several ongoing fishing management challenges, including changes in environmental conditions, shifting distributions of fish stocks, and equity and environmental justice considerations that affect fishing communities that are currently or have been historically dependent on the resource, suggest a need to revisit the guidelines to ensure they remain appropriate for current U.S. fisheries management.

West Coast Salmon Fisheries; 2023 Specifications and Management Measures

Agency: National Marine Fisheries Service

Latest Action: May 11, 2023 (Final Rule)

Summary: Through this final rule, NMFS establishes fishery management measures for the 2023 ocean salmon fisheries off Washington, Oregon, and California, and the 2024 salmon seasons opening earlier than May 16, 2024, under the authority of the Magnuson- Stevens Fishery Conservation and Management Act.

Final Programmatic Environmental Assessment for Funding Aquaculture Research and Development Projects and Finding of No Significant Impact

Agency: Office of Oceanic and Atmospheric Research

Latest Action: May 9, 2023 (Notice of Availability)

Summary: NOAA's Office of Oceanic and Atmospheric Research (OAR) issued a notice to inform the public of the availability of the final programmatic environmental assessment (PEA) to fund aquaculture research and development projects and Finding of No Significant Impact.

The Proposed Action analyzed in the Final PEA is to issue Federal financial assistance awards through existing programs within the OAR and NMFS Office of Aquaculture for aquaculture research and development projects involving farmed and wild populations of aquatic organisms in permitted aquaculture facilities and sites.

Amendment 6 to the Fishery Management Plan for West Coast Fisheries

Agency: National Marine Fisheries Service

Latest Action: May 8, 2023 (Final Rule)

Summary: This rule implements Amendment 6 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species, which authorizes deep-set buoy gear (DSBG) as a legal gear type for targeting swordfish and catching other highly migratory species off the U.S. West Coast. The rule establishes a limited entry permitting regime for use of DSBG in the Southern California Bight.

Submission for OMB Review; Aquaculture Survey

Agency: National Agricultural Statistics Service Latest Action: May 8, 2023 (Request for Comment)

Summary: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Aquaculture Surveys program produces estimates at the national level on both trout and catfish. Survey results are used by members of the Cooperative Extension System and the National Sea Grant College Program who research and work in aquaculture. The information is used to analyze changing trends in the number of commercial operations and production levels by State, as well as to demonstrate the growing importance of aquaculture.

State Legislative Activity

The following fisheries-related bills were passed, considered, or introduced this month in the state of California:

<u>AB 809</u>

Sponsor: Steve Bennett (CA-38)

Latest Action: May 30, 2023 (Passed in Assembly)

Summary: This bill would require the Department of Fish and Wildlife to establish the California Monitoring Program to collect comprehensive data on coastal and inland anadromous salmonid populations, in coordination with relevant federal and state agencies, to inform salmon and steelhead recovery, conservation, and management activities.

<u>AB 953</u>

Sponsor: Damon Connolly (CA-12) **Latest Action:** May 30, 2023 (*Passed in Assembly*)

Summary: This bill would require the Ocean Protection Council, on or before January 1, 2026, in coordination and in consultation with various entities, including the State Air Resources Board, to implement a statewide voluntary vessel speed reduction and sustainable shipping program for the California coast in order to reduce air pollution, the risk of fatal vessel strikes on whales, and harmful underwater acoustic impacts.

<u>SB 286</u>

Sponsor: Mike McGuire (CA-2)

Latest Action: May 24, 2023 (Passed in Senate)

Summary: This bill would require the California Coastal Commission to process a consolidated coastal development permit for any new development that requires a coastal development permit and that is associated with, appurtenant to, or necessary for the construction and operation of offshore wind energy projects and transmission facilities needed for those projects.

<u>AB 1760</u>

Sponsor: Rebecca Bauer-Kahan (CA-16)

Latest Action: May 18, 2023 (Passed in Assembly)

Summary: The Legislature has authorized and requested that the California Law Revision Commission study whether the Fish and Game Code and related statutory law should be revised to improve its organization, clarify its meaning, resolve inconsistencies, eliminate unnecessary or obsolete provisions, standardize terminology, clarify program authority and funding sources, and make other minor improvements.

MAY MARKETING REPORT - Visitor Experience

*May 2023 report showcases samples & highlights of the Ventura Harbor Visitor Attraction Plan.



ONSITE PROMOTIONS - National Travel & Tourism Week

Ventura Harbor Marketing team hosted a visitor booth on the promenade on Thursday, May 11th from 2-4pm to launch a big trip giveaway (details below). Booth also offered free branded goodies like Village Stickers and postcards for Ventura Harbor promo.

DESTINATION PLACEMAKING - Seaside Vacay Giveaway

Onsite graphics displayed near Island Packers & various spots in the Harbor Village gave guests an opportunity to "Enter to Win". The prize pack was valued at more than \$650! Special thanks to Four Points by Sheraton Ventura Harbor and Island Packers for partnering. In addition to a two-night hotel stay & a Channel Islands trip, the winner (Priscilla T.) chose various Village gift certs to round out the experience -The Greek Mediterranean Steak & Seafood for dining, Coastal Cone for dessert, and Frenchie's Modern Nail Care for retail/pampering!



CROSS PROMOTION

enant Offerings & Experiences

May the Fourth Be With You Highlighted the new After Dark reverse Happy Hour & dance club vibe at The Greek Mediterranean Steak & Seafood.

Cinco de Mayo

Shared offerings at both Baja Bay Surf N' Taco & Margarita Villa Mexican Restaurants.

Mother's Day & Memorial Day

Promoted products, tenant events, music, and vendors for two lively holiday weekends in the Harbor in May!

ENTERTAINMENT - Music

Ruby Hedrick, Marketing & Events Coordinator II, secured 6 live music performance and began testing entertainment booking partners to activate the Seaside Stage:

May 13 - Teresa Russell May 14 - Karen Eden May 20 - Unkle Monkey May 21 - Tony Lee May 27 - Blown Over May 28 - Steve Stafford

+ various vendors including face painting, floral arrangements, psychic readings & tropical bird photos.

VENUE & FILM RENTALS - Revenue

MEMORIAL DAY

WITH VENT

As part of the Main Lawn programming, the Village welcomed the Vintage Volkswagen Car Show on May 20th with over 100+ VW's on display. Ventura Harbor was the home for the CalTri race at Harbor Cove Beach on May 7th. May Event Rental Fee Revenue = \$4,219



MAY MARKETING REPORT - Content Development

*May 2023 report showcases samples & highlights of the Ventura Harbor Visitor Attraction Plan.



Marketing Coordinator captured & repurposed content to produce 4 reels (on **The Greek After Dark Experience, Mother's Day Gifts, Seaside Sunsets,** and the **Seaside Vacay Giveaway**) May reel views nearly DOUBLED from month prior due to **Le Petit's "viral" video feature.**

47

136k Plays

ADVERTISING - Digital

Mother's Day Weekend, Midweek Motivators, and the VW Car Show were a few social campaign themes featured in May. Seaside Vacay Giveaway content cross promoted in both VC Reporter and Valley Scene Magazine e-newsletters!



TON	JIC
Reach	Clicks
¢	<u></u>

\$1000 Spend



MAY MARKETING REPORT - Outreach & Stewardship

*May 2023 report showcases samples & highlights of the Ventura Harbor Visitor Attraction Plan.

SUSTAINABILITY - Hydration Station

Over **40 entries** & email subscribers gathered through onsite QR code form. Jess K, an avid Harbor visitor, was randomly selected to win the Ocean Bottle!

CULTURAL HIGHLIGHT - Asian Pacific Heritage Month

Local Vietnamese fishing family, the Tran's, highlighted for helping start Harbor's Saturday Fishmen's Market. Blog explored how Asian culture is deeply intertwined in their business.



MEDIA OUTREACH - PR & Editorial Coverage

With Summer less than a few weeks away, Island Packers and Channel Islands National Park & Visitor's Center in Ventura Harbor Village continues to be two of the most talked about attractions among California's top media. Harbor Marketing continues to spread the word resulting in editorial coverage of a trip to the islands and Village businesses in the **Bay Area Newspaper Group** (5 million+) top newspaper outlets: **San Jose Mercury News, Monterey County Herald, Marin Independent Journal, Oakland Press,** and **Boston Herald**, among others.



The Log Newspaper ran a Ventura Harbor special edition on May 29th highlighting the Village's Jewel Key Award, Sustainable Fishing with Wild Local Seafood, pet-friendly Ventura Harbor Village, Ventura Harbor's Annual Dredging & Beach Replenishment, as well as stories on Ventura Yacht Club, Deep Sea Wine Tasting Room, Peace Dive Boat, and a call out for Ventura Sportfishing. A full-page ad on Harbor amenities complimented the edition.







What the Jewel Key Award Means to Ventura



Dog Friendly Businesses in the Ventura Harbor Village

Ventura Harbor Village is specklad with dog bows paid pict finendly patios. They next time you've these, bring your tour-leoping thrend along with you to onhance your already tim day.

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Ventura Harbor Sencial Itage the Deep Sea Wine Tasting Room



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Successfully Selling Sustainable Fishing Practices



VENTURA PORT DISTRICT

Meeting Date: June 21, 2023

TO: Board of Port Commissioners				
FROM:	Brian D. Pendleton, General Manager			

Todd Mitchell, Sr. Business Operations Manager Jessica Snipas, Business Operations Analyst II

SUBJECT: May 2023 Property and Leasing Report

LEASING HIGHLIGHTS

- 1) Tenant Engagement
 - Met with two tenants regarding their future leases.
 - Hand delivered all OPEN signs purchased via the State Lands Grant to tenants.
- 2) Diversity, Equity, and Inclusion Efforts
 - Conducted outreach to 13 Native American Tribes and Women's Economic Development regarding leasing availability.
- 3) MRI Property Management Software
 - Twenty-three tenants paid their rent via the tenant portal.
 - Accounting and leasing assisted tenants with their accounts.
 - Ongoing work with MRI to enhance user experience with the tenant portal.
- 4) Leasing Advertising, Showings, and Executions
 - Prepared marketing materials using professional photography for 1591 Spinnaker Drive Suite #117B. (*Thank you, Marketing, for setting up the photo shoot.*)
 - Showed future office lease opportunities to several prospective tenants on the office waiting list.
 - A prospective tenant signed a market rate 5-year lease for 1567 Spinnaker Drive #205 with less than a month of the suite being vacant. (*Thank you, Capital Projects and Facilities, in helping turnover the suite.*)

CURRENT VACANCY REPORT

- 1) 1559 Spinnaker Drive #205A-D (Office suites) & #205E (Restaurant suite)
 - Previous tenant departed in June 2022. Plans were prepared by an architect to divide the suite into five separate suites (#1 addresses four out of the five suites). The City of Ventura has approved the plans for the remodel and bidding is completed. The suite will remain vacant during construction, however leasing efforts have begun.
- 2) 1567 Spinnaker Drive #205
 - Previous tenant departed in April 2023. Staff contacted prospective tenants on the waitlist and a lease is being presented to Board.

CURRENT AVAILABILITY REPORT

- 1) 1583 Spinnaker Drive #109
 - Tenant is month-to-month while negotiating terms for a new lease.
- 2) 1583 Spinnaker Drive #102 & #104
 - Tenant is month-to-month while negotiating terms for a new lease.
- 3) 1591 Spinnaker Drive #117B
 - Tenant is relocating to suite 1559 #103 and is month-to-month at current suite while suite 1559 #103 is being remodeled. Estimated remodel completion/move into new suite/end lease at 1591 #117B is June 2023.
- 4) 1591 Spinnaker Drive #205
 - After eighteen years of tenancy, tenant purchased their own office, and will move in when construction is complete. District agreed to go month-to-month until move out.

CATEGORY TOTAL Harbor Harbor Harbor Harbor City * City * Square Vacancy Available **Available** Vacancy Available Vacancy Footage Sq Ft % Sq Ft % % % Office 10% 3% 19% 22% 38,591 3,969 1,058 Retail 4% 20,196 0 0% 761 15% 16% Restaurant 33,622 0 0% 4,338 13% 3% 3%

Availability as of May 31, 2023:

> Harbor Vacancy --- No tenant or lease

Office:	1559 #205A-E
	1567 #205
Retail:	None.
Restaurant	
:	None.

> Harbor Available --- Tenant on MTM lease, including Harbor Vacancy numbers

Office:	1591 #205
Retail:	1591 #117B
Restaurant	
:	1583 #109
	1583 #102 104

* City: Based on comparable square footage within Ventura 93001 area

** City Restaurant vacancy/available as reported by CoStar Program

*** Definition of available includes MTM status

(Note that total square footage values have been updated as of the April reporting period to reflect recategorization of some units and the addition of the GSA lease for National Park Service offices which were not previously included).

SALES REPORTS

The attached summary of sales for three Harbor Village business categories: restaurants, retail, and charters. The reports compare the monthly sales for 2022 and 2023. They also include year-to-date comparisons.

The year-to-date overall sales for Harbor Village Tenants through the month of April were down 8.36% from the same time last year.

VEHICLE TRAFFIC COUNTS

Spinnaker Drive Entrance		Schooner Drive Entrance		
Month	May	April	May	April
Car Count	136,148	133,909	51,204	51,304
Busiest Day	Saturday: 23,518	Saturday: 28,751	Tuesday: 7,929	Saturday: 9,189
Busiest Hour	Sunday: 2 PM	Saturday: 1 PM	Tuesday: 1 PM	Saturday: 3 PM

ATTACHMENTS:

Attachment 1 – April 2023 Sales Report

Ventura Harbor Village Tenant Sales Summary

Month of April	Ŀ	<u> April-2023</u>	<u>/</u>	<u> April-2022</u>	% <u>Change</u>
Restaurants	\$	2,034,944	\$	1,945,133	4.62%
Retail	\$	476,834	\$	535,382	-10.94%
Charters	\$	759,098	\$	721,142	5.26%
Total	\$	3,270,876	\$	3,201,657	2.16%

Year-to-date through April 2023

J	Jar	<u>n - Apr 2023</u>	<u>Ja</u>	<u>n - Apr 2022</u>	% <u>Change</u>
Restaurants	\$	6,388,673	\$	6,684,048	-4.42%
Retail	\$	1,479,879	\$	1,690,316	-12.45%
Charters	\$	1,711,864	\$	2,079,891	-17.69%
Total	\$	9,580,416	\$	10,454,255	-8.36%



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

CONSENT AGENDA ITEM A AWARD OF BID FOR THE FY2023-2024 JANITORIAL SERVICES FOR VENTURA HARBOR VILLAGE RESTROOMS AND DISTRICT ADMINISTRATION OFFICE

VENTURA PORT DISTRICT

BOARD COMMUNICATION

CONSENT AGENDA ITEM A

Meeting Date: June 21, 2023

TO:	Board of Port Commissioners
FROM:	Todd Mitchell, Sr. Business Operations Manager
	Sergio Gonzalez, Facilities Manager
SUBJECT:	Award of Bid for the FY2023-2024 Janitorial Services for Ventura Harbor Village
	Restrooms and District Administration Office

RECOMMENDATION:

That the Board of Port Commissioners award the FY2023-2024 Janitorial Services Contract to Jani-King International Inc. in the amount of \$85,000.

SUMMARY:

The District published a request for bids for the Ventura Harbor Village and District Administration Office janitorial services on May 19, 2023. A public bid opening was held on June 12, 2023, per District policy.

The District received and reviewed three bids for the services requested with the lowest responsive bid received from Jani-King International Inc. (Jani-King). The Service Contract will be from July 1, 2023, through June 30, 2024.

GUIDING PRINCIPLE:

7) Provide high-quality Harbor and coastal visitor-serving amenities, services, facilities and infrastructure.

5-YEAR OBJECTIVE:

V) Maintain and improve Harbor Village facilities, infrastructure, and amenities.

BACKGROUND:

The District is currently under contract with an outside service that provides twice a day, 365 days a year, janitorial services to all Ventura Harbor Village restrooms and shower facilities. This service also provides once a week janitorial services to the District second floor hallway, kitchenet, offices, and restrooms.

The current contract is held by Jani-King and expires on June 30, 2023. Jani-King has performed the work up to the District's expectations in quality and without any lapses in coverage despite a complex schedule. Therefore, staff is recommending awarding the contract to Jani-King.

FISCAL IMPACT:

This expense will be approved with the adoption of the FY2023-2024 budget. Awarding the bid to Jani-King will cost the District \$6,622.85 per month or \$79,474.20 for the fiscal year. The contract ceiling of \$85,000 will allow for additional ad-hoc work for special events or emergencies.

ATTACHMENTS:

None.



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

CONSENT AGENDA ITEM B REJECTION OF LOW BID AND AWARD OF SECOND LOW BID FOR THE FY2023-2024 SECURITY SERVICES FOR VENTURA HARBOR VILLAGE AND MARINA

VENTURA PORT DISTRICT

BOARD COMMUNICATION

CONSENT AGENDA ITEM B

Meeting Date: June 21, 2023

TO:	Board of Port Commissioners
FROM:	Todd Mitchell, Sr. Business Operations Manager
	Dave Werneburg, Marina Manager
SUBJECT:	Rejection of Low Bid and Award of Second Low Bid for the FY2023-2024 Security
	Services for Ventura Harbor Village and Marina

RECOMMENDATION:

That the Board of Port Commissioners:

- a) Find that the low bidder, Dial Security, is not responsible, and reject its bid on that basis.
- b) Award second low bid from Medallion Protective Services for the FY2023-2024 Security Services Contract in the amount of \$2,800/month, \$33,600/year with a contract ceiling of \$50,000.

SUMMARY:

The District published a request for proposals for the Ventura Harbor Village and Marina security services on May 26, 2023. A public bid opening was held on June 8, 2023, per District policy.

The District received and reviewed two bids for the services requested. The Service Contract will be for one year from July 1, 2023, to June 30, 2024.

GUIDING PRINCIPLE:

7) Provide high-quality Harbor and coastal visitor-serving amenities, services, facilities and infrastructure.

5-YEAR OBJECTIVE:

V) Maintain and improve Harbor Village facilities, infrastructure, and amenities.

BACKGROUND:

The District currently contracts with an outside service company to provide a security guard to supplement the Courtesy Dockmaster unit for one-half of a full-time equivalent during the 11 PM to 8 AM shift. The service fills a gap in weekly staff coverage and is also available to supplement vacations or increased requirements for special events.

The current contract is held by Dial Security and expires on June 30, 2022. Dial Security's performance under the contract for the past few months has not met the District's requirements. Dial Security's bid for the contract was therefore deemed a non-responsible bidder and the bid rejected.

Medallion Protective Services provided a responsive bid and staff are recommending entering into a service agreement for security services.

FISCAL IMPACT:

This expense will be approved with the adoption of the FY2023-2024 budget. Awarding the bid to Medallion Protective Services will cost the District \$2,800 per month or \$33,600 per year for 80 hours per month. The contract ceiling of \$50,000 will allow for additional ad-hoc shifts to cover vacations, sick leave, and special events (e.g. Parade of Lights, etc.).

ATTACHMENTS:

None.



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

CONSENT AGENDA ITEM C AWARD OF BID FOR THE 1559 SPINNAKER DRIVE OFFICE TENANT IMPROVEMENT PROJECT

VENTURA PORT DISTRICT

BOARD COMMUNICATION

CONSENT AGENDA ITEM C

Meeting Date: June 21, 2023

TO:	Board of Port Commissioners
FROM:	Todd Mitchell, Sr. Business Operations Manager
	Joe Gonzalez, Capital Projects Manager
SUBJECT:	Award of Bid for the 1559 Spinnaker Drive Office Tenant Improvement Project

RECOMMENDATION:

That the Board of Port Commissioners approve the low bid from FCT Construction LLC in the amount of \$755,000 for the 1559 Spinnaker Drive, Tenant Improvement Modernization Project of approximately 4,000 square feet of office space.

SUMMARY:

On June 7, 2023, the District held a public bid opening for the 1559 Spinnaker Drive Office Tenant Improvement Project. Three bids were received and the price for each bid was read aloud per District policy.

District staff reviewed the qualifications of the lowest bidder and the consulting architect, Rasmussen & Associates, reviewed the bids for errors and omissions. The determination was that the lowest bid from FCT Construction LLC ("FCT") was responsive and holds all required licenses. Therefore, staff is recommending awarding the bid to FCT Construction.

GUIDING PRINCIPLE:

7) Provide high-quality Harbor and coastal visitor-serving amenities, services, facilities and infrastructure.

FIVE-YEAR OBJECTIVE:

V) Maintain and improve Harbor Village facilities, infrastructure, and amenities.1) Ongoing investment in Harbor Village infrastructure.

BACKGROUND:

Staff worked with consulting architect Rasmussen & Associates, to develop the plans for the modernization of an approximately 4,000 square foot existing suite at 1559 Spinnaker Drive that will be divided into five separate office spaces.

The District's request for bids for the Ventura Harbor Village Tenant Improvement Project at 1559 Spinnaker Drive Suite 205 was published on May 19, 2023. A mandatory on-site pre-construction meeting was held on May 24, 2023. The public bid opening was held on June 7, 2023, per District policy. The three bids received ranged from \$750,000 to \$1,064,000.

The District received a Bid protest letter dated June 9, 2023. Districts Consultants reviewed the letter and concluded that FCT's bid was responsive. Legal Counsel also concur with the architect's conclusion.

FISCAL IMPACT:

The cost for this project will be proposed for approval with the adoption of the FY2023-2024 budget.

ATTACHMENTS:

Attachment 1 – Location Map

Attachment 1: Location Map Project Location ura Harbor Boat Jelly Beach Image Landsat / Cope



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

STANDARD AGENDA ITEM 1 VENTURA WEST MARINA PARCEL 17 PRELIMINARY DEVELOPMENT CONCEPT AND MASTER LEASE NEGOTIATIONS

VENTURA PORT DISTRICT

BOARD COMMUNICATION

TO:	Board of Port Commissioners
FROM:	Brian D. Pendleton, General Manager
	Todd Mitchell, Sr. Business Operations Manager
SUBJECT:	Ventura West Marina Parcel 17 Preliminary Development Concept and Master
	Lease Negotiations

RECOMMENDATION:

That the Board of Port Commissioners:

- a) Receive an informational report regarding a preliminary development concept for Ventura West Marina (Parcel 17) by Master Tenant TBBW Company, L.P., a California limited partnership, associated entity Beauchamp Realty, Inc. and Aldersgate Investment.
- b) Authorize the General Manager to initiate formal lease negotiations with TBBW pursuant to the Master Lease.

SUMMARY:

The current master tenant of Ventura West Marina (Phase 1) located on Lease Parcel 17 is TBBW Company, L.P., a California limited partnership (TBBW). Beauchamp Realty, Inc. (Beauchamp) is an associated entity of TBBW and operator of Ventura West Marina. The master tenant's lease expires on March 19, 2024 but contains a right of first refusal for a new lease, which TBBW is requesting.

GUIDING PRINCIPLES:

- 4) Establish and implement harbor-wide environmental sustainability policies and practices through collaboration with our business partners.
- 5) Build respectful, productive relationships with employees, tenants, residents, visitors, stakeholders, public officials, and elected representatives while promoting diversity, equity, and inclusion.
- 7) Provide high-quality Harbor and coastal visitor-serving amenities, services, facilities and infrastructure.

5-YEAR OBJECTIVES:

- M) Collaborate with Master Tenants and National Park Service to plan, improve, and develop the Harbor in a financially and environmentally sustainable way.
 - 1) Engagement and support of Master Tenants for successful business operations at the Harbor.
 - 2) Evaluate opportunities for Parcel Development.

BACKGROUND:

TBBW has been a Master Tenant since 1974 and is the original developer of Ventura West Marina (Lease Parcel 17). Its associated entity, Beauchamp, has been the operator since 1977. Richard Beauchamp is the original and current Managing General Partner for TBBW. Richard Beauchamp is also developer and Master Tenant for Ventura West Marina Phase 2 (Lease Parcel No 7) which was built in 1982. Mr. Beauchamp, his family partners, and related entities have extensive experience in developing and operating Southern California marinas. This experience includes Dana West Marina (980 slips) in Dana Point, CA, Harbor Island West Marina (620 slips) in San Diego, CA, Pier 32 Marina (250 slips) in National City, CA, and Point Loma Marina (60 slips) in San Diego, CA.

In addition to their marina experience, Beauchamp also has extensive experience in multi-family housing development and operation as well as commercial real estate development and operation throughout Southern California and Arizona. Other business experiences for Richard Beauchamp

and his family partners included the development of Western Dental, which at one time included owning and operating over three hundred dental offices in California, Nevada, and Arizona.

Development Team

The development team for TBBW will be headed by Richard Beauchamp and Eric Leslie. Mr. Leslie has been the Director of Marina Operations for Beauchamp for over 30 years and has been the lead of all new marina acquisitions and development during this time. In addition, Mr. Leslie oversees all the property management operations for Beauchamp and is a principal in the recent marina developments. Bellingham Marine is the water designer and architect for all the marina improvements and will serve as the waterside general contractor. For the landside development TBBW has partnered with local developer and operator, Aldersgate Investment (Aldersgate).

Aldersgate is a local, family owned, multi-generational real estate development and construction firm with over 40 years of experience in Ventura County. Matt Mansi, Chief Operating Officer, is the lead team member for the Mixed-Use component of the Ventura West Marina redevelopment. Mr. Mansi's firm specializes in residential, multi-family and mixed-use buildings and developments. Local projects include The Mark Camarillo, Press Courier Senior Apartments, Parkwest Camarillo and Vista Urbana. The lead landside designer will be KTGY, an award-winning architectural firm, founded in 1991, with eight offices throughout the United States. KTGY's specialties are residential, hospitality and mixed-use developments with a focus on innovation design, sustainability, and creation of energetic urban environments.

Project Description

TBBW is proposing to redevelop the entire Ventura West Marina property. This project will include removing all the original waterside improvements inclusive of all the docks, pilings, access ramps and associated structures and utility infrastructure. The marina will be replaced with all new pilings, docks, ramps, utilities, wastewater systems and an updated slip inventory with a dock configuration that is consistent with current Department of Boating and Waterway Guidelines. The upgrades will include new ADA compliant access. TBBW will also identify areas within the new marina to allow for public access for water activities such as paddleboard launching, kayak launching and other human powered watercraft.

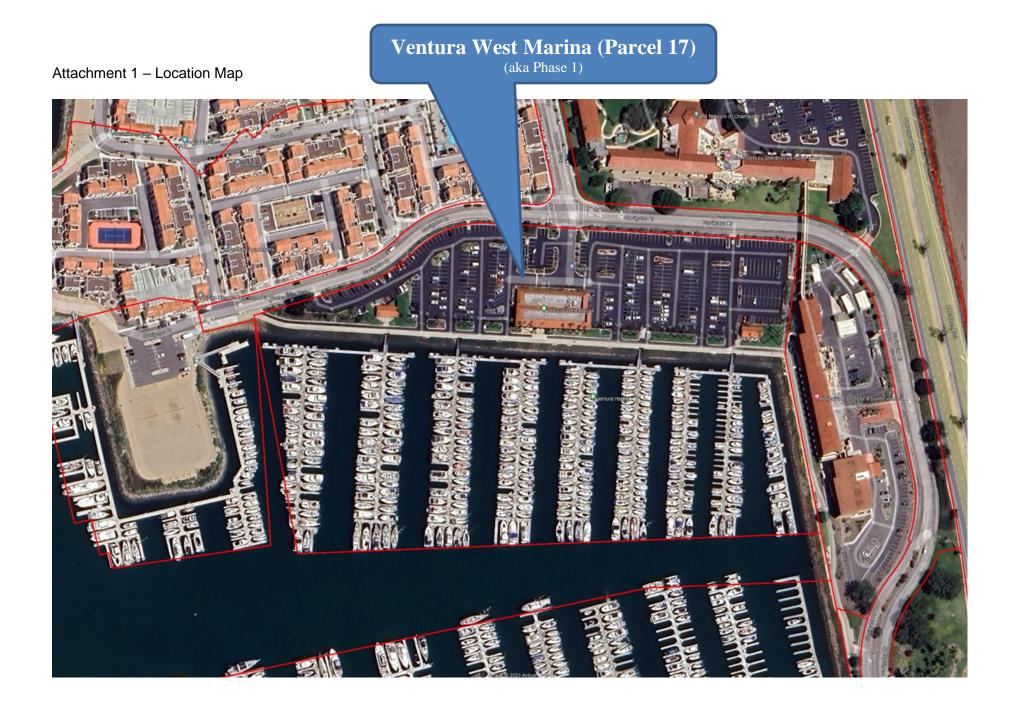
Landside, TBBW is proposing a 3 story Mixed-Use Residential development on the second and third levels with new retail and food service businesses on the first level. Public user amenities will include a public promenade connecting Portside to the entire harbor, bike path, outdoor gathering areas and pocket parks overlooking the water. Resort amenities for waterside and landside tenants will include pool and spa area, workout room, lounge, shower rooms, lockers and laundry facilities.

FISCAL IMPACTS:

The initiation of formal negotiations will trigger legal expenses with a preliminary estimate of not less than \$25,000. Staff will discuss the distribution of costs with TBBW as part of the negotiation process.

ATTACHMENTS:

Attachment 1 – Location Map Attachment 2 – Letter from Beauchamp Realty, Inc.





February 8th, 2023

Brian D. Pendleton General Manager Ventura Port District 1603 Anchors Way Drive Ventura, CA 93001

Dear Brian,

TBBW Company LP is approaching the 50th year of its partnership with the Ventura Port District. Over the last several years we have had several discussions with you and Port staff about continuing that long term relationship and providing investment to assist the Port with your goals of providing first class facilities for recreational boaters, improving public access to the waterfront, creating sustainable environmentally friendly business operations, and incrementally strengthening the economic revenue stream that sustains the harbor.

The current improvements on our existing leasehold reflect the design and business model that was appropriate when it was built almost 45 years ago. As you are aware, many things have changed since then. The region has grown demographically and economically. The recreational boating market has evolved and grown as well. Today we are seeing a demand for larger boat slips, a demand for wider boat slips, a demand for more utility infrastructure on the docks and a demand for more services and amenities to enhance and improve the experience of recreational boaters and their guests. We have also seen tremendous growth in the demand for the public to access the waterfront and to participate in recreational uses and opportunities that did not exist 45 years ago.

Now, we are looking to continue that long term partnership with the Port of Ventura by rebuilding the marina and providing new facilities to position the Port and TBBW Company LP for the next 50 years.

To that end we are proposing to redesign the marina waterside improvements, remove the old dock system and piles and install all new state of the art dock systems. Our preliminary design concepts include adding an area of public access for kayaks, paddleboards, and other personal watercraft, infrastructure for charging systems for future electric powered watercraft, individual wastewater pump out systems, a more environmentally sustainable dock system and, as referenced earlier, a redesigned marina slip layout to allow for a broader range of vessel sizes to patronize Ventura Harbor. Our preliminary design plan for a new marina indicates a redesigned marina would have somewhere between 350 and 400 slips. Not much different than what currently exists but, in a size, and configuration that meets current demands.

In conjunction with the proposed waterside improvements, we are also proposing to invest in significant landside improvements as well. We plan to propose a mixed-use design concept for the landside that would be inclusive of a residential rental unit component, commercial retail, food service, new and upgraded boater amenities and facilities and new venues for the general public to access the property and the waterfront. This mixed-use design concept is a model that has been very successful in other Southern California harbors such as Marina Del Rey and of course right next door in Ventura Harbor with the Portside development. The dual developments of marina and residential provide a very unique opportunity to scale resort level improvements for both uses. It is a combination that allows the Port to raise the bar on the level of services the harbor will be able to offer. But more importantly it can continue the redefining and activation of this portion of the harbor.

Although the partners of TBBW Company LP are experienced residential developers, owners, and operators, we are in discussions with Aldersgate Investment to potentially partner with TBBW Company in this proposed development. Aldersgate has been a very active developer/builder in Ventura County over the last 30 years and has done many mixed-use projects in the immediate area. Its principal, Matt Mansi, is an active resident of Ventura and a Chamber of Commerce board member. Aldersgate was recently able to successfully entitle a coastal property in downtown Ventura for multifamily residential despite much opposition and pressure from anti-growth activist groups. We believe Aldersgate provides the type of knowledge and experience we would want to bring in as a partner.

We are very early in our concept design and density planning, so the potential scale of landside improvements has a broad range. The residential component could be in the range of 40 to 100 units and the mixed-use commercial could be in the range of 4000 to 8000 sq feet and the boater/residential services and amenities could be 2000 to 4000 square feet.

The scale and level of improvement we are considering will require significant capital investment which we are prepared to do. More importantly, the financial benefit to the Port will be significant as well. Based on our preliminary projections, we expect the Port will see a substantial increase in rent payments.

As we continue due diligence and continue our discussions with Aldersgate and the Port, we will be able to provide a more definitive estimate on proposed capital investment and the subsequent revenue to the Port. A very preliminary ballpark estimate on capital improvements indicate a waterside investment in the range of \$10,000,000 to \$15,000,000, a landside facility and infrastructure investment of \$5,000,000 to \$10,000,000 and a mixed-use residential component that could be in the range of \$35,000,000 to \$50,000,000.

We stand ready to continue our design, planning and estimating but we would like to better understand the Port's level of interest in our proposal and the Port's goals in moving forward. Our proposed redevelopment plans will require a new long-term lease with the Port of Ventura. As you are aware, the existing lease expires next year. Given the lead time and inherent uncertainty for obtaining entitlements and permits, our proposed redevelopment will require a phased or scheduled sequence in a new lease. At this time, we anticipate that the marina entitlements and construction could be completed in 2 to 4 years. The mixed-use and residential component of the proposed development could take 3 to 6 years for the entitlement and another 2 years for the construction. Accordingly, we will need a time frame within a new lease that allows sufficient time for all the entitlement and construction that we project to be necessary.

TBBW Company LP and its partners welcome the opportunity for a continued partnership with the Port of Ventura and the boating community. We respectfully request that you review our preliminary concept proposal and advise on the best path forward. Our team would be happy to meet with you and staff or Port Commissioners to discuss our vision and ensure that it becomes your vision as well. Thanks for your consideration and we look forward to hearing back.

Sincerely

Eric Leslie Director of Marina Operations Beauchamp Realty Inc Richard Beauchamp General Partner TBBW Company, LP



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

Standard Agenda Item 2 Adoption of Resolution No. 3478 Approving a Notice of Proposed Ordinance for a New 10-Year Lease between the Ventura Port District and The Boatyard, Inc. dba The Boatyard Pub

VENTURA PORT DISTRICT BOARD COMMUNICATION

STANDARD AGENDA ITEM 2

Meeting Date: June 21, 2023

TO:	Board of Port Commissioners
FROM:	Brian D. Pendleton, General Manager
	Todd Mitchell, Sr. Business Operations Manager
SUBJECT:	Adoption of Resolution No. 3478 Approving a Notice of Proposed Ordinance for a New 10-Year Lease between the Ventura Port District and The Boatyard, Inc. dba The Boatyard Pub

RECOMMENDATION:

That the Board of Port Commissioners adopt Resolution No. 3478 authorizing the Ventura Port District to publish a Notice of Proposed Ordinance for a New Restaurant Lease Agreement between the Ventura Port District dba Ventura Harbor Village and The Boatyard, Inc. dba The Boatyard Pub for the premises located at 1583 Spinnaker Drive #109 consisting of a total of 2,675 square feet of interior space, 1,681 square feet of patio, and 90 square feet of storage and mechanical equipment space for a five-year term with one five-year option.

SUMMARY:

The existing tenant The Boatyard, Inc. is seeking to enter into a new Lease Agreement for its existing space commencing August 1, 2023.

GUIDING PRINCIPLES:

- 3) Grow financial sustainability through a reliable, recurring revenue stream supplemented with grants and public-private partnership investment while maintaining responsible budgeting practices.
- 5) Build respectful, productive relationships with employees, tenants, residents, visitors, stakeholders, public officials, and elected representatives while promoting diversity, equity, and inclusion.

5-YEAR OBJECTIVES:

R) Seek opportunities to grow revenues and secure grants; continue to improve the quality, efficiency, and transparency of financial reporting, monitoring, and property management.
 3) Leasing/Property Management

BACKGROUND:

The Boatyard Inc. (doing business as the Boatyard Pub) has been a tenant of Ventura Harbor Village since December 2016. That Lease expired on November 30, 2022, and the tenant is seeking a new Lease with the District.

Since the proposed Lease and Option together equal ten (10) years, the Board is required, pursuant to the California Harbors and Navigations Code Section 6270, to authorize and direct staff to publish a notice of its intent to adopt an Ordinance authorizing execution of the Lease. A copy of the Notice of Proposed Ordinance is attached for the Board's consideration.

If the Board adopts Resolution No. 3478 authorizing the Ventura Port District to publish a Notice of Proposed Ordinance for the new Lease in a newspaper of general circulation, the Board may then adopt the Ordinance at the next Board meeting and the new Lease would go into effect as of August 1, 2023.

FISCAL IMPACT:

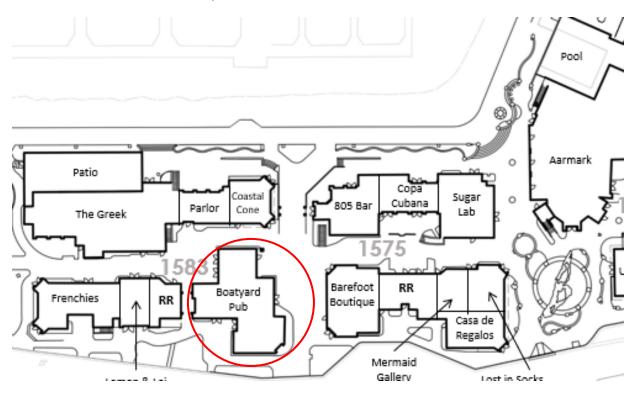
This Lease reflects regular market rate for restaurant rent at Ventura Harbor Village with annual increases. The tenant has committed to making an investment of approximately \$400,000 in improvements to the space including constructing physical improvements, furniture, fixtures, and equipment.

The District shall perform improvements to the concrete patio surface surrounding the restaurant in conjunction with the tenant's modernization of the patio structures and the District shall also reimburse the tenant up to \$65,000 in improvements performed by the tenant limited to those that are permanent improvements to the building and patios.

ATTACHMENTS:

Attachment 1 - Location Map Attachment 2 – Resolution No. 3478

Attachment 1 – Location Map





RESOLUTION NO. 3478

RESOLUTION OF THE BOARD OF PORT COMMISSIONERS OF THE VENTURA PORT DISTRICT APPROVING A NOTICE OF PROPOSED ORDINANCE FOR A NEW LEASE AGREEMENT WITH OPTIONS BETWEEN THE VENTURA PORT DISTRICT AND THE BOATYARD INC. DBA BOATYARD PUB FOR 1583 SPINNAKER DRIVE, SUITE #109

WHEREAS, the Ventura Port District ("District") is considering entering into a new Lease with options with The Boatyard Inc. dba Boatyard Pub, with a commencement date of August 1, 2023, which options will entitle The Boatyard Inc. to a new ten (10) year lease ("Lease") upon the meeting of certain conditions, as set forth in the Lease.

WHEREAS, the Lease is for a period of five (5) years with one (1) five (5) year option for a total of up to ten (10) years.

WHEREAS, pursuant to the California Harbors and Navigation Code section 6270, a lease of District property for a period of ten (10) or more years must be authorized by ordinance and published in a newspaper of general circulation in Ventura County at least once before final passage (<u>Exhibit A</u>).

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the Ventura Port District hereby authorizes and directs District staff to publish a notice of its intent to adopt an ordinance authorizing execution of the Lease and Options as <u>Exhibit B</u>, which is available for inspection at the District Office, to comply with Harbors and Navigation Code section 6270.

PASSED, APPROVED, AND ADOPTED at a Regular Meeting of the Board of Port Commissioners of Ventura Port District held this 21st day of June 2023, adopted by the following vote:

AYES: NOES: ABSENT: ABSTAIN:

Michael Blumenberg, Chair

ATTEST:

Anthony Rainey, Secretary

EXHIBIT A

NOTICE OF PROPOSED ORDINANCE OF THE VENTURA PORT DISTRICT

(California Harbors and Navigation Code section 6270)

NOTICE IS HEREBY GIVEN that on July 5, 2023 at 7:00 PM, a meeting of the Board of Port Commissions of the Ventura Port District will be held at the District office located at 1603 Anchors Way Drive, Ventura, California and virtually via Zoom meeting.

Said meeting of the Board of Port Commissions is, in part, for the purpose of considering the adoption and passage of the following ordinance:

"ORDINANCE NO. 58

AN ORDINANCE OF THE BOARD OF PORT COMMISSIONERS OF VENTURA PORT DISTRICT APPROVING A NEW LEASE AGREEMENT WITH OPTIONS BETWEEN THE VENTURA PORT DISTRICT AND THE BOATYARD INC. DBA BOATYARD PUB (California Harbors and Navigation Code section 6270)

The Board of Port Commissioners of the Ventura Port District hereby ordains as follows:

The General Manager of the Ventura Port District is authorized and directed to execute the New Lease between Ventura Port District dba Ventura Harbor Village and The Boatyard, Inc. doing business as Boatyard Pub with a commencement date of August 1, 2023."

A copy of the proposed lease agreement is available for inspection during regular business hours at the District Office located at 1603 Anchors Way Drive, Ventura, California.

If the foregoing ordinance is adopted upon the majority vote of the Board of Port Commissioners of the Ventura Port District, said ordinance will become effective immediately after final passage.

This Notice is published at the direction of the Board of Port Commissioners pursuant to Resolution No. 3478 duly adopted at the regular meeting of the Board of Port Commissioners of the Ventura Port District held on June 21, 2023.

Brian D. Pendleton, General Manager Ventura Port District

EXHIBIT B

VENTURA PORT DISTRICT RESTAURANT LEASE

THE BOATYARD, INC. dba BOATYARD PUB

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

VENTURA PORT DISTRICT RESTAURANT LEASE

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Article 34	Consent of Landlord and Tenant
Article 35	Security Deposit
Article 36	Compliance with Permits and Approvals
Article 37	Miscellaneous
Exhibit A	General Site Plan
Exhibit A-1	Configuration of Premises
Exhibit B	Description of Premises
Exhibit C	Provisions Relating to Construction of Tenant's Improvements
Exhibit D	Tenant's Certificate
Exhibit E	Guaranty of Lease
Exhibit F	Sign Criteria
Exhibit G	Parking Rules and Regulations
Exhibit H	Options to Extend
Exhibit I	Relocation of Premises
Exhibit J	Grease Trap Maintenance
Exhibit K	Forms of Faithful Performance and Payment Bonds

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

VENTURA PORT DISTRICT RESTAURANT LEASE

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VENTURA PORT DISTRICT

RESTAURANT LEASE

In consideration of the rents and covenants hereinafter set forth, Landlord named below hereby leases to Tenant named below, and Tenant hereby leases from Landlord the following described Premises upon the following terms and conditions:

ARTICLE 1

FUNDAMENTAL LEASE PROVISIONS:

- 1.1 Date of Lease: August 1, 2023
- 1.2 Landlord: Ventura Port District, doing business as "Ventura Harbor Village".
- 1.3 Tenant: The Boatyard, Inc.
- 1.4 Tenant's Trade Name: Boatyard Pub (Section 8.1 and Exhibit "B")

1.5 Premises: Approximately 2,675 square feet of commercial space and 1,681 square feet of patio space, and 90 square feet of storage and mechanical equipment space in Ventura Harbor Village, commonly known as 1583 Spinnaker Drive, # #109, Ventura California 93001. (Article 3 and Exhibit "B")

1.6 Lease Term: Five (5) years, commencing on August 1, 2023 ("Commencement Date"), subject to exercise of one (1) five (5) year Option(s) to Extend (Exhibit "H"). (Total Lease Term not to extend more than 10 years unless approved by ordinance. Harbors & Navigation Code Section 6270)

1.7 Minimum Monthly Rent: Four thousand seven hundred eight dollars (\$4,708.00) per month, payable on the first day of each calendar month commencing with the Commencement Date. (Section 5.1)

1.7.1 Minimum Monthly Rent shall be adjusted on each anniversary of the Commencement Date in accordance with the chart below for the first five (5) years of the Lease Term (the "Negotiated Rent Term"). Thereafter, Minimum Monthly Rent shall be adjusted in accordance with Section 5.12.

<u>Year</u>	Minimum Monthly Base Rent			<u>Per Month</u>	Per Square Foot Increase	
Year 1	August 1, 2023	to	July 31, 2024	\$4,708.00	\$1.76	N/A
Year 2	August 1, 2024	to	July 31, 2025	\$4,842.00	\$1.81	3%
Year 3	August 1, 2025	to	July 31, 2026	\$4,976.00	\$1.86	3%
Year 4	August 1, 2026	to	July 31, 2027	\$5,136.00	\$1.92	3%
Year 5	August 1, 2027	to	July 31, 2028	\$5,297.00	\$1.98	3%
Option Years	August 1, 2028		Onward	Annual CPI Increases		

1.8 Additional Percentage Rent: For Lease Year 1 and Year 2 (each as described in Paragraph 1.7.1 above) three and a half percent (3.5%) of Tenant's Adjusted Gross Sales(as defined in Article 6) except, (i) one and a half percent (1.5%) of Tenant's Adjusted Gross Sales from internet sales (as described in Paragraph 6.1.9), and (ii) three percent (3%) of all other of Tenant's Adjusted Gross Sales, but excluding food and beverage sales. For Lease Year 3 (as described in Paragraph 1.7.1 above) and onward , four percent (4%) of Tenant's Adjusted Gross Sales except, (x) one and a half percent (1.5%) of Tenant's Adjusted Gross Sales from internet sales (as described in Section 6.1.9), and (y) three percent (3%) of all other of Tenant's Adjusted Gross Sales, but excluding food and beverage sales. (Section 5.6)

1.9 Permitted Use: A full-service casual dining restaurant that serves breakfast, lunch, and dinner with the sales of alcoholic and non-alcoholic beverages. (Section 8.1 and Exhibit "B")

To Tenant:

The Boatvard, Inc.

1583 Spinnaker Drive, #109

Ventura, California 93001

1.10 Addresses for Notices:

To Landlord:

Ventura Port District 1603 Anchors Way Drive Ventura, California 93001

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

1.11 Security Deposit: Four thousand seven hundred eight dollars (\$4,708.00) (Article 35)

1.12 Trash Removal Expenses Charge: Seven hundred twenty-two dollars (\$722.00) per month, payable on the first day of each calendar month commencing with the Commencement Date. (Section 17.3)

1.13 Common Area Expenses rate per square foot: Sixty-six Cents (\$.66) (Section 20.4)

1.14 Common Area Expenses Initial Charge: One thousand seven hundred sixty-five dollars and fifty cents (\$1,765.50) per month, payable on the first day of each calendar month commencing with the Commencement Date. (Section 20.4)

1.15 Marketing and Promotion Fund Payment: Six hundred forty-six dollars (\$646.00) per month, payable on the first day of each calendar month commencing with the Commencement Date. This amount shall be increased by three and a half percent (3.5%) each anniversary of the Commencement Date during the Lease Term, including any option periods of the Lease Term. (Section 30.2)

1.16 FOG Expenses Charge: Fees associated with the maintenance of grease trap(s) at the Premises, if any, will be calculated on a pro rata basis and shall be payable on the first day of August each calendar year commencing with the Commencement Date. The amount of the FOG Expense Charge shall be proportional based on actual cost incurred by Landlord. (Exhibit "J")

All references in this Article 1 to other Articles and Sections are for the purposes of convenience and to designate the principal other Articles and Sections in which the matters summarized under the particular Fundamental Lease Provision are dealt with in detail. Each reference in this Lease to any of the Fundamental Lease Provisions contained in this Article 1 shall be construed to include all of the terms provided for under each such Fundamental Lease Provision or incorporated therein by reference. In the event of any apparent conflict between any Fundamental Lease Provision and specific clauses contained within the balance of the Lease, the latter shall control.

ARTICLE 2 EXHIBITS

The following special provisions are attached hereto as Exhibits and made a part of this Lease:

2.1 <u>Exhibit "A"</u> - General Site Plan of the integrated retail/commercial complex known as "Ventura Harbor Village" on approximately thirty-six (36) acres of land and water within the Ventura Port District, located at the City of San Buenaventura, County of Ventura, State of California, which land is bounded by Spinnaker Drive, the Ventura Yacht Club, the Ventura Harbor Basin, and the Ventura Isle Marina, and is hereinafter referred to as the "Complex." Said site plan shows, among other things, the principal improvements and uses which comprise the Complex. Tenant acknowledges that Landlord may change shape, size, location, number, and extent of the improvements shown thereon and eliminate or add any uses or improvements to any portion of the Complex, provided that Landlord shall not change the size or location of Tenant's Premises without Tenant's consent.

- 2.2 Exhibit "A-1" Approximate location, configuration and dimensions of Tenant's Premises
- 2.3 Exhibit "B" Description of the Premises, authorized use, noise level, and Tenant's trade name
- 2.4 Exhibit "C" Provisions Relating to Construction of Tenant's Improvements
- 2.5 Exhibit "D" Tenant's Certificate
- 2.6 Exhibit "E" Guaranty of Lease
- 2.7 Exhibit "F" Sign Criteria
- 2.8 Exhibit "G" Parking Rules and Regulations
- 2.9 Exhibit "H" Options to Extend
- 2.10 Exhibit "I" Relocation of Premises
- 2.11 Exhibit "J" Grease Trap Maintenance
- 2.12 Exhibit "K" Forms of Faithful Performance and Payment Bonds

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

VENTURA PORT DISTRICT RESTAURANT LEASE

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ARTICLE 3 PREMISES

Landlord leases to Tenant and Tenant hereby leases from Landlord, for the term, at the rent, and upon the covenants and conditions hereinafter set forth, the commercial space referred to herein as the "Premises," and described on Exhibit "B." Any statement of square footage set forth in this Lease or its attachments is an approximation which Landlord and Tenant agree is reasonable, and the rent is not subject to revision whether or not the actual square footage is more or less.

Landlord hereby warrants that the Premises have undergone inspection by a Certified Access Specialist (CASp) pursuant to Civil Code Section 1938. The Premises have not been determined to meet all applicable construction-related accessibility standards pursuant to Civil Code Section 55.53. Tenant acknowledges, understands, and agrees that: (i) it has been given an opportunity to inspect and measure the Premises; (ii) it is familiar with the Premises and improvements now existing thereon, and takes and accepts its leasehold interest in the Premises in their PRESENT "AS IS " condition and with all faults; (iii) it has been advised by Landlord to satisfy itself with respect to the size and condition of the Premises (including, but not limited to, the plumbing, electrical, HVAC and fire sprinkler systems, if any, security, environmental aspects, and compliance with any and all building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances, and the Americans with Disabilities Act of 1990 and any corresponding laws of the State of California), and their suitability for Tenant's intended use; (iv) it has made such investigation as it deems necessary with reference to such matters, and assumes all responsibility therefor, at its sole cost and expense, as the same relate to its occupancy and use of the Premises, including, but not limited to, making any necessary corrective work thereto that may be required for Tenant's use and occupancy of the Premises, and/or to ensure compliance with all building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances, and the Americans with Disabilities Act of 1990 and any corresponding laws of the State of California; and (v) the square footage of the Premises was not material to Tenant's decision to lease the Premises and pay the rent stated herein.

ARTICLE 4 TERM

4.1 <u>Setting Term</u>. The obligations of Landlord and Tenant under this Lease shall begin as of the date stated in Section 1.1 hereof and shall continue thereafter during the Lease Term specified in Article 1 hereof and shall end on the last day of the last full calendar month of the Lease Term, unless extended or sooner terminated as hereinafter provided in this Lease. The Lease Term shall begin on the Commencement Date set in Section 1.6.

4.2 <u>Delivery of Possession</u>. Landlord shall deliver to Tenant and Tenant shall accept from Landlord, possession of the Premises forthwith upon substantial completion of Landlord's work on the Premises as described in Exhibit "C," if any. In the event that Landlord is unable to deliver a substantially complete Premises ready for the installation by Tenant of its improvements within nine (9) months from the date hereof, then this Lease shall terminate as of said date and each of the parties hereto shall be released from any further obligations hereunder.

4.3 <u>Definition of Substantial Completion</u>. The phrase "substantial completion of Premises" is defined as the date when the Premises are substantially complete with respect to the finishing of Landlord's work as specified in Exhibit "C" so that Tenant's contractor may commence the construction of Tenant's work as described in Exhibit "C" hereof. Tenant and its contractor shall diligently prosecute such construction of Tenant's work to completion and shall open the Premises for business on or before the Commencement Date specified in Section 1.6.

4.4 <u>Acceptance of Premises</u>. Upon substantial completion of the Premises and Tenant's acceptance of the same, Tenant shall be deemed to have satisfied itself with respect to the condition of the Premises and the present and future suitability of the Premises for Tenant's intended use. Tenant shall be responsible for making such investigation as it deems necessary, and Tenant shall not rely on any oral or written representations or warranties made with respect to the Premises by Landlord or its employees, agents, or contractors, except as set forth in this Lease and its attachments.

VENTURA PORT DISTRICT RESTAURANT LEASE

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4.5 <u>Tenant's Certificate</u>. Within ten (10) days after the Date of Lease specified in Section 1.1, Tenant shall execute and deliver to Landlord a certificate substantially in the form of the attached Exhibit "D," indicating thereon any exceptions thereto which may exist at that time. Failure of Tenant to execute and deliver such certificate shall constitute an unqualified acceptance of the Premises and an acknowledgment by Tenant that the statements included in Exhibit "D" are true and correct, without exception. In addition thereto, if Tenant fails to execute and deliver such statement to Landlord within said ten (10) day period, Landlord may, as attorney in fact of Tenant, coupled with an interest, execute such statement for, and on behalf of, and in the name of Tenant. If requested by Landlord in writing, Tenant shall give similar certificates from time to time during the term of this Lease in the manner hereinabove provided.

ARTICLE 5

RENT

Tenant shall pay to Landlord as rent for the use and occupancy of the Premises, at the times and in the manner hereinabove provided, the following sums of money:

5.1 <u>Minimum Monthly Rent</u>. The Minimum Monthly Rent specified in Section 1.7 hereof shall begin on the Commencement Date specified in Section 1.6; and it shall be payable in monthly installments during the Lease Term, in advance, on the first day of each calendar month, without offset or deduction. If the rent payment period commences on a day of the month other than the first day of such month, the rent for the first fractional month shall be computed on a daily basis for the period from the date of commencement to the end of such calendar month and in an amount equal to one-thirtieth (1/30) of the said Minimum Monthly Rent for each such day, and shall be paid together with the rent for the first full calendar month.

5.2 <u>Taxes</u>. Under all circumstances, Tenant shall be responsible for all taxes and general and special assessments levied upon Tenant, Tenant's personal property, and Tenant's interest in the Premises and the underlying realty of which the Premises are a part, including all possessory interest taxes. A taxable possessory interest is created when a private party is granted the exclusive use of real property owned by a non-taxable entity. Therefore, a tax assessment is automatically triggered by the County Assessor's office due to the lease of government-owned property

by a private corporation/citizen (see:

https://assessor.countyofventura.org/assessmentresources/PossessoryInterests.asp for more information concerning why possessory interest taxes are assessed and why this is not included in your lease payments).

Tenant acknowledges and agrees that this Lease may create a possessory interest subject to property taxation. In addition to the Minimum Monthly Rent provided for in Section 5.1 above, Tenant shall pay County Assessor's Office on demand prior to the taxing authorities' delinquency date each year or partial year of the Lease Term, all taxes and general and special assessments levied upon the Tenant. If at any time during the Lease Term, the federal government, the State of California or any political subdivision of the state, including any county, city, public corporation, district, or any other political entity or agency of the state, levies or assesses against Landlord a tax, fee, or excise: (1) on rents, (2) on the square footage of the Premises, (3) on the act of entering into this Lease, (4) on the occupancy of Tenant, or (5) any other tax, fee, or excise, including, without limitation, a so-called value added tax as a direct substitute in whole or in part for, or in addition to, any real property taxes, Tenant shall pay, upon demand before delinquency that tax, fee, or excise on rents.

Tenant Initial:

5.3 <u>Assessments</u>. If any general or special assessment is levied and assessed against the Complex and the underlying realty of which the Premises are a part, Landlord can elect to either pay the assessment in full or allow the assessment to go to bond. If Landlord pays the assessment in full, Tenant shall pay to Landlord each time a payment of real property taxes is due a sum equal to that which would have been payable (as both principal and interest) had Landlord allowed the assessment to go to bond.

5.4 <u>Proration of Taxes</u>. Tenant's liability to pay real property taxes and other taxes pursuant to Section 5.2 shall be prorated on the basis of a 360-day year to account for any fractional portion of a fiscal year included in the Lease Term at its commencement and expiration.

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5.5 Insurance Expense. In addition to the Minimum Monthly Rent provided for in Section 5.1 above, and in addition to the payment of taxes as provided for in Section 5.2, Tenant shall pay to Landlord, as additional rent, on demand, during each year or partial year of the Lease Term beginning on the Commencement Date, its proportionate share of all insurance premiums paid by Landlord with respect to the Complex, including but not limited to the premiums for that insurance obtained under Article 10 of this Lease. Tenant's proportionate share of such insurance premiums shall be determined in the manner provided in Section 5.4 for the determination of Tenant's proportionate share of real property taxes.

5.6 <u>Additional Percentage Rent</u>. Tenant shall also pay Landlord Additional Percentage Rent in an amount equal to the total of the applicable percentages of Tenant's Adjusted Gross Sales (as defined in Article 6), as specified in Section 1.8, made each calendar month during the Lease Term. On or before the tenth (10th) day of each calendar month, Tenant shall compute and pay to Landlord Additional Percentage Rent for Tenant's Adjusted Gross Sales made during the immediately preceding calendar month. Payments of Additional Percentage Rent will not be accepted, and will be considered unpaid, if such payment is not accompanied by a statement of Adjusted Gross Sales for the applicable month, as specified in Section 5.8.

5.7 <u>Fractional Months</u>. For the purposes of computing Additional Percentage Rent, the Adjusted Gross Sales in the first fractional month in which such rent commences shall be added to the Adjusted Gross Sales for the first full calendar month thereafter and any percentage rent due and payable for such entire period shall be in addition to the monthly installments of Minimum Monthly Rent which Tenant shall have paid during said period. For the purpose of computing the percentage rent, the Adjusted Gross Sales in the last fractional month shall be determined and any percentage due and payable for this period shall be such sum as may be in addition to the monthly installments of Minimum Monthly Rent which Tenant shall have paid during such period.

Statement of Adjusted Gross Sales. Tenant shall furnish or cause to be furnished to Landlord a 5.8 statement of Adjusted Gross Sales of Tenant within ten (10) days after the close of each calendar month, and an annual statement of Adjusted Gross Sales, to be certified as correct by Tenant under penalties of perjury or by a certified public accountant employed by Tenant, within thirty (30) days after the close of each calendar year. Such statements shall be signed by Tenant if Tenant is composed of individuals, or by a responsible officer, member, or partner if Tenant is a corporation, limited liability company or partnership, or by a certified public accountant. No later than May 1, the Tenant shall also furnish a copy of the business's Form 1120 Tax Form (page 1) from the previous year to the Landlord. Tenant shall keep full and accurate books of account, records and other pertinent data on the gross sales and "Adjusted Gross Sales" as hereinafter defined and the business relating to the Premises (including the gross sales and Adjusted Gross Sales of any subtenant, licensee, or concessionaire) and such books and records shall be kept for a period of five (5) years after the close of each calendar year. The receipt by Landlord of any statement or any payment of percentage rent for any period shall not bind it as to the correctness of the statement or the payment. At any time within three (3) years after the receipt of any statement, Landlord shall be entitled to an audit of such gross sales and Adjusted Gross Sales conducted by Landlord or by a certified public accountant to be designated by Landlord. Such audit shall include the determination of the "Adjusted Gross Sales" as defined in this Lease and shall be conducted during normal business hours and either at the Premises or the principal place of business of Tenant. If it shall be determined as a result of such audit that there has been a deficiency in the payment of percentage rent, then such deficiency shall become immediately due and payable with interest at the maximum legal rate from the date when said payment should have been made. In addition, if Tenant's statement for the pertinent calendar year shall be found to have understated Adjusted Gross Sales by more than two percent (2%) and Landlord is entitled to any additional percentage rent as a result of said understatement, then Tenant shall pay all of Landlord's reasonable costs and expenses connected with the audit. Any information gained from such statements or inspection shall be confidential and shall not be disclosed other than to carry out the purposes of this Lease or to meet the disclosure requirements governing public bodies; Landlord shall also be permitted to divulge the contents of any such statements in connection with any financing arrangements or assignments of Landlord's interest in the Premises or in connection with any administrative or judicial proceedings in which Landlord is involved and where Landlord may be required to divulge such information.

5.9 <u>Designation as Additional Rent</u>. Tenant shall pay, as additional rent, all sums of money required to be paid pursuant to the terms of this Article 5, the sums to be paid pursuant to Articles 8, 9, 13, 17, 18, 19, 20, 30 and Exhibit "C" of this Lease, and all other sums of money or charges required to be paid by Tenant under this Lease, whether or not the same be designated "additional rent." If such amounts or charges are not paid at the time provided

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in this Lease, they shall nevertheless be collectible as additional rent with the installment of Minimum Monthly Rent thereafter falling due, but nothing herein contained shall be deemed to suspend or delay the payment of any amount of money or charges at the time the same becomes due and payable hereunder, or limit any other remedy of Landlord.

5.10 Interest and Late Charges. If Tenant shall fail to pay, when the same is due and payable, any rent or any additional rent, or amounts of charges of the character described in Section 5.9 hereof, such unpaid amounts shall bear interest at the rate of Twelve Percent (12%) per year, or the maximum legal rate, whichever is less, from the date due to the date of payment. In addition to such interest, if Tenant shall fail to pay the Minimum Monthly Rent, additional rent, or charges described in Section 5.9, a late charge shall be payable pursuant to Section 22.3. All rent called for in this Lease shall be payable in lawful money of the United States. The interest and late charge provisions contained herein are in addition to and do not diminish or represent a substitute for any or all of Landlord's rights under Article 22 hereof.

5.11 <u>Address for Payment of Rent</u>. All rent and other payment shall be paid by Tenant to Landlord at the following address: 1603 Anchors Way Drive, Ventura, California 93001, or at such other place as may from time to time be designated by Landlord in writing at least ten (10) days prior to the next ensuing payment date.

5.12 <u>Cost of Living Adjustment</u>. The Minimum Monthly Rent to be paid pursuant to the terms of Sections 1.7 and 5.1 shall be subject to adjustment as of the first anniversary of the Commencement Date after the Negotiated Rent Term, and on each subsequent anniversary of the Commencement Date, and also on each subsequent anniversary of the Commencement Date during any option periods of the Lease Term, including the first option period and successive option periods, referred to hereafter as the "Adjustment Date," as follows:

5.12.1 <u>Computation</u>. The base for computing the adjustment is the Consumer Price Index-All Urban Consumers (Los Angeles - Long Beach - Anaheim) published by the United States Department of Labor, Bureau of Labor Statistics (the "Index") which is most recently published twelve months prior to the Adjustment Date (the "Beginning Index"). If the Index most recently published prior to the Adjustment Date (the "Adjustment Index") has increased over the Beginning Index, the Minimum Monthly Rent for the months of the following year (until the next rent adjustment) shall be set by multiplying each of the payments of Minimum Monthly Rent by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index. In no event, however, shall the Minimum Monthly Rent be reduced below the amounts previously set.

5.12.2 <u>Changed Index</u>. If the Index is changed so that the base year differs from that used as of the month prior to the Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Lease Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

ARTICLE 6

DEFINITION OF "ADJUSTED GROSS SALES"

6.1 <u>Inclusions</u>. "Adjusted Gross Sales" shall include:

6.1.1 The actual sale or lease price of all goods, wares, merchandise or products (including those held for sale on consignment) sold, leased, or delivered on or from the Premises, whether sold, leased, or delivered, including exchange or barter transactions, by Tenant, its agents, subtenants, concessionaires, or licensees before deducting trade-in allowances, and regardless of whether for cash or on credit, and, in case of sales on credit, of whether payment is actually made or not. For the purpose of the foregoing, each transaction on credit or in installments shall be treated as a transaction for the full price in the month in which the sales are made, irrespective of whether paid for within that month.

6.1.2 Gross receipts from all charges made by Tenant, its agents, subtenants, concessionaires or licensees for the sale, lease, or rendition of services on or from the Premises of any nature or kind whatsoever, whether for cash or on credit and, in the case of credit, whether payment is actually made or not.

6.1.3 Gross receipts from all rent, admission, entry and other fees and charges relating to use of or activity on the Premises of any nature or kind charged to others on the Premises by Tenant, its agents, subtenants, concessionaires and licensees, or charged by Tenant to its agents, subtenants, concessionaires, and licensees, except percentage rent paid by them to Tenant.

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6.1.4 All non-refundable and forfeited deposits received by Tenant, its agents, subtenants, concessionaires, or licensees in connection with any transaction conducted or occurring in, at, upon, or from the Premises.

6.1.5 Gross receipts from all coin-operated or other vending devices on the Premises, including telephones, video games, etc.

6.1.6 The amount received under any rental insurance policy maintained by Tenant, its agent, subtenants, concessionaires, or licensees.

6.1.7 The fair market value of all consideration passing to Tenant from its agents, subtenants, concessionaires, and licensees, except percentage rent paid by them to Tenant.

6.1.8 All gross income or gross receipts of Tenant, its agents, subtenants, concessionaires, or licensees from any operation, in, at, upon, from or connected to the Premises which are neither specifically included in nor excluded from the definition of Adjusted Gross Sales pursuant to other provisions of this Lease.

6.1.9 All gross income or gross receipts from internet sales, which include any and all commercial transactions completed online, whether through a website operated by Tenant or through third party e-commerce websites, of any and all goods, wares, merchandise, products or services that are related to Tenant's business or would be attributable to or connected with Tenant's business on the Premises in the customary course of Tenant's operation; provided, however, notwithstanding the foregoing, Tenant shall not purposefully direct any sales to any online shop other than the internet site(s) associated with the Premises of which Tenant has previously informed Landlord of in writing or any other off-site location.

6.1.10 Gross receipts from all fees and charges for catering services, banquet supplies, and related activities, whether or not conducted on the Premises or elsewhere.

6.2 <u>Exclusions</u>. Excluded from "Adjusted Gross Sales", or subtracted if previously included, shall be:

6.2.1 All sums collected and paid out for sales taxes, luxury taxes, excise taxes, and similar taxes required by law (whether now or hereafter in force) to be added to the total purchase price, collected from customers, and paid over to the applicable taxing authority by Tenant, its agents, subtenants, concessionaires, or licensees.

6.2.2 Merchandise returned to shippers or manufacturers.

6.2.3 All credits, and cash refunds, and refundable deposits made on any sale that took place on or from the Premises, provided that the sale price was previously included in Adjusted Gross Sales.

6.2.4 All cash credit received in settlement of any claims for loss of or damage to merchandise or insurance proceeds received on account of damages to the Premises.

6.2.5 Any refundable deposit received by Tenant, its agents, subtenants, concessionaires, or licensees; provided, however, that in the event that Tenant, its agents, subtenants, concessionaires, or licensees become entitled to any or all of said deposits by reason of any act of the depositor, the amounts to which Tenant, its agents, subtenants, concessionaires, or licensees become entitled shall be included in gross income.

6.2.6 Merchandise transferred or exchanged between their stores or warehouses owned by or affiliated with Tenant, its agents, subtenants, concessionaires, or licensees, if those transfers or exchanges are made solely for convenient operation of such business and not for the purpose of consummating a sale previously made on or from the Premises or for the purpose of depriving Landlord of the benefit of a sale that otherwise would be on or from the Premises.

6.2.7 Bulk sales made by Tenant, its agents, subtenants, concessionaires, or licensees not in the ordinary course of business.

6.2.8 Any income, revenue, or receipts that, under generally accepted accounting principles, are derived from the sale or disposal of any capital assets, or from the retirement of any indebtedness, or from the investment by Tenant or its agents, subtenants, concessionaires, or licensees of any funds invested in (i) the Premises or (ii) the operation of Tenant's business or the business of its agents, subtenants, concessionaires, or licensees within the Premises.

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6.2.9 That portion of the gross income of all coin-operated devices including pay telephones, video games, and other similar devices, that Tenant, must, by contract concerning them, turn over to a person, firm, or corporation in which they have no direct or indirect financial interest.

6.2.10 Any charges or monies received by Tenant from any of its agents, subtenants, concessionaires, or licensees, as and for rentals to be paid by them to Tenant, except with respect to any such persons who conduct no business activity resulting in gross income for which percentage rent is payable.

6.2.11 The amounts of tips or gratuities included in credit charges made by Tenant, its agents, subtenants, concessionaires, or licensees to customers of any permitted restaurant and bar.

6.3 <u>No Deductions</u>. There shall be no deduction from gross receipts for any overhead or similar costs or expenses of operation, such as, but without limitation, salaries, wages, costs of goods, interest, debt amortization, discount, collection, credit card and bad debt charges, insurance and taxes except as provided for in this Lease.

6.4 <u>Transactions Related to Premises</u>. As used in this Article 6, the term "gross receipts" shall also include all orders secured or received by telephone, mail, house to house, or other canvass by personnel operating from, reporting to or under the supervision of any employee or representative located at or operating out of the Premises, or which Tenant, in the customary course of Tenant's operation would be attributable to or connected with Tenant's business on the Premises whether or not sold or delivered elsewhere.

ARTICLE 7

RECORDS AND ACCOUNTING

7.1 <u>Basic Records</u>. Tenant shall keep, or cause to be kept, full, complete, and proper books, records, and accounts of the gross sales both for cash and on credit, of each separate business of Tenant, its agents, subtenants, concessionaires, or licensees, at any time operated on the Premises. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents. Said books, records, and accounts shall include any income tax returns and sales tax reports that Tenant, its agents, subtenants, concessionaires or licensees may be required to furnish to any government or governmental agency. Tenant will also, at Tenant's expense, record in its books and records an inventory of all merchandise to be sold on the Premises by it.

7.2 <u>Cash Registers</u>. All sales shall be recorded by means of cash registers of a type which publicly display the amount of each sale and automatically issue a customer's receipt (e.g. POS, Shop Keep, Square). Said cash register shall in all cases have locked-in sales totals and transaction counters which are consistently accumulating and which cannot, in any case, be reset and, in addition thereto, a tape located within the register on which the transaction numbers and sales details are imprinted. Beginning and ending cash register readings shall be made a matter of daily record. As a condition of this Lease, Tenant agrees to record all transactions encompassed within the definition of Adjusted Gross Sales contained in Article 6 of this Lease by means of a cash register.

ARTICLE 8

POSSESSION AND USE

8.1 Permitted Use. Possession of the Premises shall be delivered to Tenant free of liens and encumbrances, except those as may be specified in Article 11 hereof. Tenant shall use the Premises solely for the purposes and under the trade name specified on Exhibit "B". Tenant shall not use or permit the Premises to be used for any other purposes or under any other trade name whatsoever without the written consent of Landlord first had and obtained. The parties recognize and acknowledge that the manner in which the Premises is used and operated is of critical concern to Landlord, and to the Ventura Port District by reason of (a) the prominence of the location of the Premises and (b) the impact which the Tenant's operation is expected to have upon surrounding properties and upon the operation of the Ventura Port District. Notwithstanding the permitted uses of the Premises outlined in Exhibit "B," Tenant shall not use or permit the Premises to be used in any manner that is harmful to, out of harmony with, or objectionable to the development, operation, or reputation of the Ventura Port District or the Complex. Such prohibited conduct includes, but is not limited to the sale, display, or promotion of any merchandise, performances, or other materials that are lewd, obscene, vulgar, indecent, or defamatory. Tenant shall not, without the prior written consent of Landlord, sell merchandise from vending machines or allow any coin operated vending or gaming machines on the

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Premises. Tenant shall not use or suffer or permit any person or persons to use the Premises or any part thereof for conducting therein a second-hand store, auction, distress or fire sale, or bankruptcy or going-out-of-business sale, or for any use or purpose in violation of the laws of the United States of America, or the laws, ordinances, regulations and requirements of the state, county, and city where the Complex is situated, or other lawful authorities including Landlord. Tenant shall not reside or sleep in the Premises, nor shall Tenant suffer or permit any person or persons to reside or sleep in the Premises. During the Lease Term, the Premises and every part thereof, shall be kept by the Tenant in a clean and wholesome condition, free of any objectionable noises, odors, or nuisances; and all health and police regulations shall, in all respects and at all times, be fully complied with by Tenant.

8.2 <u>Restrictions Outside of Premises</u>. Tenant shall not, without first obtaining, in each instance, the advance written consent of Landlord, display, sell merchandise, allow carts, portable signs, devices or any other objects to be stored or to remain outside the defined exterior walls and permanent doorways of the Premises. In addition, Tenant shall not solicit in any manner in any of the automobile parking and common areas or the enclosed mall of the Complex. No aerial or antenna shall be erected on the roof or exterior walls of the Premises without first obtaining, in each instance, the advance written consent of Landlord. Any aerial or antenna so installed without such consent shall be subject to removal without notice at any time. Tenant shall not engage in harassing or threatening conduct that interferes with the business operations of other tenants in the Complex.

8.3 <u>Deliveries</u>. Tenant shall use its best efforts to complete, or cause to be completed, all deliveries, loading, unloading, and provision of services to the Premises prior to 10:00 A.M. of each day. Tenant shall not permit delivery trucks or other vehicles servicing the Premises to park or stand in front of, or at the rear of, the Premises from 10:00 A.M. to 5:00 P.M. of each day. Landlord reserves the right to further regulate the activities of the Tenant in regard to deliveries and servicing of the Premises, and Tenant agrees to abide by such further non-discriminatory regulations of Landlord.

8.4 <u>Failure to Conduct Business</u>. The parties covenant and agree that because of the difficulty in determining Landlord's damages by way of loss of anticipated percentage rent from Tenant as well as other tenants or occupants in the Complex, or by way of loss of value in the property because of adverse publicity or appearances due to Tenant's delay in promptly opening, should Tenant fail to take possession of the Premises and/or fail to open for business promptly after the date when Minimum Monthly Rent shall be due under Article 5 or thereafter vacate the Premises or cease operating its business, then, if Landlord does not terminate this Lease, in addition to all other remedies available to Landlord, Tenant agrees to pay to Landlord not only the Minimum Monthly Rent and additional sums, but also additional payments at the rate of Two Hundred Fifty Dollars (\$250.00) per day for each and every occurrence by tenant in violation of this lease or any provision herein or for each and every day the Premises are not opened and/or Tenant's business therein is not continuously operated by Tenant; and said per occurrence or per diem amount shall be deemed to be liquidated damages and in lieu of percentage rents that might have been earned by Landlord during such period; and Landlord shall have the right to treat any of the events set forth above as a default under this Lease.

8.5 <u>Prohibitions on Smoking</u>. In accordance with the governing laws and ordinances, smoking is prohibited inside the buildings and other indoor areas of the Complex, including the Premises and within 25 feet of any occupied building. Tenant shall enforce these prohibitions on smoking inside the Premises and shall familiarize itself with the outdoor areas where smoking is permitted within the Complex so Tenant is able to monitor and enforce the smoking prohibitions with respect to its employees, customers, patrons, and suppliers. Tenant shall hold Landlord harmless from any civil or criminal penalties for violations of the smoking prohibition by its employees, customers, patrons, and suppliers.

ARTICLE 9 UTILITIES SERVICES

9.1 <u>Facilities Provided</u>. Landlord shall initially and to the extent shown on the mutually approved plans and specifications, cause to be made available to Tenant facilities for the delivery to the Premises of water, removal of sewage, electricity, telephones, and other like common utilities. Tenant shall use such utilities with respect to the

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Premises. Landlord will supply electric power to the main distribution center which may be located outside of the Premises.

9.2 Payment for Utilities. Tenant shall, at its own expense, pay for all services, water, gas, electricity, sewer, telephone and all other similar utilities furnished or supplied to or used by Tenant or any other party in connection with the use, occupancy, maintenance or operation of the Premises or any part thereof from and after the delivery of possession thereof by Landlord. Landlord, at its sole discretion, may arrange for separate meters to monitor the consumption of utilities on the Premises. If separate utility meters are provided for Tenant, Tenant shall pay for those meters and shall pay to the utilities their shares shown due by reason of such meters.

9.3 Landlord's Utility Charge. In addition to the Minimum Monthly Rent specified in Articles 1 and 5, Tenant shall pay periodically an additional sum, in advance, as a utility charge to reimburse Landlord for the utilities furnished by Landlord, if any, to the Premises. Said utility charge is additional rent under this Lease and shall be determined from time to time by Landlord and shall be initially based on a typical restaurant layout comparable to Tenant's proposed use of the Premises, but the utility charge shall be subject to adjustment at the end of each calendar quarter or partial calendar quarter during the Lease Term based upon an equitable formula determined by Landlord in its sole but reasonable discretion. Landlord agrees, however, that the utility charge to Tenant for utilities furnished by Landlord shall not exceed those which the applicable local public utility company would charge if its services were furnished directly to Tenant. In the event that Tenant fails to pay any such amount to Landlord within ten (10) days after receipt by Tenant from Landlord of a bill therefore, or upon failure of Tenant to pay any other sums required under this Lease within ten (10) days from the date such payments are due, and until such amounts are paid in full, Landlord may terminate, without further notice to Tenant, any such utility service furnished to the Premises by Landlord.

9.4 <u>Landlord's Exemption from Liability</u>. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished to the Premises, and no such failure or interruption shall entitle Tenant to withhold any sum or terminate this Lease. Tenant hereby expressly waives any and all claims against Landlord for compensation, damages, payments or offset based upon or with respect to any and all loss or damage now or hereafter sustained by Tenant by reason of any defect, deficiency, failure or impairment of whatever kind or nature in any service or utility furnished or supplied to or used by Tenant or any other party in connection with the use, occupancy, maintenance or operation of the Premises or any part thereof. In the event that Landlord elects to discontinue furnishing any such utility service to the Premises for reasons other than the non-payment by Tenant of any utility charge or other rent payment required hereunder, Tenant shall have the right to use appropriate existing conduits and facilities situated in the Premises to obtain proper utility services from the suppliers.

9.5 <u>Tenant's Use of Power Systems</u>. Tenant shall not install any equipment or make an alteration in the electrical, heating, or air conditioning systems for the Premises which will cause their capacities to be exceeded or to otherwise overload the electrical circuits and equipment providing power for the Premises.

9.6 Internet Services. Landlord has made available equipment and wiring for fiber optic internet services to the Premises. If Tenant desires to utilize other equipment and wiring for internet or satellite service, then Tenant shall (i) submit to Landlord written plans for the proposed installation for Landlord's advance written approval; (ii) pay all of the costs for such installation; and (iii) at the expiration of the Lease Term or its earlier termination, promptly remove the wiring and equipment and make any necessary repairs to restore the Premises to its condition prior to such installation, all at the expense of Tenant.

ARTICLE 10

INDEMNITY - INSURANCE - WAIVER OF SUBROGATION

10.1 Indemnity for Landlord. Except for Landlord's sole and active negligence, Tenant shall indemnify, protect, defend, and hold harmless the Premises, the Complex, Landlord and its officers, elected officials, agents, attorneys, and employees from and against any and all claims, loss of rents and/or damages, costs, liens, judgments, penalties, loss of permits, attorneys' and consultants' fees, expenses and/or liabilities (each a "Claim" or collectively the "Claims") arising out of, involving, or in connection with, the occupancy and/or use of the Premises by Tenant, the conduct of Tenant's business, both on and outside the Premises, any act, omission or neglect of Tenant, its agents, contractors, employees or invitees, or any Default or Breach by Tenant in the performance of any obligation, condition, or covenant on Tenant's part to be performed under this Lease. Notwithstanding anything contained in the foregoing to

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the contrary, Tenant's obligations under this Section 10.1 shall extend to any and all Claims made against Landlord, its officers, elected officials, agents, attorneys, and employees that the Premises and/or the improvements thereon violate or do not comply with the Americans with Disabilities Act of 1990 and/or any corresponding laws of the State of California. Tenant's obligations under this Section 10.1 shall include, but not be limited to, the defense or pursuit of any Claims or any action or proceeding involved therein, and whether or not (in the case of Claims made against Landlord) litigated and/or reduced to judgment. In case any action or proceeding be brought against Landlord by reason of any of the foregoing matters, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such Claim in order to be so indemnified.

10.2 <u>Waiver of Subrogation</u>. Landlord and Tenant waive any rights each may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, their respective property, the Premises, or its contents, or to other portions of the Complex, arising from any risk generally covered by fire and extended coverage insurance, vandalism, malicious mischief and sprinkler leakage; and the parties each, on the behalf of their respective insurance companies insuring the property of the Landlord or Tenant against any such loss, waive any right of subrogation that it may have against Landlord or Tenant, as the case may be, if such waiver of subrogation is available, Tenant, on behalf of its insurance companies insuring the Premises, its contents, Tenant's other property or other portions of the Complex, waives any right of subrogation which such insurer or insurers may have against any of the other tenants located in the Complex. The effect of such waivers of subrogation shall not be limited by the amount of insurance companies issuing property damage insurance waive any right of subrogation that such companies issuing property damage insurance waive any right of subrogation that such their respective insurance companies issuing property damage insurance waive any right of subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance is not invalidated thereby.

10.3 <u>Tenant's Insurance</u>. Tenant further covenants and agrees that from and after the date of delivery of the Premises from Landlord to Tenant, Tenant shall carry and maintain, at its sole cost and expense, the following types of insurance, in the amounts specified, and in the form hereinafter provided for:

10.3.1 <u>Public Liability and Property Damage</u>. Tenant shall procure and maintain in full force and effect bodily injury liability and property damage insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence insuring against any and all liability of the insured with respect to the Premises or arising out of the maintenance, use, or occupancy thereof, and One Million Dollars (\$1,000,000) combined single limit coverage. All such bodily injury liability insurance and property damage liability insurance shall specifically include, in addition to the above, contractual liability insurance covering the insuring provisions of this Lease, the performance by Tenant of the indemnity agreement as to liability for injury to or death of persons and injury or damage to property contained in this Article 10. Landlord shall be added as named insured to Tenant's liability policy described in this Paragraph 10.3.1.

10.3.2 <u>Plate Glass</u>. Tenant shall be responsible for the maintenance of the plate glass on the Premises but shall have the option either to insure the risk or to self-insure. Tenant agrees to immediately replace any broken or cracked, or otherwise damaged plate glass.

10.3.3 <u>Fixtures</u>. Tenant shall procure and maintain in full force and effect insurance covering all Tenant's trade fixtures, merchandise, and personal property in, on or upon the Premises, in an amount not less than eighty percent (80%) of their full replacement cost during the term of this Lease, providing protection against perils included with the classification "fire and extended coverage," together with insurance against sprinkler leakage, vandalism, and malicious mischief. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed unless this Lease shall cease and terminate under the provisions of Article 19 hereof.

10.3.4 <u>Workers' Compensation Insurance</u>. Tenant shall procure, at its own expense, and shall keep in force during the Lease Term, adequate insurance against liability arising on account of injuries or death to workers or employees on the Premises or any installation or other improvement of Tenant. Such workers' compensation insurance shall be in amounts at least equal to the maximum liability of Tenant and its agents and contractors under the Workers' Compensation Insurance and Safety Act of the State of California.

10.4 <u>Insurance Policies</u>. Tenant shall deposit with Landlord, at or before the times at which they are required to be in effect, copies of each policy or policies necessary to satisfy the insurance requirements of the Lease and to keep such policies on deposit with Landlord during the entire Lease Term. Insurance policies required hereunder shall be

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issued by companies licensed to do business in the State of California maintaining a "General Policyholder Rating" of at least A- and a financial rating of not less than Class VII in accordance with the most recent Best's Insurance Guide, or if Best's is no longer published, comparable ratings from a service acceptable to Landlord. Such insurance, in addition to the multiple additional named insured endorsements set forth above, shall be commercial general liability insurance in the amounts set forth above, and shall contain additional endorsements as follows: (i) Providing blanket contractual liability coverage for Tenant's indemnification obligations to Landlord and others pursuant to the Lease; (ii) Providing that the insurance may not be canceled or reduced until thirty (30) days after Landlord has actually received written notice of such cancellation or reduction; (iii) Providing that any other insurance maintained by Landlord or any other named insured is excess insurance, and not contributing insurance with the insurance required herein of Tenant. Nothing contained in the insurance requirements shall be construed as limiting the extent of Tenant's responsibility for payment of greater damages resulting from its occupancy and use of the Premises.

10.5 <u>Adjacent Premises</u>. Since the Premises are part of a group of buildings owned by Landlord which are adjacent to the Premises, Tenant shall pay for any increase in the premiums for the property insurance for such buildings if said increase is caused by Tenant's acts, omissions, use, or occupancy of the Premises.

10.6 <u>Exemption of Landlord from Liability</u>. Landlord shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Tenant, Tenant's employees, subtenants, licensees, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water, rain, or mold, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, air-conditioning or lighting fixtures, or from any other cause, whether said injury or damage results from conditions arising upon the Premises from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is accessible or not. Landlord shall not be liable for any damages arising from any act or neglect of any other tenants of Landlord. Notwithstanding Landlord's negligence or breach of this Lease, Landlord shall under no circumstances be liable for injury to Tenant's business or for any loss of income or profit therefrom, or any other form of consequential damages.

ARTICLE 11

TITLE OF LANDLORD

Landlord covenants that as of the date hereof there are no liens upon its ownership of the Complex other than (i) the effect of covenants, conditions, restrictions, easements, trust deeds, and rights of way of record; (ii) the effect of any zoning or other land use laws of Landlord, City of San Buenaventura, California Coastal Commission, and State of California, and (iii) general special taxes not delinquent. Tenant agrees that, as to its leasehold estate, it and all persons in possession or holding under it, shall conform to and will not violate the terms of the matters referred to in the preceding sentence.

ARTICLE 12

TENANT'S RIGHT TO MAKE ALTERATIONS

12.1 <u>Allowed Alterations</u>. Tenant may, at its own expense and after giving Landlord advance notice in writing of its intention to do so, from time to time during the Lease Term, make alterations, additions, and changes in and to the interior of the Premises (except those of a structural nature) as it may find necessary or convenient for its purposes, provided that the value of the Premises is not thereby diminished. Approval of Landlord does not constitute a permit from those governmental agencies having jurisdiction; and Tenant shall obtain all necessary permits and inspections as may be required by those agencies.

12.1.1 <u>Alterations Costing Less than \$2,000</u>. Tenant may make any alterations, additions, or changes, including the Tenant Improvements identified or described in Exhibit "C," for which the cost is estimated to be less than Two Thousand Dollars (\$2,000.00) without first procuring the approval of Landlord in writing.

12.1.2 <u>Alterations Costing Between \$2,000 and \$25,000</u>. For any alterations, additions, or changes, including the Tenant Improvements identified or described in Exhibit "C," for which the cost is estimated to be more than Two Thousand Dollars (\$2,000.00), but less than Twenty-Five Thousand Dollars (\$25,000.00), Tenant shall first procure the approval of Landlord for such alterations, additions, or changes in writing, but shall not be required to provide Landlord with a Faithful Performance Bond or a Payment Bond.

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12.1.3 <u>Alterations Costing More than \$25,000</u>. For any alterations, additions, or changes, including the Tenant Improvements identified or described in Exhibit "C," for which the cost is estimated to exceed Twenty-Five Thousand Dollars (\$25,000.00), Tenant shall first procure the approval of Landlord and the City of San Buenaventura for such alterations, additions, or changes in writing, and shall provide Landlord with a Faithful Performance Bond and a Payment Bond, unless expressly waived by written instrument signed by Landlord. Such Faithful Performance Bond and Payment Bond shall be in the forms as set forth in Exhibit "K" and in an amount not less than One Hundred Twenty-Five Percent (125%) of the estimated cost of constructing said alterations, additions, or changes.

12.2 <u>Destruction</u>. No alterations, additions or changes shall be made by Tenant to any storefront, the exterior walls or roof of the Premises; nor shall Tenant erect any mezzanine or increase the size of same, if one has been initially constructed, unless and until the written consent and approval of Landlord shall first have been obtained. In no event shall Tenant make or cause to be made any penetration through the roof of the Premises without the prior written approval of Landlord. Tenant shall be directly responsible for any and all damages resulting from any violation of the provisions of this Article 12. All alterations, additions, or changes to be made to the Premises which require the approval of Landlord shall be under the supervision of a competent architect or competent licensed structural engineer and made in accordance with plans and specifications with respect thereto, approved in writing by Landlord and the City of San Buenaventura before the commencement of work where such approval is required pursuant to the provisions of this Article 12.

12.3 <u>Quality of Work</u>. All work with respect to any alterations, additions, and change by Tenant must be done in a good and workmanlike manner and diligently prosecuted to completion to the end that the Premises shall at all times be a complete unit except during the period of work. Any such changes, alterations and improvements shall be performed and done strictly in accordance with all applicable codes, ordinances, regulations and requirements, including but not limited to the requirements of Landlord, relating thereto. Tenant shall obtain all necessary permits for the work from the appropriate government bodies. In performing the work of any such alterations, additions, or changes, Tenant shall have the work performed in such a manner as not to obstruct the access to the Premises of any other tenant in the Complex. Tenant agrees to immediately record a notice of completion in the Recorder's Office of the County of Ventura upon completion of any alteration, addition, or change to the Premises. In the event that Tenant shall make any permitted alterations, additions, or improvements to the Premises under the terms and provisions of this Article 12, Tenant agrees to furnish Landlord such cost figures as may be required to reasonably determine insurable value on any such alterations, additions or improvements.

12.4 <u>Ownership</u>. Such alterations, additions, or changes shall be considered as permanent improvements and shall not be removed by Tenant but shall immediately become a part of the Premises, subject to the provisions of Section 18.4.

ARTICLE 13 MECHANICS' LIENS

13.1 Lien Protection. Tenant shall pay or cause to be paid all costs for work done by it or caused to be done by it on the Premises, and Tenant shall keep the Premises free and clear of all mechanics' liens and other liens on account of work done for Tenant or persons claiming under it. Tenant shall indemnify and hold Landlord free and harmless against liability, loss, damage, costs, attorneys' fees, and all other expenses on account of claims of lien of laborers or material men or others for work performed or materials or supplies furnished for Tenant or persons claiming under Tenant.

13.2 <u>Contests</u>. If Tenant shall desire to contest any claim of lien, it shall first furnish Landlord adequate security having a value in the amount of the claim, plus estimated costs and interest, or a bond from a responsible corporate surety in such amount conditioned on the discharge of the lien (including attorney's fees and related litigation expenses). If a final judgment establishing the validity or existence of a lien for any amount is entered, Tenant shall pay and satisfy the same at once.

13.3 <u>Landlord Action</u>. If Tenant shall be in default in paying any charge for which a mechanics' lien claim and suit to foreclose the lien shall have been filed, and Tenant shall not have given Landlord security or bond to protect the property and Landlord against such claim of lien, then Landlord may (but shall not be so required to) pay the said claim and any costs; and the amount so paid, together with reasonable attorneys' fees incurred in connection therewith,

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shall be immediately due and owing from Tenant to Landlord and Tenant shall pay the same to Landlord with interest at the maximum legal rate from the dates of Landlord's payments.

13.4 <u>Notice of Claims</u>. Should any claims of lien be filed against the Premises or any action affecting the title to such property be commenced, the party receiving notice of such lien or action shall forthwith give the other party written notice thereof.

13.5 <u>Landlord Inspections and Notices</u>. Landlord or its representatives shall have the right to go upon and inspect the Premises, at all reasonable times, and shall have the right to post and keep posted thereon notices of non-responsibility, or other notices which Landlord may deem to be proper for the protection of Landlord's interest in the Premises. Tenant shall, before the commencement of any work which might result in any such lien, give to Landlord written notice of its intention to do so in sufficient time to enable Landlord to file and record such notices.

ARTICLE 14 ADVERTISING SIGNS

14.1 <u>Landlord Approval</u>. All signs shall be designed, constructed, and located in accordance with the criteria established by Landlord set forth in "Exhibit F" and rules currently in effect, and shall be subject to approval of Landlord. Tenant shall not affix or maintain upon the glass panes and supports of the show windows [and within twenty-four inches (24") of any window], doors, roof, and the exterior walls of the Premises, any signs, advertising placards, names, insignia, trademarks, descriptive material, or any other such like item or items except as shall have first received the written approval of Landlord as to type, color, location, copy, nature, and display qualities.

14.2 <u>Prohibited Advertising</u>. No advertising medium, noise, or sound shall be utilized by Tenant which can be heard or experienced outside Tenant's Premises, including, without limiting the generality of the foregoing, flashing lights, searchlights, loudspeakers, phonographs, radios, or television. Tenant shall not display, paint, or place or cause to be displayed, painted, or placed, any handbills, bumper stickers, or other advertising devices on any vehicle parked in the parking area of the Complex, whether belonging to Tenant, or to Tenant's agents or employees, or to any other person, nor shall Tenant distribute, or cause to be distributed in the Complex, any handbills or other advertising devices.

ARTICLE 15

FIXTURES AND PERSONAL PROPERTY

15.1 <u>Ownership and Removal</u>. Any trade fixtures, signs and other personal property of Tenant not permanently affixed to the Premises shall remain the property of Tenant and Tenant shall have the right, provided that Tenant shall not be in default under the terms of this Lease, at any time, and from time to time, to remove any and all of its trade fixtures, signs, and other personal property which it may have stored or installed in the Premises, including but not limiting the same to counters, shelving, showcases, mirrors, and other movable personal property. Nothing in this Article 15 contained shall be deemed or construed to permit or allow Tenant to remove so much personal property, without the immediate replacement thereof with similar personal property of comparable or better quality, so as to render the Premises unsuitable for conducting the type of business specified in Article 1 and Exhibit "B" attached hereto.

15.2 <u>Repairs</u>. Tenant, at its own expense, shall immediately repair any damage occasioned to the Premises by reason of the removal of any such trade fixtures, signs, and other personal property, and, upon the expiration or earlier termination of this Lease, shall leave the Premises in a neat and clean condition, free of debris.

15.3 <u>New Fixtures</u>. All trade fixtures, signs, and other personal property installed in or attached to the Premises by Tenant must be new when so installed or attached.

15.4 <u>Improvements to Premises</u>. All improvements to the Premises made by Tenant, including but not limited to light fixtures, floor coverings, and partitions, but excluding trade fixtures and signs, shall be deemed the property of Landlord upon installation thereof. Unless otherwise agreed in writing, Landlord may require that improvements made by Tenant be removed by the expiration or on the earlier termination of this Lease, notwithstanding that their installation may have been consented to by Landlord; and Tenant shall pay the costs of such removal of the improvements.

15.5 <u>Taxes</u>. Tenant shall pay before delinquency all taxes, assessments, license fees, and public charges levied, assessed, or imposed upon its business operation, as well as upon its trade fixtures, merchandise, and other

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personal property in, on or upon the Premises. In the event any such items of property are assessed with property of Landlord, then, and in such event, such assessment shall be equitably divided between Landlord and Tenant to the end that Tenant shall pay only its equitable proportion of such assessment. Landlord shall determine the basis of prorating any such assessments and such determination shall be binding upon both Landlord and Tenant. No taxes, assessments, fees, or charges, referred to in this Section 15.5 shall be considered as taxes under provisions of Article 5 hereof.

15.6 Expiration of Lease Term. Not less than ninety (90) days prior to the expiration of the Lease Term, Landlord and Tenant shall jointly prepare in writing and sign an agreement as to which trade fixtures, signs, and personal property described in Section 15.1 and which improvements described in Section 15.4 are to be removed by Tenant at its own cost and expense or are to be surrendered to Landlord at no cost to it upon such expiration of the Lease Term. The agreement shall also contain an estimate of the costs of removing the items described in Sections 15.1 and 15.4 which Tenant has been required under the agreement to remove, at its own cost and expense; and Tenant shall deposit that amount in cash with Landlord as security for Tenant's agreed obligations for such removal. Any amount of the deposit not expended by Landlord to effect the removal which has not been completed by Tenant itself shall be returned to Tenant within thirty (30) days after the expiration of the Lease Term. In the event that Landlord and Tenant are unable to reach the agreement required under this Section 15.6, then Tenant agrees that Landlord shall have the authority, acting reasonably, to make the determinations under this Section 15.6, including the amount of the deposit required of Tenant.

ARTICLE 16

ASSIGNING, MORTGAGING, SUBLETTING, CHANGE IN CORPORATE OWNERSHIP

16.1 Landlord Consent. Tenant shall not transfer, assign, sublet, enter into license or concession agreements, change ownership, or hypothecate this Lease or Tenant's interest in and to the Premises without first procuring the written consent of Landlord (however, Landlord shall not withhold consent unreasonably). Any attempted transfer, assignment, subletting, license or concession agreement, change of ownership or hypothecation without Landlord's written consent shall be void and confer no rights upon any third person. Without in any way limiting Landlord's right to refuse to give such consent for any other reason or reasons, Landlord reserves the right to refuse to give such consent if, in Landlord's sole discretion and opinion, the quality of merchandising operations of the Complex are in any way adversely affected by the proposed new tenant during the Lease Term or the financial worth of the proposed new tenant is less than that of Tenant who executed this Lease. Tenant agrees to reimburse Landlord for Landlord's reasonable attorneys' fees incurred in conjunction with considering, processing, and documenting any such requested transfer, assignment, subletting, licensing, or concession agreement, change of ownership of hypothecation of this Lease or Tenant's interest in and to the Premises.

16.2 <u>Documentation</u>. Each transfer, assignment, subletting, license, concession agreement, and hypothecation to which there has been consent by Landlord shall be effected by an instrument in writing in form satisfactory to Landlord, and shall be executed by the transferor, assignor, sublessor, licensor, concessionaire, hypothecator, or mortgagor and the transferee, assignee, sublessee, licensee, concessionaire, or mortgagee in each instance, as the case may be; and each transferee, assignee, sublessee, licensee, concessionaire, or mortgagee shall agree in writing for the benefit of Landlord herein to assume, to be bound by, and to perform the terms, covenants, and conditions of this Lease to be done, kept, and performed by Tenant. One (1) executed copy of such written instruments shall be delivered to Landlord. Failure to first obtain in writing Landlord's consent or failure to comply with the provisions of this Article 16 shall serve to prevent any such transfer, assignment, subletting, license, concession agreement or hypothecation from becoming effective.

16.3 <u>Entity Changes</u>. If Tenant hereunder is a corporation which, under the then current guidelines published by the Commissioner of Corporations of the State of California, is not deemed a public corporation, or is an unincorporated association, limited liability company or partnership, the transfer, assignment or hypothecation of any stock or interest in any such entity in the aggregate in excess of twenty-five percent (25%) shall be deemed an assignment requiring Landlord's consent within the meaning and provisions of this Article 16.

16.4 <u>Landlord's Costs</u>. Tenant shall pay in advance Five Hundred Dollars (\$500.00) to Landlord for its evaluation of any proposed transfer in order to cover its processing expenses and, in addition, Tenant shall pay

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Landlord's out-of-pocket costs, including legal review, whether or not Landlord shall give its consent to the proposed transfer.

16.5 Death of Tenant. Upon the death of Tenant, Landlord shall have the right to terminate this Lease upon thirty (30) days' written notice to Tenant's executor, administrator, trustee, surviving spouse, or other legal representative of the deceased Tenant's estate. If Tenant hereunder is a corporation which, under the then current guidelines published by the Commissioner of Corporations of the State of California, is not deemed a public corporation, or is an unincorporated association, limited liability company, partnership or sole proprietorship, the death of any person that controls such entity shall be deemed to be the death of Tenant. For purposes of this Section 16.5, "controls" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity, whether through the ownership of voting securities, by contract, or otherwise. If Tenant hereunder is more than one person or entity, the death of any such person or person that controls such entity shall be deemed to be the death of one person that controls such entity shall be deemed to rease the direction of the management or policies of an entity, whether through the ownership of voting securities, by contract, or otherwise. If Tenant hereunder is more than one person or entity, the death of any such person or person that controls such entity shall be deemed to be the death of Tenant and shall trigger Landlord's right to terminate this Lease pursuant to this Section 16.5.

Assignment Premium. If Landlord consents to an assignment, Tenant shall pay to Landlord Three 16.6 Percent (3%) of any Transfer Premium received by Tenant. "Transfer Premium" shall mean (a) all rent, additional rent or other consideration payable by such assignee in excess of the Monthly Rent payable by Tenant under this Lease; and (b) all key money and bonus money paid by assignee. The "Transfer Premium" shall (i) be reduced by all out-ofpocket expenses incurred by Tenant in connection with the assignment, such as customary brokerage commissions and reasonable attorneys' fees; and (ii) shall not include reasonable compensation for the sale of Tenant's business that is not attributable to the value of Tenant's leasehold interest hereunder (including, but not limited to, saleable food, beverages, and merchandise). Tenant shall pay the Transfer Premium to Landlord within five (5) days following receipt by Tenant. Tenant shall furnish upon Landlord's request a complete statement, certified by an independent certified public accountant, or Tenant, setting forth in detail the computation of any Transfer Premium. Within one (1) year following the date of the Transfer, Landlord, at Landlord's sole cost and expense, shall have the right at all reasonable times and upon reasonably advance notice to audit the books, records and papers of Tenant relating to any Transfer as necessary to confirm the calculation of the Transfer Premium; provided, however, notwithstanding the preceding, such an audit shall only occur one (1) time. If the Transfer Premium shall be found understated in an amount greater than five percent (5%), Tenant shall, within thirty (30) days after demand, pay the deficiency, together with interest thereon at the lesser of Ten Percent (10%) per annum, or the highest rate allowed by law, and Landlord's costs of such audit. The Transfer Premium shall be in addition to, and not in lieu of, any other amounts due hereunder (including reasonable attorneys' fees pursuant to Section 16.1 above. and Landlord's cost for evaluating the assignment pursuant to Section 16.4 above.

ARTICLE 17

TENANT'S CONDUCT OF BUSINESS

17.1 <u>Continuous Operation</u>. Tenant shall continuously and uninterruptedly from and after its initial opening for business, operate and conduct within the Premises the business which it is permitted to operate and conduct under the provisions of this Lease, except while the Premises are untenantable by reason of fire or other casualty. At all times during the Lease Term, Tenant shall maintain a first-class business with a level of quality and character of operation which is at least comparable to other locations in the area with the same use and/or equal to that of Tenant's other locations, if any. Tenant shall at all times keep and maintain within and upon the Premises an adequate stock of merchandise and trade fixtures to service and supply the usual and ordinary demands and requirements of its customers.

17.2 <u>Maintain Premises</u>. Recognizing that it is in the interest of both Tenant and Landlord to have and maintain a welcoming, clean, and safe environment at the Complex, Tenant agrees to keep its Premises in a neat, clean, safe, and orderly condition, free of objectionable odors and nuisances. Tenant also agrees not to cause or allow any unreasonable levels of noise in the Premises that interfere with the business operations of other tenants in the Complex. If Tenant fails to maintain the Premises as required under this Section 17.2, Tenant shall pay a sum of Fifty Dollars (\$50.00) for its first violation, Seventy-Five Dollars (\$75.00) for its second violation, and One Hundred Dollars (\$100.00) for each violation thereafter, which such sum(s) shall be considered additional rent and due and payable within seven (7) days after written notice to Tenant from Landlord.

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17.3 <u>Trash</u>. Tenant agrees that it will not permit undue accumulations of garbage, trash, rubbish, or any other refuse in or around the Premises. Tenant agrees that all trash and rubbish of Tenant shall be deposited within receptacles and that there shall be no trash receptacles permitted to remain outside of the building. Landlord agrees to cause such receptacles to be emptied and trash removed at Tenant's cost and expense. Tenant's share of the trash removal expense shall be included in its share of Common Area Expenses unless there is an amount greater than zero specified in Section 1.12 for trash removal. If there is an amount greater than zero specified in Section 1.12, then Tenant shall pay to Landlord on the first day of each calendar month of the Lease Term the amount specified in Section 1.12 for Tenant's share of the trash removal expenses. The trash removal expense shall be subject to escalation each calendar year, on a pro rata basis, based on rate changes implemented by trash collection service provider.

17.3.1 The dumping of large bulky items such as pallets, display cases, and furniture in the trash receptacles is prohibited. Tenant shall be responsible for arranging the pickup and disposal of such items and for the cost of such services. If Tenant fails to arrange for such services, Landlord shall have the right, upon giving Tenant reasonable written notice of its intention to do so, to arrange for such pickup and disposal services. In such event, the cost of such services shall be considered additional rent and shall be paid for by Tenant immediately upon receipt of a bill therefor from Landlord.

17.4 <u>Employee Conduct</u>. Tenant shall use its best efforts to retain active, qualified, competent, and experienced personnel to supervise Tenant's operation and to represent and act for Tenant. Tenant shall require its attendants and employees to be properly dressed, clean, courteous, efficient, and neat in appearance at all times. Tenant shall not employ any persons in or about the Premises who shall use offensive language or act in a loud, boisterous, or otherwise improper manner. Tenant shall maintain a close check over attendants and employees to ensure the maintenance of a high standard of service to the public. Tenant shall replace any employee whose conduct is detrimental to the best interests of the public.

17.5 Hours of Operation. Recognizing that it is in the interest of both Tenant and Landlord to have regulated hours of business for the Complex, Tenant agrees that commencing with the opening for business by Tenant in the Premises and for the remainder of the Lease Term, Tenant shall be open for business during the hours of operation of the Complex as determined by Landlord and as set forth in Exhibit "B". Tenant shall further have its window displays, exterior signs, and exterior advertising displays adequately illuminated continuously during all times that Landlord designates. It is agreed, however, that in regard to any business controlled by governmental regulations or labor union contracts in its hours of operation, the foregoing provision shall be subject to the hours of operation so prescribed by such governmental regulations or labor union contracts, as the case may be. If Tenant fails to conduct business on or from the Premises as required under this Section 17.5, Tenant shall pay a sum of Fifty Dollars (\$50.00) for its first violation, Seventy-Five Dollars (\$75.00) for its second violation, and One Hundred Dollars (\$100.00) for each violation thereafter, which such sum(s) shall be considered additional rent and due and payable within seven (7) days after written notice to Tenant from Landlord.

17.6 <u>Tenant's Other Operations</u>. Tenant shall not, during the Lease Term, directly or indirectly, operate nor own any similar business except those already approved by Landlord within a radius of three (3) miles from the location of the Premises. Without limiting Landlord's remedies, in the event Tenant should violate this covenant, Landlord may, at its option, include the "Adjusted Gross Sales" of such other business in "Adjusted Gross Sales" transacted from the Premises for the purpose of computing the percentage rent due hereunder. Tenant agrees to deliver to Landlord a certified statement of such Adjusted Gross Sales from such other business, certified as correct by a Certified Public Accountant licensed to practice in the State of California. Article 5 is incorporated herein by reference as though set forth in full as to Landlord's rights and Tenant's duties in regard to the Adjusted Gross Sales of such other business. Adjusted Gross Sales of such other business shall be as defined in Article 6 which is incorporated herein by reference as though set forth in full.

17.7 Lighting. The Premises shall be lighted for security purposes during hours of darkness in a manner at least equivalent to the security lighting provided in similar properties on Spinnaker Drive, unless Landlord consents to a lesser amount of lighting in writing or unless to do so is contrary to any law, statute, ordinance or final judgment of any court having jurisdiction then in effect, in which event, the standards so prescribed shall be adhered to while in effect.

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ARTICLE 18 REPAIRS AND MAINTENANCE

18.1 <u>Tenant's Obligations</u>. Subject to Landlord's obligations set forth in Section 18.2, below, Tenant shall, at its sole cost and expense, keep and maintain the Premises and every part thereof (excluding the roof, exterior walls, structural parts of the Premises and structural floor), and all improvements of whatever kind that may be now or hereafter erected, installed or otherwise made thereon, including without limitation, the utility meters, lines, pipes, ducts, and conduits, all fixtures, air-conditioning and heating equipment serving the Premises, and other equipment therein, the store front or store fronts, all Tenant's signs, locks and closing devices, and all window sash, casement, or frames, doors and door frames, and all such other items of repair, maintenance, and improvement or reconstruction as may at any time or from time to time be required by any governmental agency having jurisdiction thereof, including keeping equipment, and buildings, in good and safe condition and repair and sanitary conditions acceptable to Landlord, and in accordance with all applicable laws, rules, ordinances, orders and regulations, including, but not limited to, the Americans with Disabilities Act of 1990 and any corresponding laws of the State of California, relating to any part of the Premises or the improvements thereon, and shall make all necessary repairs and alterations thereto.

The repair and maintenance of water and sewer pipes shall include those pipes installed in walls and under floors, including those which extend beyond the Premises in order to provide water or sewage service to the Premises. Tenant shall contract with a service company for the maintenance of the heating and air-conditioning equipment, with a copy of the service contract to be furnished to Landlord within ten (10) days after opening for business, and a copy of any subsequent contract to be furnished from time to time during the Lease Term. If Tenant is conducting a food service business, then Tenant shall have its grease pits serviced at least two (2) times during each calendar year or more frequently as needed; and Tenant shall promptly provide Landlord with written verification that such servicing has been timely and fully completed. If part of the Premises includes outdoor patios, then the obligations of Tenant under this Section 18.1 shall extend to and include the patio walls, flooring, ceiling, awnings, sun shields, heaters, and other appurtenants for the use of the patio. All glass, both exterior and interior, shall be at the sole risk of Tenant, and any glass broken or damaged shall be promptly replaced by Tenant with glass of the same kind, size, and quality. Any floor covering, including carpeting, terrazzo, or other special flooring installed by or at the request of Tenant, shall be maintained by Tenant. Landlord shall be under no obligation to make any repairs, alterations, renewals, replacements, or improvements to and upon the Premises or the mechanical equipment exclusively serving the Premises at any time except as in this Lease expressly provided.

Tenant shall keep, maintain and repair the Premises and improvements such that they will remain in a condition free from any defects or maintenance deficiencies (excluding reasonable wear and tear) and of most pleasing appearance to the public and to the patrons and invitees making use of and being accommodated by the improvements, facilities and amenities. Tenant shall keep the Premises clean, sanitary, and functional at all times. No offensive materials, sand or refuse matter nor any substance constituting any unnecessary, unreasonable or unlawful fire hazard or material detrimental to the public health shall be permitted on the Premises. Landlord shall have no duty, obligation or liability whatsoever to cure, correct, repair, remediate, or rectify any violation of, or claims of noncompliance with, the Americans with Disabilities Act of 1990 or any corresponding laws of the State of California, with respect to the Premises and any improvement or equipment situated thereon or therein, it being the intent of the parties that Tenant shall have the sole responsibility, at its sole cost and expense, for curing, correcting, repairing, remediating, and rectifying any such violations or claims of noncompliance.

All Tenant's construction, alteration or repair work permitted under this Lease shall be accomplished expeditiously and diligently. Tenant shall take all necessary measures to minimize any damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected thereby. Tenant shall repair, at its own cost and expense, any and all damage caused by such work and shall restore the area upon which such work is performed to a condition, which is equal to or better than the condition which existed prior to the beginning of such work. In addition, Tenant shall pay (or cause to be paid) all costs and expenses associated therewith and shall indemnify and hold Landlord harmless from all damages, losses or claims attributable to the performance of such work. Dust, noise and other effects of such work shall be controlled using the best accepted methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area.

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18.2 Landlord's Obligations. Subject to the foregoing provisions hereof, Landlord shall keep and maintain in good and tenantable condition and repair, the roof, exterior walls, structural parts of the Premises and structural floor, and pipes and conduits outside the Premises for the furnishing to the Premises of various utilities (except to the extent that the same are the obligation of the appropriate public utility company); provided, however, that Landlord shall not be required to make repairs necessitated by reason of the negligence of Tenant, any patrons of Tenant, or anyone claiming under Tenant, or by reason of the failure of Tenant to perform or observe any conditions or agreements in this Lease contained, or caused by alterations, additions, or improvements made by Tenant or anyone claiming under Tenant. As used in this Article 18, the phrase "exterior walls" shall not be deemed to include storefronts, plate glass, window cases, or window frames, doors or doorframes. Anything to the contrary notwithstanding contained in this Lease, Landlord shall not in any way be liable to Tenant for failure to make repairs as herein specifically required of Landlord unless Tenant has previously notified Landlord in writing of the need for such repairs and Landlord has failed to commence and complete said repairs within a reasonable period of time following receipt of Tenant's written notification.

18.3 <u>Repairs on Behalf of Tenant</u>. If Tenant refuses or neglects to make repairs and/or maintain the Premises, or any part thereof, in a manner reasonably satisfactory to Landlord, or to provide the aforementioned heating and air-conditioning service contract, Landlord shall have the right, upon giving Tenant reasonable written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Tenant. In such event, the cost of such work shall be considered additional rent and shall be paid for by Tenant immediately upon receipt of a bill therefore from Landlord.

18.4 <u>Surrender of Premises</u>. Tenant shall surrender the Premises by the end of the last day of the Lease Term or any earlier termination date, clean and free of debris and in good operating order, condition and state of repair, ordinary wear and tear excepted. Ordinary wear and tear shall not include any damage or deterioration that would have been prevented by good maintenance practice or by Tenant's performing all of its obligations under this Lease. Except as otherwise agreed or specified herein, the Premises, as surrendered, shall include the improvements which Landlord has not required to be removed by Tenant. The obligations of Tenant shall include the repair of any damage occasioned by the installation, maintenance, or removal of Tenant's trade fixtures, furnishings, equipment, and improvements required to be removed. Tenant's trade fixtures shall remain the property of Tenant and shall be removed by Tenant subject to its obligation to repair and restore the Premises as required by this Lease.

18.5 Inspections. Tenant shall permit Landlord and its authorized representatives to enter the Premises at all times during usual business hours for the purpose of inspecting the same. Tenant further covenants and agrees that Landlord may enter the Premises and make any necessary repairs to the Premises and perform any work therein which may be necessary to comply with any laws, ordinances, rules, or regulations of any public authority or of the Pacific Fire Rating Bureau, or of any similar body, or that Landlord may deem necessary to prevent waste or deterioration in connection with the Premises if Tenant does not make or cause such repairs to be made or performed on its own responsibility or promptly after receipt of written demand from Landlord. In addition, if Landlord determines Tenant has failed to maintain the Premises or Tenant has failed to conduct business during the Mandatory Minimum Hours as required by Sections 17.2 and 17.5, Landlord reserves the right to issue written notices and fines to Tenant as described in Sections 17.2 and 17.5. Nothing herein contained shall imply any duty on the part of Landlord to do any such work which under any provision of this Lease Tenant may be required to do, nor shall it constitute a waiver of Tenant's default in failing to do the same. No exercise by Landlord of any rights herein reserved shall entitle Tenant to any damage for any injury or inconvenience occasioned thereby nor to any abatement of rent. In the event that Landlord makes or causes any such repairs to be made or performed, as provided for herein, Tenant shall pay the cost thereof to Landlord, forthwith, as additional rent upon receipt of a bill from Landlord.

18.6 <u>Mold</u>. If Tenant discovers that mold is present in the Premises, its heating system, ventilation or air conditioning system, or other adjacent buildings or structures, or that there is a condition of water intrusion or moisture, Tenant shall promptly provide Landlord with this information in writing; and Tenant shall make the Premises available to Landlord or its agents for an appropriate inspection and assessment. Tenant shall promptly correct the condition insofar as they arise from the operations of Tenant on the Premises or from its repair and maintenance obligations pursuant to Section 18.1; and Tenant shall provide Landlord with written verification that such correction has been promptly and fully completed. Landlord shall not be liable for any loss of business by Tenant or any damage to Tenant's

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trade fixtures, signs, other personal property, and files and other business records arising from the conditions described in this Section 18.6.

ARTICLE 19 RECONSTRUCTION

19.1 Insured Damage. In the event the Premises are damaged by fire or other perils covered by Landlord's fire and extended coverage insurance, then Landlord shall within a period of ninety (90) days thereafter, commence repair, reconstruction, and restoration of the Premises and prosecute the same diligently to completion, in which event this Lease shall continue in full force and effect. However, in the event of a partial or total destruction of the Premises during the last three (3) years of the Lease Term, Landlord and Tenant shall both have the option to terminate this Lease upon giving written notice to the other of the exercise thereof within thirty (30) days after such destruction. For purposes of this Section 19.1, "partial destruction" shall be deemed a destruction to an extent that the costs of repair shall equal or exceed twenty percent (20%) of the then full replacement cost of the Premises as of the date of the destruction.

19.2 <u>Uninsured Damages</u>. In the event that the Premises shall be damaged as a result of any flood, earthquake, act of war, nuclear reaction, nuclear radiation or radioactive contamination, or from any other casualty not covered by Landlord's fire and extended coverage insurance, then Landlord may within ninety (90) days following the date of such damage, commence repair, reconstruction, or restoration of the Premises and prosecute the same diligently to completion, in which event this Lease shall continue in full force and effect, or, within said ninety (90) day period, Landlord may elect not to so repair, reconstruct, or restore the Premises, in which event this Lease shall cease and terminate. In either such event, Landlord shall give the Tenant written notice of its intention within said ninety (90) day period.

19.3 <u>Tenant's Reconstruction</u>. In the event of the reconstruction of the Premises by Landlord in accordance with the provisions of this Article 19, Tenant shall, at its sole cost, restore its trade fixtures, leasehold improvements, furniture, equipment, merchandise, and other personal property maintained on the Premises to the condition which existed immediately prior to the damage or destruction.

19.4 <u>Complex Damage</u>. In the event that thirty-three and one-third percent (33 1/3%) or more of the gross leasable area of the Complex shall be damaged or destroyed by fire or other cause, notwithstanding that the Premises may be unaffected by such fire or other cause, Landlord shall have the right to terminate this Lease and the tenancy hereby created by giving to Tenant thirty (30) days prior written notice of Landlord's election so to do, which notice shall be given, if at all, within the sixty (60) days following the date of said occurrence. Rent shall be adjusted as of the date of such termination.

19.5 <u>Surrender of Possession</u>. Upon any termination of the Lease under any of the provisions of this Article 19, the parties shall be released thereby without further obligation to the other party coincident with the surrender of possession of the Premises to Landlord, except for the items which have theretofore accrued and are then unpaid; and the remaining balance of any security deposit made by Tenant pursuant to the provisions of Article 35 hereof shall be returned to Tenant.

19.6 <u>Abatement of Rent</u>. In the event of repair, reconstruction, and restoration as herein provided, the Minimum Monthly Rent provided to be paid under Articles 1 and 5 hereof shall be abated proportionately with the degree in which Tenant's use of the Premises is impaired commencing from the date of destruction and continuing during the period of such repair, reconstruction, or restoration. Tenant shall continue the operation of its business on the Premises during any such period to the extent reasonably practicable from the standpoint of prudent business management; and the obligation of Tenant hereunder to pay percentage rent and additional rent shall remain in full force and effect. Tenant shall not be entitled to any compensation or damages from Landlord for loss in the use of the whole or any part of the Premises, Tenant's trade fixtures, improvements, furniture, equipment, merchandise, or other personal property or any inconvenience or annoyance occasioned by such damage, repair, reconstruction, or restoration.

19.7 <u>Waiver of Code Provisions</u>. As to any partial or total destruction which Landlord is obligated to restore or may at its discretion restore the Premises under any of the provisions of this Lease, the provisions of Sections 1932 and 1933 of the Civil Code of California are hereby waived by Tenant.

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ARTICLE 20 AUTOMOBILE PARKING AND COMMON AREAS

20.1 <u>General Tenant Use</u>. Tenant and its employees, agents, customers, patrons, suppliers, and other invitees are, except as otherwise specifically provided and limited in this Article 20 and "Exhibit G" attached hereto, authorized, empowered, and privileged to use the parking and common areas in the Complex of which the Premises are a part in common and on a non-exclusive basis with other persons during the term of this Lease. Tenant must obtain Landlord's prior written consent for use of any portion of the common areas for advertising, sales, display, or any other activity related to Tenant's business. Such consent shall be at the sole and absolute discretion of Landlord.

20.2 <u>Landlord Maintenance</u>. Landlord shall maintain and operate, or cause to be maintained and operated (except as hereinafter provided with reference to cost of maintenance) said common areas at all times for the benefit and use of the customers and patrons of Tenant and of other tenants and occupants of the Complex. Landlord shall keep or cause to be kept said common areas in a neat, clean, and orderly condition, properly lighted and landscaped, and shall repair any damage to the facilities thereof.

Common Area Expenses. All expenses in connection with said common areas shall be charged and 20.3 prorated to Tenant and other tenants and occupants of the Complex in the manner hereinafter set forth. The phrase "expenses in connection with said common areas" as used herein shall be construed to include, but not limited to the following: all sums expended in connection with said common areas for all general maintenance and repairs, resurfacing, or painting, re-stripping, cleaning, sweeping, trash removal, and janitorial services; maintenance and repair of sidewalks, curbs, elevated walkways, and stairways, revetted slopes, and Complex signs, sprinkler systems, planting and landscaping; lighting and other utilities, directional signs and other markers and bumpers; maintenance and repair of any fire protection systems, lighting systems, storm drainage systems and any other utility systems; personnel to implement such services including, if Landlord deems necessary, the cost of security guards; real and personal property taxes and assessments on the improvements and land comprising said common areas, including possessory interest taxes; any governmental imposition or surcharge imposed upon Landlord or assessed against the automobile parking area or any other portion of the common areas; all costs and expense pertaining to a security alarm system for the tenants in the Complex; depreciation on maintenance and operating machinery and equipment (if owned) and rental paid for such machinery and equipment (if rented); adequate public liability and property damage insurance on the Complex; general and administrative expenses incurred in the management and supervision of the common area by Landlord whether directly or through an independent contractor or agent, including but not limited to costs of accounting, bookkeeping, and collection of the expenses in connection with said common areas; payroll taxes; materials; supplies; all other costs of operating, repairing the lighting, heating and ventilation and air-conditioning in the common areas ("Common Area Expenses"). Landlord may cause any or all of said services including management, and supervision and administration to be provided by an independent contractor or contractors. Should Landlord acquire or make available additional land not shown as part of the Complex on Exhibit "A" and make the same available for parking or other common area purposes, then said expenses in connection with said common areas shall also include all of the aforementioned expenses incurred and paid in connection with said additional land.

20.4 <u>Tenant's Share</u>. Tenant shall pay to Landlord Tenant's share of such Common Area Expenses in the following manner:

20.4.1 <u>Initial Charge</u>. Tenant shall pay to Landlord on the first day of each calendar month of the Lease Term the amount calculated and specified in Section 1.14 for such Common Area Expenses. This payment amount is computed by multiplying the Common Area Expenses rate per square foot specified in Section 1.13 by the number of gross square feet leased by Tenant specified in Section 1.5 (Exhibit "B"). This payment amount is subject to adjustment as hereinafter provided in Paragraph 20.4.2. Landlord may also adjust this Initial Charge payment amount at the end of any calendar quarter or, at Landlord's option, each calendar year, by adjusting the amount of the Common Area Expense rate per square foot specified in Section 1.13 on the basis of Landlord's experience and reasonably anticipated costs.

20.4.2 <u>Adjustments</u>. Within thirty (30) days following the end of each calendar quarter or, at Landlord's option, each calendar year, Landlord shall furnish to Tenant, if requested by Tenant in writing, a statement covering the calendar quarter or year just expired, certified as correct by a certified public accountant or an authorized representative of Landlord, showing the total operating expenses for the common areas, the amount of Tenant's pro

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rata share of such common area expense for such calendar quarter or year, and the payments made by Tenant with respect to such period as set forth in Paragraph 20.4.1. If Tenant's pro rata share of such Common Area Expenses exceeds Tenant's payments so made, Tenant shall pay Landlord the deficiency within ten (10) days after receipt of such statement. If said payments exceed Tenant's pro rata share of such Common Area Expenses, Tenant shall be entitled to offset the excess against payments next thereafter to become due to Landlord as set forth in Paragraph 20.4.1. Tenant's pro rata share of the total Common Area Expenses for the previous calendar quarter or year shall be computed pursuant to Paragraph 20.4.4. There shall be appropriate adjustment for any partial quarter or year for Tenant's share of the Common Area Expenses as of the expiration of the Lease Term.

20.4.3 <u>Default in Payment</u>. Failure of Tenant to pay any of the charges as provided in this Article 20 shall constitute a default under the terms hereof in like manner as failure to pay rent when due.

20.4.4 <u>Tenant's Share</u>. A particular tenant's share of the total Common Area Expenses for a previous calendar quarter or year shall be computed by multiplying the total Common Area Expenses incurred during the previous calendar quarter or year by a fraction, the numerator of which is the gross square feet leased by the particular tenant, as specified in Section 1.5, and the denominator of which is the gross leasable area of the Complex, not including leasable office space.

20.5 <u>Changes in Common Area</u>. Landlord shall at all times have the right and power to determine the nature and extent of the common areas, whether the same shall be on the surface, underground, or multiple-deck, and to make such changes therein and thereto from time to time which in its opinion are deemed to be desirable and for the best interests of all persons using said common areas, including the location and relocation of driveways, entrances, exits, and automobile parking spaces, direction and flow of traffic, installation of prohibited areas, landscaped areas, and all other facilities thereof.

20.6 <u>Limitation on Liability</u>. Nothing contained in these provisions shall be deemed to create any liability of Landlord for any damage to motor vehicles of Tenant or its employees, agents, customers, patrons, suppliers, or other invitees for loss of property from within such motor vehicles, unless caused by the sole active negligence of Landlord, its agents or employees.

20.7 <u>Rules</u>. Landlord shall also have the right to establish, and from time to time to change, alter, and amend, and to enforce against Tenant and the other users of the common areas such reasonable rules and regulations (including the exclusion of employees' parking therefrom) as may be deemed necessary or advisable for the proper and efficient operation and maintenance of the common areas. The rules and regulations herein provided may include, without limitation, the hours during which the common areas shall be open for use. Landlord may, if in its opinion the same is advisable, establish a system or systems of validation or other type of controlled operation, including a system of charges against non-validated parking checks for users, and Tenant shall conform to and abide by all such rules and regulations in its use and the use of its customers and patrons with respect to the automobile parking area, provided, however, that all such rules and regulations and such types of controlled operation or validation of parking checks and other matters affecting the customers and patrons of Tenant shall apply equally and without discrimination to all persons entitled to the use of the automobile parking facilities.

20.8 Landlord Control. Landlord shall at all times during the term of this Lease have the sole and exclusive control of the automobile parking spaces in the Complex, driveways, entrances, and exits and the sidewalks and pedestrian passageways and other common areas, and may at any time and from time to time during the term hereof, exclude and restrain any person from use or occupancy thereof, excepting, however, bona fide customers, patrons, and suppliers of Tenant, and other tenants of Landlord who make use of said areas in accordance with the rules and regulations established by Landlord from time to time with respect thereto. The rights of Tenant hereunder in and to the other areas referred to in this Article 20 shall at all times be subject to the rights of Landlord and the other tenants of Landlord to use the same in common with Tenant; and Tenant shall keep all of said areas free and clear of any obstructions created or permitted by Tenant or resulting from Tenant's operation, and Tenant shall allow the use of any said areas only for normal parking and ingress and egress by customers, patrons, and suppliers to and from buildings occupied by Tenant and the other tenants of Landlord.

20.9 <u>Unauthorized Use</u>. If in the opinion of Landlord unauthorized persons are using any of the areas referred to in this Article 20 by reason of the presence of Tenant in the Premises, then Tenant, upon demand of Landlord, shall enforce the rules and regulations against all such unauthorized persons by appropriate proceedings.

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Nothing herein shall affect the rights of Landlord at any time to remove any such unauthorized persons from said areas or to restrain the use of any of said areas by unauthorized persons.

20.10 <u>Employee Parking</u>. The employees of Tenant and the other tenants of Landlord within the Complex shall not be permitted to park their automobiles in the automobile parking areas which may from time to time be designated for customers and patrons of the Complex. Landlord agrees to furnish and/or cause to be furnished either within the Complex parking area or other areas in Ventura Harbor, space for employee parking. Landlord at all times shall have the right to designate the particular area to be used by any or all of such employees, and any such designation may be changed from time to time. Tenant and its employees shall park their cars only in those portions of the parking areas, if any, designated for that purpose by Landlord.

20.11 <u>Violations of Employee Parking Rules</u>. If Tenant or its employees fail to park their cars in designated parking areas, then Landlord may charge Tenant or Employee Sixty Dollars (\$60.00) per day or partial day per car parked in any areas other than those so designated; provided, however, Landlord agrees to give Tenant written notice of the first violation of this provision and Tenant shall have two (2) days thereafter within which to cause the violation to be discontinued; and, if the violation is not so discontinued within said two (2) day period, then the Sixty Dollars (\$60.00) per day fines shall commence. After notice of such first violation, no prior notice of any subsequent violation shall be required. All amounts due under the provisions of this Section 20.11 shall be payable by Tenant within ten (10) days after demand therefore as additional rent hereunder. Tenant hereby acknowledges Landlord has the right to tow away from the Complex any car or cars belonging to Tenant or Tenant's employees who have failed to park cars in the designated areas for their use, and/or to attach violation stickers or notices to such cars.

ARTICLE 21

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL INDEMNITY

21.1 Definition. The term "Hazardous Substances" shall mean any substance, the presence of which on the Premises is: (i) potentially injurious to the public health, safety, or welfare, the environment or the Premises, or (ii) regulated or monitored by any governmental authority, or (iii) a potential basis for liability of Landlord to any governmental agency or third party, or (iv) a potential basis for cancellation of any insurance policy covering the Premises. Hazardous Substances shall include, without limitation, petroleum and petroleum products and fractions thereof. Tenant shall not engage in any use of Hazardous Substances in, on or about the Premises without Landlord's prior written consent. Landlord may condition its consent upon Tenant's giving Landlord such additional assurances as Landlord, in its sole and reasonable discretion, deems necessary to protect Landlord, the public, the Premises, the Complex, and the environment against damage, contamination, injury or liability, including, without limitation, the deposit of additional security under Article 35 below.

21.2 <u>Notice</u>. If Tenant knows, or has reasonable cause to believe, that Hazardous Substances, or a condition involving or resulting from Hazardous Substances is present on, under, or about the Premises, other than as previously consented to by Landlord, Tenant shall immediately give written notice of such fact to Landlord, together with copies of all reports or notifications to or from governmental agencies or private parties concerning the same.

Indemnity. Tenant shall indemnify, protect, defend and hold harmless Landlord, its officers, elected 21.3 officials, agents, attorneys, and employees, against any losses, liabilities, damages, demands, actions, judgments, causes of action, assessments, penalties, costs and expenses (including, without limitation, the reasonable fees and disbursements of legal counsel and accountants) and all foreseeable and unforeseeable actual, special, incidental, or consequential damages which might arise or be asserted against Landlord as a result of a claimed violation of any and all present and future federal, state and local laws (whether under common law, statute, rule, regulation or otherwise), including, without limitation, the Americans with Disabilities Act of 1990, and any corresponding laws of the State of California, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) and the applicable provisions of the California Health and Safety Code and the California Water Code, relating to the environment or to any Hazardous Substance, activity or material connected with the condition of the Premises, or Tenant's use and occupancy of the Premises. If any such action or proceeding is brought against Landlord, its officers, elected officials, agents, attorneys, or employees, Tenant, upon notice from Landlord, shall defend the claim at Tenant's sole expense with counsel reasonably satisfactory to Landlord. Tenant's obligations under this Section 21.3 shall include, without limitation, loss of rents to Landlord, the effects of any contamination or injury to person, property or the environment, the cost of investigation, remediation, restoration and abatement. Further, Tenant's obligations hereunder

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shall survive the expiration or termination of this Lease. No termination, cancellation, or release agreement entered into by Landlord and Tenant shall release Tenant from its obligations under this Section 21.3, unless specifically stated in writing in the agreement and signed by Landlord.

21.4 <u>Law Compliance</u>. Tenant shall, at its sole cost and expense, comply with (i) any and all requirements necessary for the maintenance of reasonable fire, extended coverage, and public liability insurance covering the Premises; and (ii) any and all rules, regulations, requirements and mandates of those federal, state and local public agencies now existing or as may hereafter be established or modified, with jurisdiction, power, and authority to monitor, enforce, and administer matters relating to air and water quality and waste management and disposal.

21.5 <u>Inspection</u>. Landlord shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Tenant with this Lease and all applicable laws and regulations. The cost of the inspection shall be borne by Landlord unless a default under this Lease, violation of law, or a contamination caused or contributed to by Tenant, is found to exist, in which case Tenant shall reimburse Landlord on demand for all costs of inspection, investigation, remediation, restoration, or abatement, including all legal, accounting, and other professional consulting fees and expenses incurred or paid by Landlord and the value of services provided by employees of Landlord, its officers, elected officials, agents, attorneys, and employees. Such payment shall be made to Landlord as additional rent within ten (10) calendar days after Tenant receives Landlord's written demand therefore.

ARTICLE 22

DEFAULT AND BREACH BY TENANT - REMEDIES

22.1 <u>Defaults - Breach</u>. Landlord and Tenant agree that if an attorney is consulted by Landlord in connection with a Tenant Default or Breach (as hereinafter defined), One Thousand Dollars (\$1,000.00) is a reasonable minimum sum per such occurrence for legal services and costs in the preparation and service of a notice of Default, and that Landlord may include the cost of such services and costs in said notice as rent due and payable to cure said default. A "Default" by Tenant is defined as a failure by Tenant to observe, comply with or perform any of the terms, covenants, conditions, or rules and regulations applicable to Tenant under this Lease. A "Breach" by Tenant is defined as the occurrence of any one or more of the following Defaults, and, where a grace period for cure after notice is specified herein, the failure by Tenant to cure such Default prior to the expiration of the applicable grace period, and shall entitle Landlord to pursue the remedies set forth in Section 22.2:

22.1.1 The vacating of the Premises without the intention to reoccupy same, or the abandonment of the Premises.

22.1.2 Except as expressly otherwise provided in this Lease, the failure by Tenant to make any payment of Minimum Monthly Rent, or any other monetary payment required to be made by Tenant hereunder as and when due, the failure by Tenant to provide Landlord with reasonable evidence of insurance or surety bond required under this Lease, or the failure of Tenant to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three (3) days following written notice thereof by or on behalf of Landlord to Tenant.

22.1.3 Except as expressly otherwise provided in this Lease, the failure by Tenant to provide Landlord with reasonable written evidence (in duly executed original form, if applicable) of (i) maintenance and service contracts required under Section 18.1; (ii) the rescission of an unauthorized assignment or subletting under Article 16; (iii) the subordination or non-subordination of this Lease per Article 28; (iv) a Tenant's certificate per Section 4.5; (v) the guaranty of the performance of Tenant's obligations under this Lease if required under Article 2; or (vi) any other documentation or information which Landlord may reasonably require of Tenant under the terms of this Lease, where any such failure continues for a period of ten (10) days following written notice by or on behalf of Landlord to Tenant.

22.1.4 A Default by Tenant as to the material terms, covenants, conditions, or provisions of this Lease, or of the rules and regulations adopted under Article 20 hereof that are to be observed, complied with or performed by Tenant, other than those described in Paragraphs 22.1.1, 22.1.2, and 22.1.3, above, where such Default continues for a period of thirty (30) days after written notice thereof by or on behalf of Landlord to Tenant; provided, however, that if the nature of Tenant's Default is such that more than thirty (30) days are reasonably required for its cure, then it shall not be

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deemed to be a Breach of this Lease by Tenant if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

22.1.5 The occurrence of any of the following events: (i) the making by Tenant of any general arrangement or assignment for the benefit of creditors; (ii) Tenant's becoming a "debtor" as defined in the United States Bankruptcy Code or any successor statute thereto [unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days]; (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in the Lease, where such seizure is not discharged within thirty (30) days; provided, however, in the event that any provision of this Paragraph 22.1.5 is contrary to any applicable law, such provision shall be of no force or effect, and shall not affect the validity of the remaining provisions.

22.1.6 The discovery by Landlord that any financial statement of Tenant or of any guarantor, given to Landlord by Tenant or any guarantor, was materially false.

22.1.7 If the performance of Tenant's obligations under this Lease is guaranteed: (i) the death of a guarantor; (ii) the termination of a guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty; (iii) a guarantor's becoming insolvent or the subject of a bankruptcy filing; (iv) a guarantor's refusal to honor the guaranty; or (v) a guarantor's breach of its guaranty obligation on an anticipatory breach basis, and Tenant's failure, within sixty (60) days following written notice by or on behalf of Landlord to Tenant of any such event, to provide Landlord with written alternative assurances of security, which, when coupled with the then existing resources of Tenant, equals or exceeds the combined financial resources of Tenant and the guarantors that existed at the time of execution of this Lease.

22.1.8 Failure to keep and maintain the Premises and any improvements thereon in compliance with all requirements and regulations of the Americans with Disabilities Act of 1990 and/or any corresponding laws of the State of California.

22.1.9 Failure to cure, correct, repair, remediate, or rectify any violations of, or claims of noncompliance with, the Americans with Disabilities Act of 1990 and/or any corresponding laws of the State of California, or make any improvements, alterations, or remediation changes required to complete agreed or mandated modifications in connection with such violations or claims of noncompliance, with respect to the Premises and any improvement located thereon, within the time required under applicable law, by a court of competent jurisdiction or governmental agency with jurisdiction, or as agreed between Landlord, Tenant, and/or any third parties.

22.2 Remedies. If Tenant fails to perform any affirmative duty or obligation of Tenant under this Lease, within ten (10) days after written notice to Tenant (or in case of an emergency, without notice), Landlord may at its option (but without obligation to do so), perform such duty or obligation on Tenant's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits, or approvals. The costs and expenses of any such performance by Landlord shall be due and payable by Tenant to Landlord as additional rent upon invoice therefore. If any check given to Landlord by Tenant shall not be honored by the bank upon which it is drawn, Tenant shall pay Thirty-Five Dollars (\$35.00) to Landlord to cover costs (such as processing expenses and account charges) incurred by Landlord due to the bank not honoring the check, and Landlord, at its own option, may require all future payments to be made under the Lease by Tenant to be made only by cashier's check. In the event of a Breach of this Lease by Tenant (as defined in Section 22.1), with or without further notice or demand, and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such Breach, Landlord may:

22.2.1 Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant: (i) the worth at the time of the award of the unpaid rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses

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of re-letting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Landlord in connection with the Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco or the Federal Reserve Bank District in which the Premises are located at the time of award plus one percent (1%). Efforts by Landlord to mitigate damages caused by Tenant's Default or Breach of this Lease shall not waive Landlord's right to recover damages under this Section 22.2. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Landlord shall have the right to recover in such proceeding the unpaid rent and damages as are recoverable therein, or Landlord may reserve the right to recover all or any part thereof in a separate suit for such rent and/or damages. If a notice and grace period required under Paragraphs 22.1.2, 22.1.3, or 22.1.4 was not previously given, a notice to pay rent or quit, or to perform or quit, as the case may be, given to Tenant under any statute authorizing the forfeiture of leases for unlawful detainer shall also constitute the applicable notice for grace period purposes required by Paragraphs 22.1.2, 22.1.3, or 22.1.4. In such case, the applicable grace period under the unlawful detainer statue shall run concurrently after the one such statutory notice, and the failure of Tenant to cure the Default within the greater of the two (2) such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Landlord to the remedies provided for in this Lease and/or by said statute.

22.2.2 Continue the Lease and Tenant's right to possession in effect under California Civil Code Section 1951.4, or any successor statute thereto, after Tenant's Breach and recover the rent as it becomes due, provided Tenant has the right to sublet or assign, subject only to reasonable limitations. Landlord and Tenant agree that the limitations on assignment and subletting in this Lease are reasonable. Acts of maintenance, preservation, or renovation, efforts to re-let the Premises, or the appointment of a receiver to protect Landlord's interest under this Lease, shall not constitute a termination of Tenant's right to possession.

22.2.3 Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the State of California.

22.2.4 The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Tenant's occupancy of the Premises.

22.3 Late Charges. Tenant hereby acknowledges that late payment by Tenant to Landlord of rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and account charges and late charges which may be imposed upon Landlord. Accordingly, if any installment of rent or other sum due from Tenant shall not be received by Landlord or its designee within ten (10) days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to six percent (6%) of such overdue amount, which late charge shall be due and payable as additional rent. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's Default or Breach with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of Minimum Monthly Rent, then notwithstanding any other provision of this Lease to the contrary, Minimum Monthly Rent shall, at Landlord's option, become due and payable quarterly in advance.

22.4 <u>Definitions</u>. The phrase "rent and other payments" as used in this Article 22, shall be deemed to be and to mean the Minimum Monthly Rent, the Common Area Assessment, and all other sums payable pursuant to Article 5 hereof and all other sums required to be paid by Tenant pursuant to the terms of this Lease. All such sums, other than the Minimum Monthly Rent, shall be computed on the basis of the average monthly amount thereof accruing during the immediately preceding twelve (12) month period prior to the Default, except that if it becomes necessary to compute such sums before such period has occurred than on the basis of the average monthly amount accruing during such shorter period.

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ARTICLE 23 BREACH BY LANDLORD

Landlord shall not be deemed in breach of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord. For purposes of this Article 23, a reasonable time shall in no event be less than thirty (30) days after receipt by Landlord of written notice specifying wherein such obligation of Landlord has not been performed and what specific provision of this Lease has been so violated by Landlord referring to the exact article, section, or paragraph involved; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days after such notice are reasonably required for its performance, then Landlord shall not be in breach of this Lease if performance is commenced within such 30-day period and thereafter diligently pursued to completion. If Landlord fails to remedy its breach in accordance with this Article 23, Landlord shall under no circumstance be liable for injury sustained by Tenant as a result thereof; provided, however, that Landlord shall under no circumstance be liable for injury to Tenant's business or for any loss of income or profit therefore, or for any other form of consequential damages. Tenant shall have no right to terminate this Lease by reason of any breach by Landlord.

ARTICLE 24 CONDEMNATION

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (all of which are herein called "Condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than twenty-five percent (25%) of the floor area of the Premises is taken by Condemnation, Landlord or Tenant, at the option of either of them, to be exercised in writing within ten (10) days after Landlord shall have given Tenant written notice of such taking [or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession] terminate this Lease as of the date the condemning authority takes such possession. If the Lease is so terminated pursuant to this Article 24 during the middle of a month, then the Minimum Monthly Rent and other payments due by Tenant shall be equitably prorated for the time of Tenant's loss of possession of the Premises. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Minimum Monthly Rent shall be reduced in the same proportion as the floor area of the remaining portion bears to the total floor area of the Premises. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord whether such award shall be made as compensation for diminution of value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any compensation, separately awarded to Tenant for Tenant's relocation expenses and/or loss of Tenant's trade fixtures. Tenant shall not be entitled to any award, or portion of an award, attributable to any excess of the market value of the Premises over the present value at the taking of the Minimum Monthly Rent for the remainder of the Lease Term (bonus value), and Tenant assigns to Landlord the right to receive any bonus value, whether awarded directly or as a part of Tenant's loss of goodwill. In the event that this Lease is not terminated by reason of such condemnation, Landlord shall to the extent of its net severance damages received, repair any damage to the Premises caused by such condemnation authority. Tenant shall be responsible for the payment of any amount in excess of such net severance damages required to complete such repair. Tenant and Landlord waive the provisions of Code of Civil Procedure Section 1265.130 allowing either of them to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

ARTICLE 25 DISPUTE RESOLUTION

25.1 <u>Mediation</u>. All actions, disputes, claims or controversies of any type or nature whatsoever which arise out of or which relates to this Lease, or to the interpretation or breach thereof that cannot be resolved between the parties within thirty (30) days of such dispute or claim, shall first be submitted to a mediator jointly selected by the parties. If the action, dispute, claim or controversy cannot be resolved by the mediator within thirty (30) days following the end of the aforesaid thirty (30) day period, then the action, dispute, claim or controversy shall be resolved by binding arbitration pursuant to Section 25.2 below.

. 25.2 <u>Arbitration</u>. All actions, disputes, claims or controversies of any type or nature whatsoever arising from this Lease will be subject to and resolved by binding arbitration before a single arbitrator, but only after first being submitted

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to mediation pursuant to Section 25.1 above. The parties confirm that by agreeing to this alternate dispute resolution process, they intend to give up their right to have any dispute decided in court by a judge or jury. Pursuant to the Federal Arbitration Act 9 U.S.C Section 1 et. seq., any and all disputes, claims, or controversies between the parties ("parties" specifically including, but not being limited to, any assignee of a party) arising out of or relating to this Lease that are not resolved by their mutual agreement shall be submitted to final and binding arbitration before a single arbitrator who shall be an attorney who has been practicing law in the State of California with at least 15 years of full-time experience in contract law, and preferably with experience with commercial real property in Ventura County, or a retired California Superior Court judge authorized to practice law in the State of California, selected by mutual agreement of the parties, or in the absence of such agreement appointed upon application of a party to a Superior Court Judge of Superior Court of California, County of Ventura. The arbitration proceedings shall be governed by the Commercial Arbitration Rules of the American Arbitration Association but shall not be administered by it. To the extent applicable in civil actions in California courts, the following shall apply and be observed: all rules of pleading (including the right to demurrer); all rules of evidence; and all rights to resolution of the dispute by means of motions for summary judgment, judgment on the pleadings, and judgment under Code of Civil Procedure Section 631.8. The Arbitration shall take place in Ventura County. Unless otherwise determined by the Arbitrator each of the parties shall bear one-half of the fees and expenses of the arbitration. Resolution of the dispute shall be based solely upon the law governing the claims and defenses pleaded, and the arbitrator may not invoke any basis other than such controlling law. Awards shall include the arbitrator's written reasoned opinion. The provisions of this paragraph are specifically enforceable by any court with subject matter jurisdiction sitting in Ventura County.

ARTICLE 26 ATTORNEYS' FEES

If either Landlord or Tenant brings an action or proceeding to enforce the terms hereof or declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "Prevailing Party" shall include, without limitation, a party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. Landlord shall be entitled to attorneys' fees, costs and expenses incurred in preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach.

ARTICLE 27

SALE OF PREMISES BY LANDLORD

In the event of any sale or exchange of the Premises by Landlord, assignment by Landlord of this Lease, or the creation of a ground lease by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence, or omission relating to the Premises occurring after the consummation of such sale, exchange, assignment, or ground lease.

ARTICLE 28

SUBORDINATION, ATTORNMENT

28.1 <u>Subordination</u>. Upon written request of Landlord, any mortgagee or beneficiary of a deed of trust made by Landlord, Tenant will in writing subordinate its rights hereunder to the lien of any mortgage or deed of trust, now or hereafter in force against the land and building of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof. The provisions of this Article 28 to the contrary notwithstanding, and so long as Tenant is not in default hereunder, this Lease shall remain in full force and effect for the full term hereof without regard to the subordination consented to by Tenant.

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28.2 <u>Attornment</u>. In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Landlord under this Lease.

28.3 <u>Statements from Tenant</u>. Within ten (10) days after written request therefore by Landlord, or in the event that upon any sale, assignment, or hypothecation of the Premises or the land thereunder by Landlord, an offset statement shall be required from Tenant, Tenant agrees to deliver in recordable form a certificate addressed to any such proposed mortgagee or purchaser or to Landlord certifying that this Lease is in full force and effect (if such be the case) and that there are no defenses or offsets thereto or stating those claimed by Tenant.

ARTICLE 29

QUIET POSSESSION

Tenant upon paying the rent and performing the covenants and conditions of this Lease may quietly have, hold, and enjoy the Premises during the term hereof or any extension thereof; subject, however, to the provisions of Article 11 of this Lease.

ARTICLE 30

MARKETING AND PROMOTION FUND

30.1 <u>Purpose</u>. The Marketing and Promotion Fund shall be utilized to market, advertise, and promote "The Ventura Harbor Village" in accordance with long-range marketing plans which may include public relations programs, special events and promotions, and acquisition of props and decorative materials. Landlord shall maintain same as a separate fund, the proceeds of which shall be expended solely for Complex-wide promotion, advertising, and public relations costs and expenses, to be undertaken at such times and in such manner as Landlord deems appropriate in its sole discretion, and for administrative expenses related to the foregoing.

30.2 <u>Tenant Payments</u>. Tenant shall pay into the Marketing and Promotion Fund in equal monthly payments, in advance, on the first day of each calendar month, by checks sent to Landlord and made payable to "Ventura Port District," the monthly amount specified in Section 1.15 during the Lease Term. This amount shall be adjusted annually as per Section 1.15 during the Lease Term.

ARTICLE 31 CAPTIONS AND TERMS

31.1 <u>Captions</u>. The captions of Articles and Sections of this Lease are for convenience in reference only, are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease. Except as otherwise specifically stated in this Lease, "the Lease Term" shall include the original term and any extension, or renewal thereof.

31.2 <u>Multiple Tenants</u>. If more than one person or corporation is named as Tenant in this Lease and executes the same as such, then and in such event, the word "Tenant" wherever used in this Lease is intended to refer to all such persons or corporations, and the liability of such persons or corporations for compliance with and performance of all terms, covenants, and provisions of this Lease shall be joint and several.

31.3 <u>Gender - Plural</u>. The masculine pronoun used herein shall include the feminine or the neuter, as the case may be, and the use of the singular shall include the plural.

ARTICLE 32

NOTICES

32.1 <u>Mailed Notices</u>. Wherever in this Lease notice or demand shall be required or permitted to be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served, and shall not be deemed to have been duly given or served unless, in writing and forwarded by certified or registered mail, return receipt requested, addressed to the addresses of the parties specified in Article 1 hereof. Either party may change such address by written notice by certified or registered mail to the other.

32.2 <u>Effective Date</u>. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or, if no delivery date is shown, the postmark thereon.

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If notice is received on a Saturday, or a Sunday, or a legal holiday, it shall be deemed received on the next business day.

32.3 <u>Delivered Notices</u>. Notwithstanding anything to the contrary contained within this Article 32, any notices which Landlord is required or authorized to deliver to Tenant in order to advise Tenant of alleged violations of Tenant's covenants contained in Articles 14 (with respect to improper advertising medium and/or signs), 18 (failure of Tenant to properly repair and/or maintain the Premises), 20 (improper parking of Tenant's and Tenant's employees automobiles), and/or failure to properly operate the heating, ventilating, and air-conditioning equipment serving the Premises, must be in writing but shall be deemed to have been duly given or served upon Tenant by delivering a copy of such notice to one of Tenant's managing employees at the Premises or by mailing a copy of such notice to Tenant in the manner specified in this Article 32.

ARTICLE 33

SUCCESSORS - COVENANTS

The parties hereto agree that all the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate provision hereof, and that all of the provisions hereof shall bind and inure to the benefit of the parties hereto, and their respective heirs, legatees, legal representatives, successors, and assigns, provided, however, that any transfer of Tenant's interest under this Lease shall be governed by Article 16.

ARTICLE 34 CONSENT OF LANDLORD AND TENANT

Wherever in this Lease Landlord or Tenant is required to give its consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld. In the event of failure of Landlord or Tenant to give any such reasonable consent, the other party hereto shall be entitled to seek a court determination whether specific performance will be granted and shall have such other remedies as are available to it under this Lease, but in no event shall Landlord or Tenant be responsible in monetary damages for such failure to give consent unless said consent is withheld maliciously or in bad faith.

ARTICLE 35 SECURITY DEPOSIT

Tenant shall deposit with Landlord upon Tenant's execution hereof the Security Deposit set forth in Section 1.11 as security for Tenant's faithful performance of Tenant's obligations under this Lease. Notwithstanding the foregoing, Tenant shall deposit with Landlord one thousand four hundred forty-four dollars (\$1,444.00) in a single payment on or before the Commencement Date, which will be added to three thousand two hundred sixty-four dollars (\$3,264.00) already deposited by Tenant with Landlord as the security deposit under the current lease and collectively shall be the Security Deposit under this Lease. If Tenant fails to pay Minimum Monthly Rent or other rent or charges due hereunder, or otherwise Defaults under this Lease (as defined in Section 22.1), Landlord may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Landlord or to reimburse or compensate Landlord for any liability, cost, expense, loss, or damage (including attorneys' fees) which Landlord may suffer or incur by reason thereof. If Landlord uses or applies all or any portion of said Security Deposit. Tenant shall within ten (10) days after written request therefore deposit monies with Landlord sufficient to restore said Security Deposit to the full amount required by this Lease. Any time the Minimum Monthly Rent increases during the term of this Lease, Tenant shall, upon written request from Landlord, deposit additional monies with Landlord as an addition to the Security Deposit so that the total amount of the Security Deposit shall at all times bear the same proportion to the then current Minimum Monthly Rent as the initial Security Deposit bears to the initial Minimum Monthly Rent set forth in Article 1. Landlord shall not be required to keep all or any part of the Security Deposit separate from its general accounts. Landlord shall, at the expiration or earlier termination of the Lease Term hereof and after Tenant has vacated the Premises, return to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest herein), that portion of the Security Deposit not used or applied by Landlord. Unless otherwise expressly agreed in writing by Landlord, no part of the Security Deposit shall be considered to be held in trust, to bear interest for its use, or to be the prepayment of any monies to be paid by Tenant under this Lease. Upon any sale or transfer by Landlord of its interest in the Premises, Landlord may transfer the Security Deposit to its successor in interest and, thereupon, Landlord shall be released from any obligation with respect thereto. In the event of bankruptcy or other

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debtor-creditor proceedings against Tenant, such Security Deposit shall be deemed to be applied first to the payment of rent and other charges due to Landlord for all periods prior to the filing of such proceedings.

ARTICLE 36

COMPLIANCE WITH PERMITS AND APPROVALS

Tenant shall at all times comply with all applicable codes, ordinances, regulations, and requirements for licenses, permits and approvals from the various governmental agencies and bodies having jurisdiction of the Premises, including, but not limited to Landlord, now or hereinafter in effect. Tenant shall provide Landlord a copy of its City of Ventura business license each year no later than the first of August. Furthermore, Tenant shall provide Landlord a copy of any other required license, permit or approval, or other evidence of compliance with applicable codes, ordinances and regulations that Landlord may reasonably request from time to time, within ten (10) days of Landlord's written request for such.

ARTICLE 37

MISCELLANEOUS

37.1 <u>No Partnership</u>. Nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture between Landlord and Tenant or between Landlord and any other party, or cause Landlord to be responsible in any way for the debts or obligations of Tenant, or any other party.

37.2 <u>Severability</u>. If any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect. If any provision of this Lease is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

37.3 <u>Corporate Status</u>. In the event Tenant hereunder is a corporation, limited liability company, or limited liability partnership, the parties executing this Lease on behalf of Tenant hereby covenant and warrant that Tenant is a duly qualified entity and all steps have been taken prior to the date hereof to qualify Tenant to do business in California; that all franchise and corporate taxes have been paid to date; and that all future forms, tax returns, reports, fees, and other documents necessary to comply with applicable laws will be filed when due.

37.4 <u>Entire Agreement</u>. There are no oral agreements between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements, and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. This Lease is and shall be considered to be the only agreement between the parties hereto and their representatives or agents. All negotiations and oral agreements acceptable to both parties have been merged into and are included herein. There are no other representations or warranties between the parties and all reliance with respect to representations is solely upon the representations and agreements contained in this Lease.

37.5 <u>Other Tenants</u>. Landlord reserves the absolute right to effect such other tenancies in the Complex as Landlord, in the exercise of its sole business judgment, shall determine to best promote the interests of the Complex. Tenant does not rely on the fact, nor does Landlord represent that any specific tenant or number of tenants shall during the term of this Lease occupy any space in the Complex.

37.6 <u>Governing Law</u>. The laws of the State of California shall govern the validity, performance, and enforcement of this Lease. Should either party institute legal suit or action for enforcement of any obligation contained herein, Landlord and Tenant agree that the venue of such suit or action shall be in Ventura County, California. Although the printed provisions of this Lease were drawn by Landlord, this Lease shall not be construed either for or against Landlord or Tenant, but this Lease shall be interpreted in accordance with the fair meaning of the language in an effort to reach an equitable result.

37.7 <u>Waiver</u>. A waiver of any Breach or Default shall not be a waiver of any other Breach or Default. Landlord's consent to, or approval of, any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant.

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37.8 Impossibility of Performance. Any prevention, delay, or stoppage due to strike, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile government action, civil commotion, fire, or other casualty, and other causes beyond the reasonable control of the party obligated to perform, which renders performance impossible by that party, shall excuse the performance by such party for a period equal to any such prevention, delay, or stoppage, except the obligations imposed on Tenant with regard to the payment of Minimum Monthly Rent and other rent under Article 5 and the other provisions of this Lease.

37.9 <u>Harbor Conditions</u>. Landlord and Tenant acknowledge that the waters of the harbor areas adjacent to the Complex may be subject to shoaling caused by the discharge of silt and other debris through storm drains emptying into the harbor. Landlord agrees to take action at its sole cost and in its discretion as may be reasonably necessary to maintain the harbor, taking into account the costs of such action, Landlord's fiscal limitations, government requirements and weather conditions. Such maintenance operations by Landlord, such as dredging, shall not be deemed to have disturbed or interfered with Tenant's possession and use of the Premises, and shall not be considered as an eviction of Tenant, either actually or constructively, from the Premises. Neither Tenant nor any persons claiming through Tenant shall be entitled to any actual or consequential damages on account of Landlord's maintenance of the harbor.

37.10 <u>Waiver of Redemption</u>. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant's being evicted or dispossessed for any cause, or in the event of Landlord's obtaining possession of the Premises by reason of the violation of Tenant of any of the covenants and conditions of this Lease or otherwise. The rights given to Landlord herein are in addition to any rights that may be given to Landlord by any statute or otherwise.

37.11 <u>Complex Name</u>. Landlord reserves the right to change the name of the Complex from time to time during the term of this Lease (as well as the name of the marketing fund under Article 30).

37.12 <u>Time of Essence</u>. Time is of the essence with respect to the performance of all obligations to be performed or observed by the parties under this Lease.

Holding Over. If Tenant remains in possession of the Premises after expiration or earlier termination 37.13 of this Lease with Landlord's consent, Tenant's occupancy will be a month-to-month tenancy at a Minimum Monthly Rent of one hundred ten percent (110%) of the Minimum Monthly Rent payable under this Lease during the last full month before the date of expiration or earlier termination of this Lease, plus Additional Percentage Rent under Sections 1.8 and 5.6 of this Lease. Landlord will be deemed to have consented to the holding over unless Landlord has delivered to Tenant a demand that Tenant surrender the Premises. The month-to-month tenancy will be on the terms and conditions of this Lease except as provided in (i) this Section 37.13; (ii) Section 1.6 (Lease Term); and (iii) Exhibit "H" (Options to Extend) which shall not be effective for a Hold Over Tenant. Landlord's acceptance of rent after such holding over with Landlord's consent will not result in any other tenancy or in a renewal of the original term of this Lease. If Tenant remains in possession of the Premises after expiration or earlier termination of this Lease without Landlord's consent, then Tenant's continued possession will be on the basis of a tenancy at sufferance and tenant will pay as Minimum Monthly Rent during the holdover period one hundred twenty-five percent (125%) of the Minimum Monthly Rent payable under this Lease during the last full month before the date of expiration or earlier termination of this Lease, disregarding any temporary abatement of rent that may then have been in effect. The provisions of this Section 37.13 will survive the expiration or sooner termination of this Lease.

37.14 <u>Cumulative Remedies</u>. No remedy or election hereunder shall be deemed exclusive, but shall, whenever possible, be cumulative with all other remedies at law or equity.

37.15 <u>Guaranty</u>. If there is to be any guarantors of the Lease, the form of the guaranty to be executed by each such guarantor shall be in the form attached as Exhibit "E", and each such guarantor shall have the same obligation as Tenant under this Lease, including but not limited to the obligation to provide certificates and other information under Section 4.5.

37.16 <u>Amendments</u>. This Lease may be modified only in writing, signed by the parties in interest at the time of the modification. The parties shall amend this Lease from time to time to reflect any adjustments that are made to the Minimum Monthly Rent or other rent payable under this Lease.

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

37.17 <u>Non-Discrimination</u>. Tenant shall not discriminate against any person or class of persons by reason of gender, race, color, creed, national origin, age, marital status, sexual orientation, or physical condition. Tenant shall make its accommodations and services available to all persons on an equal basis.

37.18 <u>Non-Defamation & Mutual Respect</u>. Each Party agrees to take reasonable steps to refrain from either directly or indirectly, hereafter making any defaming, disparaging, derogatory, misleading or false statement to anyone about the other party (and in the case of the Vendor, its employees, officers, directors, agents, consultants, affiliates, investors or business partners) in any private or public forum.

37.19 <u>Offers</u>. The submission of this Lease by Landlord, its agents or representatives for examination or execution by Tenant does not constitute an option or offer to lease the Premises upon the terms and conditions contained herein or a reservation of the Premises in favor of Tenant. This Lease shall only become effective upon the execution thereof by Landlord and delivery of a fully executed counterpart to Tenant.

37.20 <u>Exhibits</u>. All exhibits referred to are attached to this Lease and incorporated by reference. In the event of any apparent inconsistency or conflict between the Lease provisions and the exhibits, the exhibits shall control.

37.21 <u>Landlord's Attorney in Fact</u>. Landlord appoints Tenant the attorney-in-fact of Landlord for the purpose of making all payments to be made by Tenant pursuant to any of the provisions of this Lease to persons or entities other than Landlord. Tenant shall provide Landlord with satisfactory evidence of payment. In case any person or entity to whom any sum is directly payable by Tenant under any of the provisions of this Lease shall refuse to accept payment of such sum from Tenant, Tenant shall thereupon give written notice of such fact to Landlord and shall pay such sum directly to Landlord, and Landlord shall thereupon pay such sum to such person or entity.

[Signature Page Follows]

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

VENTURA PORT DISTRICT RESTAURANT LEASE

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IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

LANDLORD:

VENTURA PORT DISTRICT doing business as "Ventura Harbor Village"

By: _____ Brian D. Pendleton General Manager Date:

TENANT:

THE BOATYARD, INC. doing business as: Boatyard Pub

By:

W. Shawn Hall, Chief Executive Officer

Date: 6-14-2023

If Tenant is a corporation the authorized officers must sign on behalf of the corporation. The Lease must be executed by the president or vice president and the secretary or assistant secretary, unless the bylaws or a resolution of the Board of Directors shall otherwise provide, in which event, the bylaws or a certified copy of the resolution, as the case may be, must be furnished. Also, the appropriate corporate seal must be affixed. If Tenant is a limited liability company or limited liability partnership, this Lease must be executed by a managing member or managing partner.

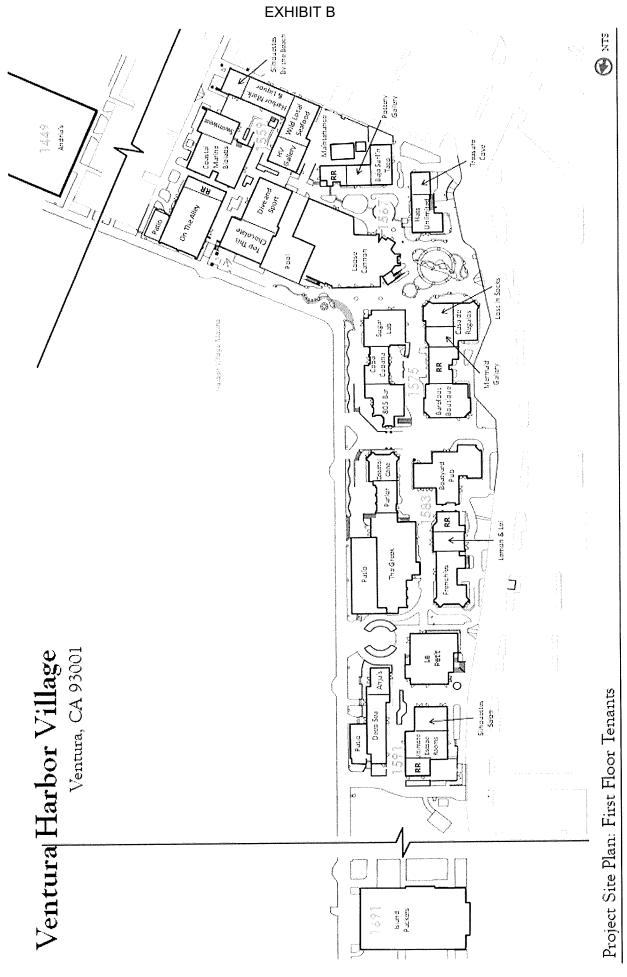
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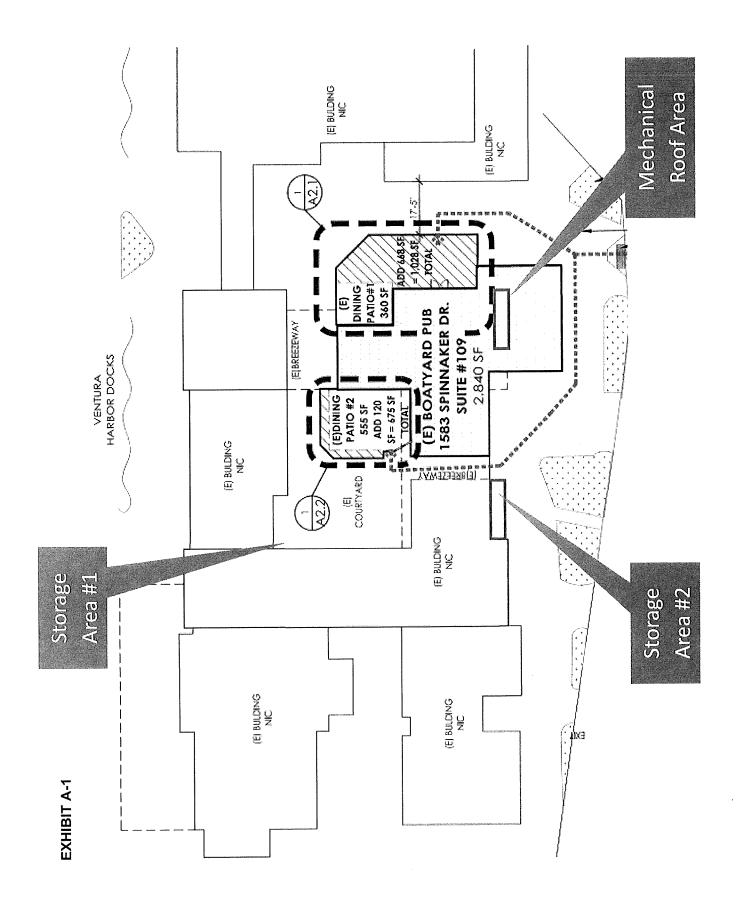
TENANT: THE BOATYARD, INC. dba BOATYARD PUB

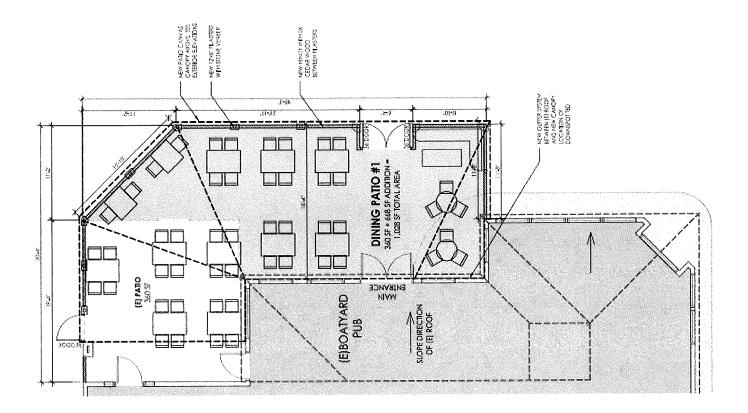
VENTURA PORT DISTRICT RESTAURANT LEASE

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Exhibit A – Site Map







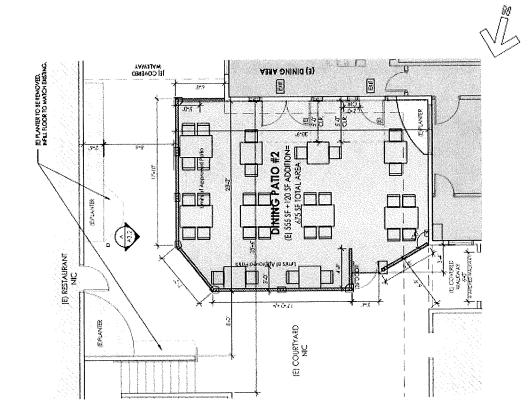


EXHIBIT A-2 – New Patio Details

EXHIBIT "B"

DESCRIPTION OF PREMISES

A restaurant within the Ventura Harbor Village, in the City of San Buenaventura, County of Ventura, State of California, containing approximately 2,675 square feet of floor area, 1,681 square feet of patio space, and 90 square feet of storage and mechanical equipment space above the premises. The approximate location of the Premises is crosshatched on Exhibit "A". The approximate configuration and dimensions on the Premises are outlined on Exhibit "A-1."

NONEXCLUSIVE USE OF PREMISES

Use Clause:

Tenant shall use the Premises only for a full-service casual dining restaurant that serves breakfast, lunch, and dinner with the sale of alcoholic and non-alcoholic beverages. In addition to food and beverages, tenant shall use the premises for the retail sale of restaurant related items. Tenant shall use the Premises only for retail component with non-exclusive manufacture and sale of custom items such as: Boatyard Pub's branding items such as (t-shirts, hats, glassware, and mugs, etc.). Tenant will not sell the following items or provide the following services: (i) indecent, profane, illegal, or obscene merchandise; and (ii) merchandise that displays the phrase "Ventura Harbor Village".

The Landlord (through its General Manager) may grant its approval, in a writing obtained in advance by Tenant, for other uses incidental to the permitted use set forth above.

Landlord approved menu (see attached).

Hours of Operation

Tenant agrees to be open for business seven (7) days per week and minimum hours of operation shall be 11:00 a.m. to 6:00 p.m. daily, or as Landlord shall determine in the reasonable exercise of its discretion.

Tenant shall abide by seasonal and or holiday hours and special marketing and promotional hours as determined by Landlord.

Tenant Initial:

Control of Level of Noise: In its operation of business on the Premises Tenant shall not violate the acceptable level of noise as determined by Landlord in Landlord's sole and absolute discretion for the Complex. Tenant's violation of this covenant shall be deemed to be a material Default under the Lease and shall entitle the Landlord to all remedies provided in this Lease. If Tenant's business operations, entertainment activities, or other activities at the Premises require a special entertainment or any other permit from the City of San Buenaventura or other governmental agency having jurisdiction over the Premises, Tenant shall obtain and at all times comply with any and all such permit(s). Tenant shall provide a copy of such permit(s) to Landlord.

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "B" DESCRIPTION OF PREMISES

Equipment and Furniture: Tenant accepts any equipment and furniture within the Premises in its AS-IS, WHERE IS, WITH ALL FAULTS condition. Tenant shall be responsible, at Tenant's sole cost and expense, for the maintenance and repair of such equipment and furniture, including equipment exterior to the premises.

TRADE NAME OF TENANT

Tenant shall operate the Premises under the trade name of Boatyard Pub.

LANDLORD: Ventura Port District doing business as "Ventura Harbor Village"

By:

TENANT: The Boatyard, Inc. doing business as Boatyard Pub

By:

W. Shawn Hall, Chief Executive Officer

Date: _____

Brian D. Pendleton, General Manager

Date: 6-14-2023

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "B" DESCRIPTION OF PREMISES

EXHIBIT "C"

PROVISIONS RELATING TO CONSTRUCTION OF TENANT'S IMPROVEMENTS

DESCRIPTION OF LANDLORD'S WORK

The following is a description of the construction, and limitations of the same, which will be provided by Landlord. Where more than one type of materials or structures is indicated, the selection will be made by Landlord, in its sole discretion.

Landlord shall perform and pay for the improvement listed below:

• Replace concrete under both patios within 12 months of lease execution and prior to construction of front and rear patios by Tenant. Landlord shall install footings in the concrete for patio fence posts.

Landlord shall contribute toward the cost of the improvement listed below which will be performed by the Tenant:

- Up to \$40,000 (the "Patio Tenant Improvement Allowance") for construction of permanent patio components (such as glass, pilasters, and fencing, but excluding awning and heaters), to be completed within 12 months of lease execution.
- Up to \$25,000 (the "Doorways Tenant Improvement Allowance") (the Patio Tenant Improvement Allowance and the Doorways Tenant Improvement Allowance collectively, the "Tenant Improvement Allowance") for installation of bifold and main entry doorways for the restaurant within 12 months of lease execution.

In order to receive any of the Tenant Improvement Allowance, Tenant must submit a reimbursement request, no more than one (1) time per month, together with receipts and other documentation evidencing compliance with the plans and substantiating such amounts (together with all applicable lien releases) for Landlord's approval, such approval not to be unreasonably withheld. Landlord shall deliver the reimbursement amount within thirty (30) days of Landlord's receipt of requisite documentation. Tenant shall utilize the Tenant Improvement Allowance, if at all, on or before the twelve (12) month anniversary of the Date of the Lease ("Outside TI Completion Date"), such utilization to be evidenced by performance of the work and delivery of the documents required above prior to the Outside TI Completion Date. Tenant shall not be entitled to any credit, offset, or payment from Landlord for any portion of the Tenant Improvement Allowance for which Tenant has not properly submitted the requisite paperwork under the above.

Landlord is not required to provide any construction to the premises and Tenant accepts the Premises "AS IS", except as provided in the list above.

DESCRIPTION OF TENANT'S WORK

The work to be done by Landlord in satisfying its obligation to construct Tenant's Premises under the Lease shall be limited to that described in the foregoing paragraphs. All other items of work shall be provided by Tenant at Tenant's expense. This work by Tenant shall include, but not necessarily be limited to the purchase and/or installation and/or performance of the work listed below including all of the architectural and engineering fees for the preparation of the plans and specifications for such work, and any non-recurring tax that might be levied upon or measured by the amount of funds expended by Tenant on Leasehold improvements to Landlord's building. All work undertaken by Tenant shall be at Tenant's expense and shall not damage the Premises or any part thereof. Work undertaken by Tenant at Tenant's own expense during the general construction shall be awarded to Tenant's contractor unless Tenant and Landlord shall otherwise agree in writing. The design of and plans for all work and installations to be undertaken by Tenant shall be subject to the advance written approval of Landlord. The designs and plans may be modified and changed only with the written approval of Landlord obtained in advance.

Tenant Improvements

Tenant contribution is an estimated amount of \$400,000.00 funds necessary to cover the cost of constructing all improvements to the Premises, except as provided above.

• Submit plans of the patio to the City of Ventura within 30 days of lease execution. Plans shall include

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "C" PROVISIONS RELATING TO CONSTRUCTION OF TENANT'S IMPROVEMENTS

Landlord approved designs for both exterior patios and bifold doors.

- Install new signage in courtyard and in front of business (as per District design criteria specifications) within 12 months of lease execution.
- Install new patio fencing with up to 40" of cedar wood in the lower portion and up to 36" of glass panels above for front and rear patios within 12 months of lease execution.
- Installation of bifold doorway between restaurant and front patio within 12 months of lease execution.
- Install new patio cover over front patio within 12 months of lease execution.
- Modernization of kitchen within 5 years of lease execution.

DESCRIPTION OF TENANT'S WORK (TENANT'S USE OF ITS OWN CONTRACTOR)

- 1. Anything to the contrary notwithstanding in this Exhibit "C" and the Lease to which it is attached, Tenant shall utilize only duly licensed contractors for any of the work to be done by Tenant pursuant to this Exhibit "C". Said contractor shall obtain all permits required by the City of San Buenaventura and other governmental authorities having jurisdiction and shall provide copies thereof to Landlord. This shall include permits for any signage to be installed by Tenant. Landlord's approval of Tenant's work does not constitute a permit required by the City of San Buenaventura or other governmental agencies.
- 2. Prior to the start of Tenant's work, Tenant's contractor shall provide Landlord with a construction schedule in "bar graph" form indicating the completion dates of the phases of Tenant's construction work.
- 3. Landlord and Tenant shall cooperate in good faith to schedule, coordinate, and perform their respective construction activities in an orderly manner, and Tenant and its contractor shall comply with reasonable rules and regulations promulgated by Landlord for the construction of leasehold improvements.
- 4 Tenant's contractor shall perform said work in a manner and at times which do not impede or delay Landlord's contractor in the completion of the Premises and/or the commencement of the Minimum Monthly Rent, and any damages caused by Tenant's contractor to any work shall be at the sole cost and expense of Tenant.
- 5. Tenant shall cause the leasehold improvements to be constructed by well-trained, adequately supervised workers, in good and workmanlike manner free from design, material, and workmanship defects in accordance with the plan approved by Landlord and all applicable laws, ordinances, rules, and regulations.
- Tenant's contractor shall be responsible for the repair, replacement, or clean-up of any damage done by it to other contractor's work which specifically includes access ways to Tenant's space, which may be concurrently used by others.
- 7. Any rework of sub-base or compaction required shall be done by Tenant's contractor.
- 8. Tenant's contractor shall confine its storage of materials and its operations within Tenant's space and such other space as it may be assigned by Landlord. Should the contractor be assigned space outside of Tenant's space, it shall move to such other space as Landlord shall direct from time to time to avoid interference or delays with other work.
- 9. All trash and surplus construction materials shall be stored within Tenant's space and shall be promptly removed from the project site following completion or as Landlord may otherwise direct. All trash and construction debris shall be disposed of by Tenant's contractors in their own receptacles; and Landlord's dumpsters and other trash containers shall not be used by Tenant's contractor.
- 10. Tenant's contractor shall provide temporary utilities, portable toilet facilities, and portable drinking water, as required for its work within Tenant's space, and Tenant shall pay to Landlord the cost of any temporary utilities and facilities provided by Landlord at Tenant's contractor's request.
- 11. Tenant's contractor shall notify Landlord of any planned work to be done on weekends or other than normal job hours.
- 12. Tenant and Tenant's contractor are responsible for compliance with all applicable laws, ordinances, regulations, and rules of all duly constituted authorities having jurisdiction insofar as the performance of the work and

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "C" PROVISIONS RELATING TO CONSTRUCTION OF TENANT'S IMPROVEMENTS

completed improvements are concerned, including but not limited to Landlord, for all work performed by Tenant or Tenant's contractor and all applicable safety regulations established by Landlord. Tenant further agrees to save and hold Landlord harmless for said work as provided in Article 10 of this Lease.

- 13. Tenant or Tenant's contractor shall arrange for the installation of a closure to separate the Premises from the Complex prior to the opening of the Premises and during the construction of the improvements of the Premises.
- 14. Tenant's contractor shall carry liability and completed operations insurance in the form and amounts acceptable to Landlord.
- 15. Landlord shall have the right to inspect the improvements and approve the quality of the work of Tenant's contractor under the standards set in Paragraph 5 above prior to Tenant's submitting the work for final inspection by the governmental authorities having jurisdiction. If the work of Tenant's contractor fails to meet the standard set in Paragraph 5 above, then Tenant, at its sole cost, shall correct the work before obtaining the final inspection.
- 16. Tenant shall record a notice of completion in the Recorder's Office of the County of Ventura upon completion of its work.
- 17. Tenant shall provide, upon completion of its work, a complete set of "as built" drawings and specifications.
- 18. For all Tenant Improvements described above, Tenant shall provide a Faithful Performance Bond and a Payment Bond, in the forms as set forth in Exhibit "K," in an amount not less than One Hundred Twenty-Five Percent (125%) of the estimated cost of constructing said Tenant Improvements.

TIMELINE FOR COMPLETION OF TENANT'S WORK

To ensure the prompt and diligent completion of Tenant's work as provided herein, Landlord and Tenant agree:

- 1. Tenant shall complete preparation of the plans, specifications and all other architectural and engineering design work related to Tenant's work by September 1, 2023 for all word except for the modernization of the kitchen which should be completed by March 31, 2028;
- 2. Tenant shall obtain all necessary permits and approvals from any and all governmental agencies with authority or jurisdiction over Tenant's work prior to beginning construction of improvements requiring permits;
- 3. Tenant shall obtain and provide to Landlord a Performance and Payment Bond prior to beginning construction of the Tenant's Work that requires permits.
- 4. Tenant shall complete all work per the milestones identified above.

Tenant's failure to meet each of the foregoing timeline dates shall, unless otherwise agreed in writing by Landlord, give Landlord the right and option to terminate the Lease by giving Tenant written notice pursuant to Article 32 of this Lease.

LANDLORD: Ventura Port District doing business as "Ventura Harbor Village"

By:

TENANT: The Boatyard, Inc. doing business as Boatyard Pub

By:

W. Shawn Hall, Chief Executive Officer

Date: _____

Brian D. Pendleton, General Manager

Date: _____ 6-14-23

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "C" PROVISIONS RELATING TO CONSTRUCTION OF TENANT'S IMPROVEMENTS

EXHIBIT "D"

TENANT'S CERTIFICATE

The undersigned, as Tenant under that certain Lease ("Lease"), dated August 1, 2023, made with Ventura Port District, doing business as "Ventura Harbor Village," certifies as follows:

- (1) The undersigned has entered into occupancy of the Premises described in the Lease;
- (2) The undersigned is authorized and has the requisite power and authority to sign as, or on behalf of, Tenant;
- (3) The Lease represents the entire agreement between the parties as to the Premises;
- (4) The commencement date of rent under the lease is August 1, 2023;
- (5) The term of the Lease expires on July 31, 2028;
- (6) All conditions of the Lease to be performed by Landlord and necessary to the enforceability of the Lease have been satisfied;
- (7) There are no defaults by either Tenant or Landlord hereunder;
- (8) No rents have been prepaid, other than as provided in the Lease;
- (9) At the date hereof there are no existing defenses or offsets which the undersigned has against the enforcement of the Lease by Landlord; and
- (10) The overall square footage of the Premises is described in Exhibit "B".

Executed on this

TENANT: The Boatyard, Inc. doing business as Boatyard Pub

By W. Shawn Hall, Chief Executive Officer

6-14-23

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBIT "E"

GUARANTY OF LEASE

WHEREAS, a certain Lease dated August 1, 2023 has been, or will be, executed by and between VENTURA PORT DISTRICT doing business as "Ventura Harbor Village," herein referred to as "Landlord," and The Boatyard, Inc., herein referred to as "Tenant," covering the Premises known as 1583 Spinnaker Drive, #109, Ventura Harbor Village, Ventura, California 93001;

WHEREAS, W. Shawn Hall, herein referred to as "Guarantors" have a financial interest in Tenant;

WHEREAS, Landlord would not execute this Lease if Guarantors did not execute and deliver to Landlord this Guaranty.

NOW, THEREFORE, for and in consideration of the execution of said Lease by Landlord, and as a material inducement to Landlord to execute said Lease, Guarantors, jointly, severally, unconditionally, and irrevocably guarantee the prompt payment by Tenant of all rent and all other sums payable by Tenant under said Lease and the faithful and prompt performance by Tenant of each and every one of the terms, covenants, and conditions of said Lease to be kept and performed by Tenant. Guarantors further agree as follows:

1. The covenants and agreements on Guarantors' part contained in this Guaranty shall continue in favor of Landlord notwithstanding any extension, modification, or alteration of said Lease entered into by and between the parties thereto, or their successors or assigns, or notwithstanding any assignment of said Lease, with or without the consent of Landlord; and no extension, modification, alteration, or assignment of said Lease shall in a any manner release or discharge Guarantors and they hereby consent thereto.

2. This Guaranty will continue unchanged by any bankruptcy, reorganization, or insolvency of Tenant or any successor or assignee thereof or by any disaffirmance or abandonment by a trustee of Tenant.

3. Landlord may, without notice, assign this Guaranty in whole or in part and no assignment or transfer of said Lease shall operate to extinguish or diminish the liability of Guarantors hereunder.

4. The liability of Guarantors under this Guaranty shall be primary and, in case of any right of action which shall accrue to Landlord under said Lease, Landlord may, at its option, proceed against Guarantors without having commenced any action, or having obtained any judgment against Tenant.

5. This Guaranty shall not be released, modified, or affected by failure or delay on the part of Landlord to enforce any of the rights or remedies of Landlord under said Lease, whether pursuant to the terms thereof or at law or in equity.

6. No notice of default need be given to Guarantors, it being specifically agreed and understood that the guarantee of Guarantors is a continuing guarantee under which Landlord may proceed forthwith and immediately against Tenant or against Guarantors following any breach or default by Tenant or for the enforcement of any rights which Landlord may have as against Tenant pursuant to or under the terms of said Lease or at law or in equity.

7. Guarantors hereby waive (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation and protest, (c) all right to assert or plead any statute of limitations as to or relating to this Guaranty and said Lease, (d) any right to require the Landlord to proceed against Tenant or any other Guarantor or any other person or entity liable to Landlord, (e) any right to require Landlord to apply to any default any security deposit or other security it may hold under said Lease, (f) any right to require Landlord to proceed under any other remedy Landlord may have before proceeding against Guarantors, and (g) any right of subrogation.

8. Guarantors do hereby subordinate all existing or future indebtedness of Tenant to Guarantors to the obligations owed to Landlord under said Lease and this Guaranty.

9. Any married person who signs this Guaranty expressly agrees that recourse may be had against his or her separate property for all of his or her obligations hereunder.

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

10. The obligations of Tenant under said Lease to execute and deliver estoppel statements and financial statements, as therein provided, shall be deemed to also require Guarantors hereunder to do and provide the same relative to Guarantors.

11. Guarantors shall pay Landlord's reasonable attorneys' fees and all costs and other expenses incurred in any court action if the Landlord is the prevailing party, or attempted collection proceeding, or in any negotiations relative to the obligations hereby guaranteed or enforcing this Guaranty against Guarantors, individually and jointly.

12. Landlord may settle or compromise with Tenant and/or any other party or parties liable with respect to said Lease, all or any part of Tenant's liability or obligations thereunder, may exchange, release or surrender any security which it may hold, and may waive compliance with any of the terms or provisions contained in said Lease, all without in any way affecting Guarantors' obligation under this Guaranty.

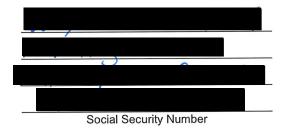
13. The use of the plural herein shall include the singular. The obligation of two or more parties shall be joint and several. The terms and provisions of this Guaranty shall be binding upon and inure to the benefit of the respective personal representatives, legatees, heirs, successors, and assigns of the parties herein named.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be executed as of the date set forth in said Lease.

GUARANTOR Signature(s)

Date: 6-14-2023

Printed Name(s) and Home Address(es):



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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "E" GUARANTY OF LEASE

EXHIBIT "F"

SIGN CRITERIA

All new Tenant signage must be in compliance with the then applicable Master Sign Program & Tenant Guidelines in effect throughout the Lease Term. These criteria have been established for the purpose of assuring an outstanding retail complex, and for the mutual benefit of all tenants. Conformance will be strictly enforced, and any installed non-conforming or unapproved signs must be removed or brought into conformance at the expense of Tenant. Landlord reserves the right to change, alter, or amend these criteria from time to time.

A. General Requirements

- 1. At least 30 days prior to fabrication, Tenant shall submit or cause to be submitted to Landlord for approval a drawing of its preliminary sign design, including colors and dimension, and after preliminary approval, detailed shop drawings indicating the location, size layout, design and color of the proposed signs, awnings and banners, including all lettering and graphics.
- 2. All City permits, if required, for signs and their installation shall be obtained by the Tenant or its representative, at Tenant's expense.
- 3. All signs shall be constructed and installed at Tenant's expense.
- 4. Tenant shall be responsible for the fulfillment of all requirements of these criteria.
- 5. Signs installed without prior approval in writing from the Landlord will be removed by the Landlord. All costs for removal, including but not limited to patch and repair of the building, will be at Tenant's expense.
- 6. Each restaurant tenant is required to have a minimum of two and a maximum of four signs per tenant.
- 7. Maintenance of signage, including cleaning, is the responsibility of the Tenant.
- B. General Specifications
 - 1. At the time of lease execution, the City of Ventura approved Ventura Port District Master Sign Program & Tenant Guidelines (REV Oct 6, 2020) (Program) are in effect.
 - 2. The program generally requires:
 - a. Primary signage: dimensional letters, externally illuminated with external features. Number of primary signs is based on business location:
 - i. Inline tenants: one primary sign
 - ii. Corner tenants: two primary signs
 - iii. Freestanding tenants: three primary signs
 - b. Secondary signage: blade sign (external illumination on case-by-case basis)
 - Optional signage (up to two) can include wall mounted plaques, applied window graphics, awning sign, corner treatments, and/or vertical marquee sign (applicable at specific locations only)
 - 3. In addition to the specifications in this Program, the following general specifications shall apply:
 - a. All electrically connected signs shall bear the UL label and all installations shall comply with all local building and electrical codes.
 - b. No exposed raceways, crossovers or conduits will be permitted.
 - c. All cabinets, conductors, transformers and other equipment shall be concealed. Visible fasteners will not be permitted.
 - d. Electrical service to all signs shall be on Tenant's meter.
 - e. Painted lettering will not be permitted.
 - 4. Prohibited sign types:
 - a. Illuminated sign boxes/can signs
 - b. Handwritten or handmade signage of any type
 - c. Oscillating, moving, or flashing LED or Neon type window signs
 - d. Product advertisements or banners

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "F" SIGN CRITERIA

- Signs with tag lines, slogans, service descriptions, or advertising of products e.
- Monument style signage f.
- Temporary signage with the exception of "Grand Opening" signs for the first 60 days after g. opening
- Illuminated canopies h.
- Rotating, flashing, or animated signs i.
- Pennant, banners, or flags identifying individual tenants j.
- A-frame sandwich boards with the exception of temporary special events or "Grand Opening" as k. approved by the Landlord
- Balloons and inflatable signs I.
- m. Signs made with acrylic, plastic, lexan translucent or opaque
- Back plates behind signage are only allowed when reasonable proportions are maintained n. subject to landlord discretion.
- C. **Construction Requirements**
 - 1. All exterior signs, bolts, fastenings and clips shall be of enameling iron with porcelain enamel finish, stainless steel, aluminum, brass or bronze. No black iron materials of any type shall be permitted.
 - 2. All exterior letters or signs exposed to the weather shall be mounted at least 3/4" from the building wall to permit proper dirt and water drainage.
 - 3. All metal letters shall be fabricated using full-welded construction.
 - Location of all openings for conduit and sleeves in sign panels of building walls shall be indicated by 4. the sign contractor on drawings submitted to Landlord's architect.
 - 5. All penetrations of the building structure required for sign installation shall be neatly watertight sealed.
 - 6. No labels will be permitted on the exposed surface of signs except those required by local ordinances which shall be applied in an inconspicuous location.
 - 7. Tenant's sign contractor shall repair any damage caused by Tenant's sign contractor. Tenant shall be fully responsible for the operations of Tenant's sign contractor.
 - 8. Threaded rods or anchor bolts shall be used to mount sign letters which are spaced out from the background panel. Angle clips attached to letter sides shall not be permitted.

LANDLORD: Ventura Port District doing business as "Ventura Harbor Village"

Date: ____

By: Brian D. Pendleton, General Manager TENANT: The Boatyard, Inc. doing business as **Boatyard Pub**

By:

W. Shawn Hall, Chief Executive Officer

Date: 6-14-23

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "F" SIGN CRITERIA

EXHIBIT "G"

PARKING RULES AND REGULATIONS

- 1. Tenant is subject to District approved parking rules in effect during the lease term.
- 2. Landlord reserves the right to change these Parking Rules and Regulations from time to time.
- 3. There is absolutely no long term parking in the Ventura Harbor Village parking lot.
- 4. Landlord may require that Tenant and its employees park outside of the Complex at other areas in Ventura Harbor that are furnished and/or designated for employee parking by Landlord.
- 5. Tenant and its employees may only park their vehicles in those areas of the Complex parking area or other areas in Ventura Harbor that Landlord has designated for employee parking. The location of these "designated areas" may be changed from time to time by Landlord by written notice.
- 6. Business owners, managers and employees may temporarily park in other Complex parking areas that are not designated for employee parking in the event that loading and unloading is necessary. Twenty (20) minute time periods are considered the maximum period for such temporary loading and unloading parking.
- 7. The "designated area" is not a reserved parking area or exclusive for any assigned vehicle. All vehicles shall be parked in an orderly manner within the painted lines defining the individual parking spaces.
- 8. Vehicles parked in the Complex parking area longer than seventy-two (72) hours may be cited and towed away at owner's expense unless management has been properly notified and has agreed, in writing.
- 9. All vehicles shall have current registration and license plates.
- 10. No trailer, net or container storage is allowed within the Complex parking area. This area is specifically designated for short-term parking.
- 11. No mechanical work may be done in the parking lots.
- 12. Vehicles parked in the Complex parking area may not be used as storage containers.

By signing below, Tenant acknowledges that it has read these Parking Rules and Regulations and understands its obligation to comply with such.

LANDLORD: Ventura Port District doing business as "Ventura Harbor Village" TENANT: The Boatyard, Inc. doing business as Boatyard Pub

W. Shawn Hall, Chief Executive Officer

Date: 6-14-23

By:

Date:

{107700-01/000/00757924-2 }

TENANT: THE BOATYARD, INC. dba BOATYARD PUB

Brian D. Pendleton, General Manager

EXHIBT "G" PARKING RULES & REGULATIONS

EXHIBIT "H"

OPTIONS TO EXTEND

Landlord hereby grants to Tenant the following successive options to extend the term of this Lease ("Options") for the periods and at the rents indicated;

Extension Option(s): One (1) five-year extension

Such extensions of the Lease shall be subject to each and all of the following terms and conditions:

To exercise the option, Tenant shall have generated Adjusted Gross Sales in excess of \$2,750,000 in the last full calendar year prior to the delivery of the notice of exercise of the Option.

The Minimum Monthly Base Rent shall adjust at the beginning of the Option period and annually thereafter per Section 5.12 of the Lease.

A. <u>Options Personal to Original Tenant</u>. Each Option granted to Tenant in this Lease is personal to the original Tenant named in Article 1 and cannot be voluntarily or involuntarily assigned or exercised by any person or entity other than the original Tenant. The Options are not assignable, either as a part of an assignment of this Lease or separately or apart therefrom, and no Option may be separated from this Lease in any manner, by reservation or otherwise.

B. <u>Multiple Options</u>. In the event that Tenant has any multiple Options to extend this Lease, a latter option cannot be exercised unless the prior Options to extend this Lease have been validly exercised.

C. Effect of Default on Options.

(a) Tenant shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default under Article 22 of the Lease and continuing until the noticed Default is cured, or (ii) during the period of time any monetary obligation due Landlord from Tenant is unpaid (without regard to whether notice thereof is given to Tenant), or (iii) during the time Tenant is in Breach of this Lease, or (iv) in the event that Landlord has given to Tenant three (3) or more notices of separate Defaults under Article 22 during the twelve (12) month period immediately preceding the exercise of the Option, whether or not the Defaults are cured.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise an Option because of the provisions of Subparagraph (a) above.

(c) All rights of Tenant under the provision of an Option shall terminate and be of no further force or effect, notwithstanding Tenant's due and timely exercise of the Option, if, after such exercise and during the term of this Lease, (i) Tenant fails to pay to Landlord a monetary obligation of Tenant for a period of thirty (30) days after such obligation becomes due (without any necessity of Landlord to give notice thereof to Tenant), or (ii) Landlord gives to Tenant three (3) or more notices of separate Defaults under Article 22 during any twelve (12) month period, whether or not the Defaults are cured, or (iii) if Tenant commits a Breach of the Lease.

D. <u>Exercise of Options</u>. Tenant shall give to Landlord and Landlord must receive written notice of the exercise of the Option to extend this Lease for an additional term no earlier than one hundred twenty (120) days prior to the time when the particular period of this Option would commence and no later than sixty (60) days prior to the time when such period would commence if the Option were exercised, time being of the essence. If said notification of the exercise of an Option is not so given and received, the Option shall automatically expire.

E. <u>Governing Laws</u>. All of the terms and conditions of the Lease, except where specifically modified by these Options, shall remain in full force and effect in the successive Option periods when the Options have been properly exercised.

F. <u>Impossibility of Performance</u>. Any prevention, delay, or stoppage due acts of God, governmental restrictions, governmental regulations, governmental controls, enemy or hostile government action, health pandemic, civil commotion, fire, or other casualty, and other causes (The Event) that take place during the calendar year in which gross sales are used to determine eligibility for the option are beyond the reasonable control of the party obligated to

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "H" OPTIONS TO EXTEND

perform, which renders achieving performance impossible by that party, shall excuse the performance by such party for achieving the minimum required sales in order to exercise the option. In such case, the gross sales from the most recent full calendar year preceding The Event shall be used. No other requirements to exercise an Option hereunder are affected by this provision.

LANDLORD: Ventura Port District doing business as "Ventura Harbor Village" TENANT: The Boatyard, Inc. doing business as Boatyard Pub

By: ______Brian D. Pendleton, General Manager

Date: _____

ву: ______

W. Shawn Hall, Chief Executive Officer

Date: 6-14-23

{107700-01/000/00757924-2 }

TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "H" OPTIONS TO EXTEND

EXHIBIT "I"

RELOCATION OF PREMISES

<u>Right to Relocate Premises</u>. Landlord shall have the right to relocate the Premises to another part of the Complex in which the Premises are located in accordance with the following:

- (a) The new Premises shall be substantially the same in size, dimensions, configuration, and nature as the Premises described in this Lease, and shall be placed in that condition by Landlord at its cost.
- (b) The physical relocation of the Premises shall be accomplished by Landlord at its cost.
- (c) Landlord shall give Tenant at least one hundred and twenty (120) days' notice of Landlord's intention to relocate the Premises.
- (d) All costs reasonably incurred by Tenant as a result of the relocation, including, without limitation, costs incurred in changing addresses on stationery, business cards, directories, advertising, and other such items, shall be paid by Landlord, in a sum not to exceed Twenty-Thousand Dollars (\$20,000).
- (e) Landlord shall not have the right to relocate the Premises more than two (2) times during the Lease Term.
- (f) If the relocated Premises are smaller than the Premises as they existed before the relocation, rent shall be reduced to a sum computed by multiplying the Minimum Monthly Rent specified in Section 1.7 of Article 1 by a fraction, the numerator of which shall be the total number of square feet in the relocated Premises, and the denominator of which shall be the total number of square feet In the Premises before relocation.
- (g) The Parties shall immediately execute an amendment to this Lease stating the relocation of the Premises and the reduction of rent, if any.

LANDLORD: Ventura Port District doing business as "Ventura Harbor Village"

By:

TENANT: The Boatyard, Inc. doing business as Boatyard Pub

By:

W. Shawn Hall, Chief Executive Officer

Date: _____

Brian D. Pendleton, General Manager

Date: 6-14-23

{107700-01/000/00757924-2 }

TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "I" RELOCATION OF PREMISES

EXHIBIT "J"

GREASE TRAP

Tenant shall be responsible for the installation, servicing, maintenance, and replacement (when necessary) of a grease trap system of sufficient size and design for Tenant's needs and as may be necessary to comply with any applicable laws or regulations. All grease trap systems shall be constructed, installed, replaced, or altered in accordance with the terms of the Lease, including those in Article 12 and Exhibit "C".

If there is an existing grease trap system serving the Premises, Landlord makes no representation or warranty (and hereby disclaims any such representations or warranties, express or implied) with respect to such existing grease trap system, or that the existing grease trap system is adequate for Tenant's use, or that the existing grease trap system is in compliance with all applicable laws and regulations.

A. Maintenance and Service

- 1. Tenant shall inspect the grease trap system serving the Premises as needed, but in no event less than quarterly, to determine that all operational parts inside the system are in good operating condition.
- 2. To ensure the grease trap system serving the Premises remains clean and operational at all times, Tenant shall regularly service the system by hydro-jetting the sewer lines from inside the Premises to not less than ten (10) feet beyond the exterior wall of the building in which the Premises are located. Servicing shall be performed at least two (2) times during each calendar year, or more frequently if required, in Landlord's reasonable discretion.
- 3. Tenant shall keep records of all maintenance and service performed on the grease trap system serving the Premises and shall make such records available for inspection by Landlord upon Landlord's request.
- 4. Should a sewer line blockage occur because of the discharge of fats, oils, grease, or other foods or liquids ("FOG") from the Premises, Tenant shall be responsible for all costs to clean and clear the sewer line and for all costs of repair, restoration or replacement of property damaged by such blockage.
- B. FOG Expense Charge
 - Landlord, at least yearly, removes, or causes to be removed, any FOG in the sewer lines of the Complex by hydro-jetting the sewer lines from ten (10) feet beyond the exterior wall of the building in which the Premises are located to the City of San Buenaventura's main sewer line. All expenses in connection with this FOG removal service and maintenance ("FOG Expenses") shall be paid by those tenants generating FOG.
 - 2. Each year, on the first day of August, Tenant shall pay to Landlord, as additional rent, Tenant's share of FOG Expenses, which shall be proportional and based on the actual cost incurred. Tenant's share of FOG Expenses shall be prorated for any partial calendar year Tenant leases the Premises.
 - 3. Landlord shall notify Tenant in writing of Tenant's share of FOG Expenses, and/or any change to Tenant's share of FOG Expenses no later than thirty (30) days before such payment is due.

LANDLORD: Ventura Port District doing business as "Ventura Harbor Village"

By:

TENANT: The Boatyard, Inc. doing business as Boatyard Pub

By:

W. Shawn Hall, Chief Executive Officer

Brian D. Pendleton, General Manager

Date:

Date: 6-14-23

{107700-01/000/00757924-2 }

TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "J" GREASE TRAP

EXHIBIT "K"

FORM OF FAITHFUL PERFORMANCE BOND

Bond No.

KNOW ALL PERSONS BY THESE PRESENTS:

That we, ______, hereinafter referred to as "Tenant," as principal, and ______, as surety, are held and firmly bound unto Ventura Port District, hereinafter referred to as "Owner," in the sum of _______, as surety, are held and firmly bound unto Ventura Port District, hereinafter money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and/or assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, said Tenant has entered into a lease with Owner dated ______, for the improvement, upgrading and operation of a restaurant and/or bar located at _____ Spinnaker Drive, #____, Ventura California 93001, in Ventura Harbor Village ("Lease"). Under the Lease, Tenant is to design and build certain improvements to the leased premises as described and set forth in Exhibit C of the Lease ("Work"), and is required under the terms of the Lease to give this bond in connection with the execution of said Lease:

NOW THEREFORE, if said Tenant shall well and truly do and perform all of the covenants and obligations of said Lease on its part to be done and performed at the times and in the manner specified herein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect;

PROVIDED, that any alterations in the work to be done, or the material to be furnished, which may be made pursuant to the terms of said Lease, shall not in any way release either the Tenant or the surety thereunder, nor shall any extensions of time granted under the provisions of said Lease release either the Tenant or the surety, and notice of such alterations or extensions of the contract is hereby waived by the surety.

FURTHER PROVIDED, that, should Tenant fail to complete the Work as required by the Lease and Owner exercises rights to step in and complete the Work, the Surety shall pay on demand by Owner any and all direct and indirect costs of completing the Work incurred by Owner, including but not limited to, all costs incurred by Owner arising from professional services and attorneys' fees and all cost generated to insure on bond all the work of substituted contractors or subcontractors utilized to complete the Work. Any portion of such difference not paid by Surety within thirty (30) days following the mailing of a demand for such costs by Owner shall earn interest at the rate of ten percent (10%) per annum or the maximum rate authorized by California law, whichever is lower.

If any action is brought upon this bond by said Owner and judgment is recovered (or settlement is made which is favorable to Owner), then said surety shall pay all costs incurred by said Owner in such action, including a reasonable attorney's fee.

WITNESS our hands this _ day of _____, 20____.

Tenant: _____

By: _____

Title: _____

Surety:_____

Ву:_____

Title:____

Home Office Address:

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "K" FORMS OF FAITHFUL PERFORMANCE & PAYMENT BONDS

Attorney-in-Fact

Address:_____

Phone:_____

NOTE: This bond must be acknowledged before a notary public, and a legally sufficient power of attorney must be attached to the bond to verify the authority of any party signing on behalf of a surety.

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "K" FORMS OF FAITHFUL PERFORMANCE & PAYMENT BONDS

FORM OF PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That we, ______, hereinafter referred to as "Tenant," as principal, and ______, as surety, are held and firmly bound unto Ventura Port District, hereinafter referred to as "Owner," in the sum of \$______, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and/or assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, said Tenant has entered into a lease with Owner dated ______, for the improvement, upgrading and operation of a restaurant and/or bar located at ______Spinnaker Drive, #_____, Ventura California 93001, in Ventura Harbor Village ("Lease"). Under the Lease, Tenant is to design and build certain improvements to the leased premises as described and set forth in Exhibit C of the Lease ("Work"), and is required under the terms of the Lease to give this bond in connection with the execution of said Lease:

NOW, THEREFORE, if Tenant or any of its subcontractors, fails to pay for any materials, equipment, or other supplies, or for rental of same used in connection with the performance of the Work contracted to be done or for work or labor thereon of any kind, or fails to pay any of the persons named in Section 9100 of the California Civil Code or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant or for any amounts required to be deducted, withheld and paid to the Employment Development Department from the wages of employees of the Tenant and its contractors or subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor and all other applicable laws of the state of California and rules and regulations of its agencies, then said Surety will pay for the same in an amount not exceeding the sum specified above. This bond shall inure to the benefit of any persons named in Civil Code Section 9100, so as to give a right of action to them or their assigns in any suit brought upon this bond. This bond shall be subject to and include all of the provisions of Title III of Part 6 of Division 4 of the Civil Code of the State of California relating to Payment Bond for Public Works.

PROVIDED, that any alterations in the work to be done, or the material to be furnished, which may be made pursuant to the terms of said Lease, shall not in any way release either the Tenant or the surety thereunder, nor shall any extensions of time granted under the provisions of said Lease release either the Tenant or the surety, and notice of such alteration or extensions of the contract is hereby waived by the surety.

WITNESS our hands this _ day of , 20	
Tenant:	Surety:
Ву:	Ву:
Title:	Title:
	Home Office Address:
	Phone:
{107700-01/000/00757924-2 }	
TENANT: THE BOATYARD, INC. dba BOATYARD PUB	EXHIBT "K" FORMS OF FAITHFUL PERFORMANCE PAYMENT BONDS

&

Attorney-in-Fact

Address:_____

Phone:_____

NOTE: This bond must be acknowledged before a notary public, and a legally sufficient power of attorney must be attached to the bond to verify the authority of any party signing on behalf of a surety

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TENANT: THE BOATYARD, INC. dba BOATYARD PUB

EXHIBT "K" FORMS OF FAITHFUL PERFORMANCE & PAYMENT BONDS



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

STANDARD AGENDA ITEM 3 ADOPTION OF RESOLUTION NO. 3479 APPROVING THE FY2023-2024 HARBOR PATROL DEPARTMENTAL BUDGET

VENTURA PORT DISTRICT BOARD COMMUNICATION

STANDARD AGENDA ITEM 3

Meeting Date: June 21, 2023

To:	Board of Port Commissioners
From:	Brian D. Pendleton, General Manager
	Todd Mitchell, Sr. Business Operations Manager
	Gloria Adkins, Accounting Manager
Subject:	Adoption of Resolution No. 3479 Approving the FY2023-2024 Harbor Patrol
	Departmental Budget

RECOMMENDATION:

That the Board of Port Commissioners adopt Resolution No. 3479 approving the FY2023-2024 Harbor Patrol Departmental Budget.

SUMMARY:

The District completed its annual budget study session and preliminary budget as of June 7, 2023. Staff is bringing forward the Harbor Patrol departmental budget for consideration by the Board of Commissioners with no material changes.

GUIDING PRINCIPLES

- 1) Maintain a safe, navigable, and resilient harbor.
- 2) Advance the harbor's vibrant, working waterfront in support of commercial and recreational fishing and boating.
- 3) Build respectful, productive relationships with employees, tenants, residents, visitors, stakeholders, public officials, and elected representatives while promoting diversity, equity, and inclusion.
- 4) Provide exceptional public service and organizational transparency.

FIVE-YEAR OBJECTIVES

- E) Encourage public and civic engagement; maintain high levels of organizational transparency; and promote Harbor-wide diversity, equity and inclusion through District policies, procedures and programs.
- F) Support current and future commercial fishing and sustainable aquaculture industries. Maintain and improve working waterfront facilities and infrastructure.
- M) Collaborate with Master Tenants and National Park Service to plan, improve, and develop the Harbor in a financially and environmentally sustainable way.
- V) Maintain and improve Harbor Village facilities, infrastructure, and amenities.

BACKGROUND:

The current budget process began at the conclusion of the midyear budget. At the direction of the General Manager, the management team began evaluating expenses which were presented in detail as part of the Preliminary Budget approved by the Board at the June 7, 2023 Board meeting.

The Harbormaster has worked with the General Manger and administrative staff to outline and finalize a proposed Harbor Patrol final budget for consideration by the Board.

If adopted, the Harbor Patrol budget will become part of the FY23-24 Final Budget to be subsequently considered by the Board.

REVENUE

Harbor Patrol in and of itself does not specifically generate revenue although it plays a role in managing the public launch ramp which generates fees. The Board has historically directed

Staff to utilize Property Tax & Assessments Revenue towards Harbor Patrol expenses. In addition, some grant funds are directed to Harbor Patrol, such as capital projects, vehicles, and equipment. Staff anticipates pursuing grant funding for Harbor Patrol related expenses in the coming fiscal year, however as those funds are not yet secured, they are not reflected in the budget. The Harbor Patrol manages the public launch ramp and parking lot, which is projected to generate \$67,000 in Operating Revenue.

EXPENSES

As discussed, Harbor Patrol expenses and salaries are not in the Operating Expense portion of the budget but are captured in Non-Operating and Other Expenditures. The proposed final departmental budget proposes a 3.2% increase in Personnel Expenses over the FY22-23 Midyear Budget. This figure reflects increases related to on-going expenses, proposed staffing changes, cost of living adjustments, labor agreements, employee compensation and benefits, and pension costs.

Note that some capital improvement projects related to Harbor Patrol infrastructure form part of the 5-Year Capital Improvement and ADA Improvement Budget. Capital Improvements do not form part of the departmental budget.

Staffing Considerations

As part of the FY23-24 budget process, the General Manager conferred with the Harbormaster regarding the potential for new promotional opportunities in the department. As a result, the General Manager is recommending increasing the number of Senior Harbor Patrol Officer positions from 1 FTE to 2 FTE's and reducing the number of Harbor Patrol Officer I/II positions by the same. This will result in no new FTE's but will create a promotional opportunity within the unit which is important for increasing the supervisory capacity of the department and further planning for staff succession.

FISCAL IMPACT:

Staff is projecting Property Taxes and Assessments Revenue to be \$1,627,000 for FY23-24. Total Harbor Patrol departmental expenses (including personnel) are budgeted at \$2,078,600 for FY23-24. The difference of \$451,600 is funded with Operating Revenues which includes launch ramp revenues of \$67,000.

ATTACHMENTS:

Attachment 1 – Annual Budget FY2023-2024 Attachment 2 – Resolution No. 3479

ATTACHMENT 1

Ventura Port District Harbor Patrol Annual Budget Fiscal Year 2023-2024

Harbor Patrol Department Expenses funded from Property Taxes and Assessments collected by the County of Ventura

Effective 7/1/2023	Actual 2021-22	Budget 2021-22	Budget <u>2022-23</u>	Adjustments	Mid-year Budget <u>2022-23</u>	Final Budget <u>2023-24 Comments</u>	
Property Taxes and Assessments % increase / decrease over previous year	1,548,615 5%	1,510,000 2%	1,580,000 5%	-	1,580,000 5%	1,627,000 3% Final FY23-24 over Mid-year FY22-2	23
Harbor Patrol Personnel Expenses Total Wages	912,005	924,000	1,055,000	25,000	1,080,000	1,119,000	
Payroll Taxes & Unemployment	14,447	16,000	18,600	-	18,600	19,500	
Workers Comp Insurance	58,000	58,000	70,000	-	70,000	58,000	
Medical & Life Insurance	57,020	76,000	76,000	-	76,000	74,000	
Optional Benefit Plans	72,240	79,000	87,000	-	87,000	94,000	
Retirement Contributions	182,864	199,000	219,000	-	219,000	235,000	
Total Harbor Patrol Personnel Expenses	1,296,576	1,352,000	1,525,600	25,000	1,550,600	1,599,500	
% increase / decrease over previous year	7%	9%	13%		15%	3% Final FY23-24 over Mid-year FY22-2	!3
Harbor Patrol Other Expenses Uniforms Oil & Fuel Expense Telephone/WiFi Communications Operating Supplies & Expense Harbor Maintenance Boat Maintenance Auto Equip & Maint. Conferences & Training Vessel Salvage Expense	17,879 25,315 - 19,362 2,761 96,092 6,970 16,523 25,503	14,400 31,500 - 24,000 4,000 120,000 5,000 21,000 80,000	18,400 36,500 9,600 30,000 4,000 100,000 10,000 30,000 80,000		18,400 36,500 9,600 30,000 4,000 100,000 10,000 30,000 80,000	16,000 36,500 9,600 30,000 10,000 100,000 10,000 30,000 80,000	
Summer Lifeguard Services	106,500	142,000	137,000	-	137,000	144,000	
Professional Services	2,435	16,000	20,000	-	20,000	13,000	
Total Harbor Patrol Other Expenses	319,340	457,900	475,500	-	475,500	479,100	
% increase / decrease over previous year	27%	66%	4%		4%	1% Final FY23-24 over Mid-year FY22-2	!3
Total Harbor Patrol Expenses % increase / decrease over previous year	1,615,916 11%	1,809,900 19%	2,001,100 11%	25,000	2,026,100 12%	2,078,600 3% Final FY23-24 over Mid-year FY22-2	23
Expenditures remaining after Property Tax Revenues were applied are funded from Operating Revenues	(67,301)	(299,900)	(421,100)	(25,000)	(446,100)	(451,600)	

ATTACHMENT 2



RESOLUTION NO. 3479

RESOLUTION OF THE BOARD OF PORT COMMISSIONERS OF THE VENTURA PORT DISTRICT ADOPTING THE 2023-2024 FISCAL YEAR HARBOR PATROL DEPARTMENTAL BUDGET AND SALARY SCHEDULE FOR NON-RESPRESENTED EMPLOYEES

WHEREAS, it is necessary and appropriate for the Board of Port Commissioners (the "Board) of the Ventura Port District to adopt a Budget for Fiscal Year 2023-2024.

WHEREAS, a Preliminary Budget was presented to, reviewed and adopted by Resolution No. 3477 by the Board on June 7, 2023.

WHEREAS, the Board has determined that the appropriations specified in the Harbor Patrol Departmental Budget for the Harbor Patrol expenses are necessary for public safety service, maintenance of Harbor Patrol assets, and the efficient operation of the Ventura Port District.

WHEREAS, on June 1, 2022, the Board passed, approved, and adopted at a regular meeting of the Board, Resolution No. 3451 approving the SEIU-Local 721 Memorandum of Understanding (MOU) representing full-time and part-time Harbor Patrol Officers which defines a salary increase of 3.5% effective the first pay period following January 1, 2024, which are considered as part of the Departmental Budget.

WHEREAS, in 2017 the District created unrepresented part-time positions called Marine Safety Officers within the Harbor Patrol Department that do not fall under a Memorandum of Understanding.

WHEREAS, on June 29, 2022, the Board passed, approved, and adopted at a regular meeting of the Board, Resolution No. 3456, wherein the Board established a salary schedule for non-represented employees for Fiscal Year 2022-2023.

WHEREAS, on February 1, 2023, the Board rescinded Resolution No. 3456 and adopted Resolution No. 3467, wherein the Board approved administrative updates including clarification of Fitness/Wellness Cost Reimbursement Benefit language that was added to the Ventura Port District Human Resources Manual.

WHEREAS, the Board has determined that it is in the best interest of the District to amend the salary schedule as shown in the table below.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Port Commissioners of the Ventura Port District that the Salary Schedule set forth below shall become effective for the first full pay period in the new fiscal year, which is July 12, 2023:

Full-time Employees	Monthly Range	
Harbormaster	\$6,630 - \$10,148	
Senior Harbor Patrol Officer	\$5,765 - \$8,909	
Part-time & Temporary Employees	Hourly Range	
Marine Safety Officer	\$19.49 - \$26.52	

BE IT FURTHER RESOLVED that merit increases shall be subject to the policy established in the Human Resources Manual.

BE IT FURTHER RESOLVED that the District shall contribute a maximum of \$725.00 per month toward the employee's cost of health and dental insurance. The District's Optional Benefit Plan shall continue to be \$475.00 per month. Those employees who choose not to participate in the District's health and dental insurance plans will receive \$216.00 per month as additional salary.

BE IT FURTHER RESOLVED that on July 1, 2018, the District implemented an employee vision plan. The District shall contribute the monthly premiums for said vision plan for the employees and their dependents, as appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the Ventura Port District that the Fiscal Year 2023-2024 Harbor Patrol Department Final Budget and unrepresented salary schedule is hereby approved.

PASSED, APPROVED AND ADOPTED by the Board of Port Commissioners this 21st day of June 2023, by the following vote:

AYES: NOES: ABSENT: ABSTAINED:

Jackie Gardina, Vice-Chair

ATTEST:

Anthony Rainey, Secretary



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

STANDARD AGENDA ITEM 4 ADOPTION OF RESOLUTION NO. 3480 AND NO. 3481 APPROVING THE FY2023-2024 FINAL BUDGET, FIVE-YEAR CAPITAL IMPROVEMENT PLAN AND SALARY SCHEDULE FOR NON-REPRESENTED EMPLOYEES

VENTURA PORT DISTRICT BOARD COMMUNICATION

STANDARD AGENDA ITEM 4

Meeting Date: June 21, 2023

To:	Board of Port Commissioners
From:	Brian D. Pendleton, General Manager
	Todd Mitchell, Sr. Business Operations Manager
	Gloria Adkins, Accounting Manager
Subject:	Adoption of Resolution No. 3480 and No. 3481 Approving the FY2023-2024 Final
	Budget, Five-Year Capital Improvement Plan and Salary Schedule for Non-
	Represented Employees

RECOMMENDATION:

That the Board of Port Commissioners adopt:

- a) Resolution No. 3480 approving the FY2023-2024 Ventura Port District Annual Budget and Five-Year Capital Improvement Plan (CIP).
- b) Resolution No. 3481 approving the FY2023-2024 Salary Schedule for Non-Represented Employees of the District.

SUMMARY:

During the past three budget cycles, the District implemented the study session as a new step in the budget adoption process. This provides the opportunity for Board and stakeholder engagement in the discussion of funding priorities as the budget is being developed. The study session this year, held on May 17, 2023, benefited from consideration of the District's Guiding Principles and 5-year Objectives adopted by the Board.

The final budget presented here reflects some change from the preliminary budget approved by Resolution No. 3477 on June 7, 2023. Staff reviewed Commissioner's comments from both the budget workshop on May 17, 2023 and the presentation of the preliminary budget on June 7, 2023 and determined that a few changes were necessary including those resulting from recent bids for two service contracts and one construction project, all of which will come before the Board at this meeting.

GUIDING PRINCIPLES

- 1) Maintain a safe, navigable, and resilient harbor.
- 2) Advance the harbor's vibrant, working waterfront in support of commercial and recreational fishing and boating.
- 3) Grow financial sustainability through a reliable, recurring revenue stream supplemented with grants and public-private partnership investment while maintaining responsible budgeting practices.
- 4) Establish and implement harbor-wide environmental sustainability policies and practices through collaboration with our business partners.
- 5) Build respectful, productive relationships with employees, tenants, residents, visitors, stakeholders, public officials, and elected representatives while promoting diversity, equity, and inclusion.
- 6) Provide exceptional public service and organizational transparency.
- 7) Provide high-quality Harbor and coastal visitor-serving amenities, services, facilities and infrastructure.
- 8) Support the Channel Islands National Park in its efforts to provide a first-class visitor center, educational resources, and ferry boat services to the islands.

FIVE-YEAR OBJECTIVES

- D) Ensure dredging occurs annually at the federal Harbor entrance and as needed in the inner Harbor.
- E) Encourage public and civic engagement; maintain high levels of organizational transparency; and promote Harbor-wide diversity, equity and inclusion through District policies, procedures and programs.
- F) Support current and future commercial fishing and sustainable aquaculture industries. Maintain and improve working waterfront facilities and infrastructure.
- M) Collaborate with Master Tenants and National Park Service to plan, improve, and develop the Harbor in a financially and environmentally sustainable way.
- N) Maintain and grow Channel Islands National Park Service (NPS) presence and customer visitation to the Harbor.
- P) Implement parking management, traffic circulation, and multi-modal transportation strategies.
- R) Seek opportunities to grow revenues and secure grants; continue to improve the quality, efficiency, and transparency of financial reporting, monitoring, and property management.
- V) Maintain and improve Harbor Village facilities, infrastructure, and amenities.

BACKGROUND:

The current budget process began at the conclusion of the midyear budget. At the direction of the General Manager, the management team began evaluating expenses which were presented in detail as part of the Preliminary Budget approved by the Board at the June 7, 2023 board meeting.

FORECASTING THE FY23-24 FINANCIAL POSITION

Operating Revenues:

The management team discussed revenue projections with master tenants and performed forecasting for Village, Village Marina, charters, dry storage, and commercial fishing revenues.

Staff is not recommending any changes to revenue from the preliminary revenue forecast reflecting a 5.7% increase in operating revenues to \$11,167,000 as compared to the current year's budget (see Chart 1).

Fiscal Year	Revenue	% +/-
FY18-19	\$8,969,830	5%
FY19-20*	\$8,413,254	<6%>
FY20-21**	\$9,491,185	13%
FY21-22***	\$10,394,853	10%
FY22-23****	\$10,568,500	2%
FY23-24****	\$11,167,000	5.7%

Chart 1 – Operating Revenues (Budgeted vs Forecasted)

* FY19-20 actual revenues were down 6% due to the beginning effects of COVID, a reduction in investment interest earnings and the partial closure of Village Marina slips during the dock renovation.

** FY20-21 actual revenues were up 13% as tenants were beginning to recover from the effects of COVID and the receipt of a onetime lease assignment fee.

*** FY21-22 actual revenues were up 10% as tenants continued to recover as well as Portside occupancy increased significantly

- **** FY22-23 represents the current year mid-year budget.
- ***** FY22-23 final budget forecast.

The District anticipates receiving compensation from the VenturaWaterPure project as part of the consideration for the temporary and permanent easements being requested by the City. However, since the offers, agreements, valuation(s) are incomplete, the potential revenue is not reflected in this final budget.

Operating Expenses:

Final cost forecasting reflects a 6.5% increase in total operating expenses at \$7,598,200 for FY23-24 (see Chart 2). These increases in overall operating expenses are due to inflationary pressures for on-going expenses, increased Village marketing events, proposed staffing changes, cost of living adjustments, labor agreements, employee compensation and benefits, and pension costs. Department managers are being prudent in projecting budgetary needs. In response to the Budget Study Session, the Maintenance Department has separated out a budgetary item for contingencies. These include such things as weather damage, vandalism, infrastructure failures, and other unplanned expenses.

Fiscal Year	Expenses	% +/-
FY18-19	\$6,212,481	7%
FY19-20	\$6,306,806	2%
FY20-21	\$6,276,863	<0.5%>
FY21-22*	\$5,738,258	<9%>
FY22-23**	\$7,133,050	24%
FY23-24***	\$7,598,200	6.5%

Chart 2 – Operating Expenses (Budgeted vs Forecasted)

* FY21-22 reflects significant reduction in legal and professional services

- ** FY22-23 represents the current year mid-year budget.
- *** FY23-24 final budget forecast.

Staffing Considerations

The General manager and the management team have evaluated the staffing needs for each department. Currently, there is a 0.5 Full-Time Equivalent (FTE) vacancy in the Marketing Department. Based on the collective feedback to expand events and activities at Harbor Village, the General Manager is recommending that the Board make this vacancy a full-time position (1 FTE). This should also increase the appeal of the position and thereby positively contribute to the recruitment process.

The General Manager is also recommending increasing the number of Senior Harbor Patrol Officer positions from 1 FTE to 2 FTE's and reducing the number of Harbor Patrol Officer I/II positions by the same. This will result in no new FTE's but will create a promotional opportunity within the unit which is important for increasing the supervisory capacity of the department and further planning for staff succession. (Note that Harbor Patrol Salaries are not in the Operating Expense portion of the budget but are captured in Non-Operating and Other Expenditures).

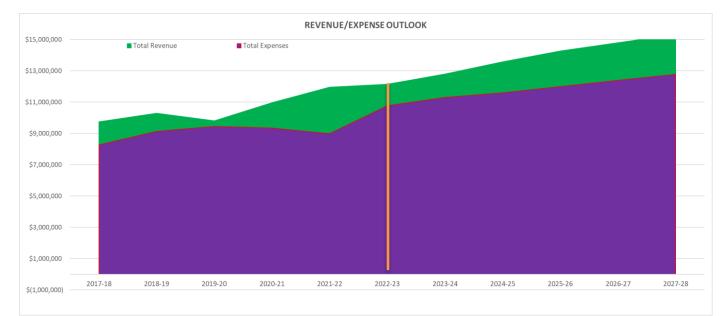
The final forecasted salary and benefits amount (\$5,064,800) which reflects a 4.0% increase over the previous year's Mid-year Budget. The salary and benefits amount includes:

- 1. MOU labor contracts for the Harbor Patrol and Courtesy Dockmasters
- 2. Wage increases for all eligible full and part-time employees

- 3. Increasing Workers Compensation premiums
- 4. Increasing costs of CalPERS pension contributions
- 5. Planned and proposed staffing changes
- 6. Promotional opportunities

Chart 3 – Revenue/Expense 5-Year Outlook

The graph below plots the Total Expenses (purple) overlapping the Total Revenue (green) demonstrating a positive cash flow throughout the coming five fiscal years.



The District generates approximately 88% of its total revenues from real estate leases and user fees in the Harbor (the Operating Revenue). This excludes the Channel Islands National Park visitor center, which is owned by the federal government. The other 12% of (non-operating) revenues are derived from the Port District's share of property taxes within the City of Ventura and directed by the Board to Harbor Patrol to help fund public safety costs. The District does not receive a share of sales and transient occupancy taxes generated in the Harbor.

Further the preliminary budget anticipates increases to Village Marina slips, Event/Activity Fees, and to the Village Common Area Maintenance (CAM). Due to the activities and impacts of the VenturaWaterPure project, staff are not anticipating an increase in Dry Storage fees this period.

REVENUE ASSUMPTIONS

Final revenue forecasting is unchanged from the Preliminary Budget with the following assumptions on incoming revenue during the coming Fiscal Year:

Revenue Source	Midyear Budge FY22-23	et Forecasted FY23-24	% Change
Parcel Lease Income	\$ 5,015,000.	00 \$ 5,364,000.00) 7%
Lease Appreciation Rent	\$ 0.	00 \$ 0.00	0%
Recreational Boating Income*	\$ 172,000.	00 \$ 150,500.00) -12.5%
Harbor Village: Retail	\$ 655,000.	00 \$ 657,000.00	0%
Harbor Village: Restaurant	\$ 1,405,000.	00 \$ 1,457,000.00) 4%
Harbor Village: Office	\$ 780,000.	00 \$ 811,000.00) 4%
Harbor Village: Charters	\$ 482,000.	00 \$ 476,000.00) -1%
Commercial Fishing Premises**	\$ 1,438,000.	00 \$ 1,591,500.00) 10.7%
Booth/vendor Income	\$ 4,000.	00 \$ 7,000.00) 75%
Sponsorships/Co-Op Advertising	\$ 16,000.	00 \$ 16,000.00	0%
CAM Income	\$ 396,000.	00 \$ 400,000.00) 1%
Merchants Promotion Dues	\$ 117,000.	00 \$ 130,000.00) 11%
Miscellaneous Sales & Income***	\$ 88,500.	00 \$ 107,000.00) 21%
Investment Income	\$ 0.	00 \$ 0.00	0%

* Includes: Dry storage, launch ramp parking income, boat washdown, commercial ID's.

- ** Includes: Commercial fish offloading, commercial fish premises, commercial fishermen' storage, and marina slip rentals.
- *** Includes miscellaneous sales, rentals, vending machines, and tenant late fees.

GRANT REVENUE

Revenue received via grants is considered non-operating revenue and is considered separately. Staff reflects grant revenue in the annual budget with the capital improvement projects that will be funded by the grant.

Over the past two years, the District has successfully applied for several grants, including:

- Three grants addressing COVID-19 financial relief from the State Lands Commission.
- Six grants for electric vehicle charging at three locations at the harbor.
- One grant from California State Parks Division of Boating and Waterways.
- One grant from the National Fish and Wildlife Fund.
- Multiple grants awaiting award decisions. These include grants applied to support modernization of the commercial fishing area and planning for sustainable transportation.
- Multiple future grant opportunities that the District will apply for. These will include funding for the development of Parcel 5 (the grass lawn) and replacing the commercial fish pier.

This increase in grant funding is considered by staff when proposing future projects. However, where the grant outcome is uncertain, the associated projects are not yet considered within the Capital Improvement Plan.

CAPITAL IMPROVEMENTS:

Implementing and executing a robust Capital Improvement Plan (CIP) over five years has been a consistent priority to the District. Some of the priorities over recent years have included:

- Ongoing accessibility improvements throughout Harbor Village.
- Various roof replacements at Harbor Village.
- Painting of Harbor Village buildings.
- Replacement of Harbor Village Marina Docks C, D, G, & H;
- Commercial fishing infrastructure upgrades.
- Building improvements to increase lease value and to continue to attract tenants.

Priorities for FY23-24 and future years continue to take into account updates to the District's Guiding Principles and 5-Year Objectives. These projects are identified in Attachment 2 to this report.

FY23-24 Proposed Tenant Improvements:

Staff use lease expiration dates, probabilities, and anticipated costs for suite remodeling to estimate a comprehensive budget for District costs associated with addressing tenant turnover. During the previous fiscal year, the Board-approved leasing strategy included focus on tenant retention which has been successful in reducing turnover and thus the need to spend funds on preparing suites for new tenants. Staff continue to secure multi-year terms for new leases and lease renewals, as this provides security and reduces risk for both tenants and District.

For FY23-24, Staff is planning for a significant increase in Tenant Improvement costs associated with the modernization of ~4,000 square feet of office space as well as in-kind investments in three restaurant spaces.

Staff's estimated tenant improvement budget is Attachment 5 to this report. Note that the tenant improvement budget has been adjusted since the Preliminary Budget now that bids have been received for the office modernization project.

FISCAL IMPACT:

The forecasted revenues and expenditures for the FY23-24 are:

Final Budget Summary

Operating Income Non-operating Income (Property Tax) Total Income	\$11,167,000 <u>1,627,000</u> \$12,794,000
Operating Expenses Non-operating Expenses (Debt Service) Harbor Patrol / Safety / Launch Ramp Total Expenditures	\$7,598,200 1,621,000 <u>2,078,600</u> \$11,297,800
Cash Flow before Capital Improvement ¹	\$1,496,200
Capital, ADA, & Tenant Improvements	<u>\$3,170,500</u>
Cash Flow after Capital Improvements	<u>\$(1,674,300)</u>

The FY23-24 forecasted final budget reflects a positive cash flow of \$1,496,200 (compared to \$1,555,900 as reported in the Preliminary Budget) from normal operations before improvement expenditures of \$3,170,500 (as compared to \$3,099,500 as reported in the Preliminary Budget). \$1,674,300 of this expense will be funded using the District's Capital Improvement

Reserve Fund, which grew significantly in FY21-22 due to receiving grant moneys advanced by the State Lands Commission.

Based on current forecasts and future Capital Improvements planned, the Revenue/Expense and Cash Position Outlook is positive.

Unrestricted Reserve

The Unrestricted Reserve funds are to be used to ensure the continued orderly operation of Ventura Harbor. As per the District's Reserve Policy, these funds will continue to exceed the required 40% of annual operating costs (shown as light blue area in Chart 4) at the end of FY27-28.

Capital Improvement Reserve Fund

Funds in excess of the Unrestricted Reserves are identified as the Capital Improvement Reserve Fund (shown as orange in Chart 4). After completion of the projects currently contemplated for the 5-Year Capital Improvement Plan, there will still be \$2.35M (as compared to \$2.5M as reported in the Preliminary Budget) in the Capital Improvement Reserve Fund at the end of FY23-24 and are anticipated to remain in excess of the 40% Unrestricted Reserve through FY27-28.

Dredging Reserve Fund

The District retains a reserve of \$3,000,000 for dredging. As inner harbor dredging is anticipated in early 2024, this budget plans to fund \$250,000 for dredging from its revenue and the balance (anticipated to be \$250,000) from the Dredging Reserve Fund. In the following fiscal year, the Dredging Reserve Fund will be replenished.

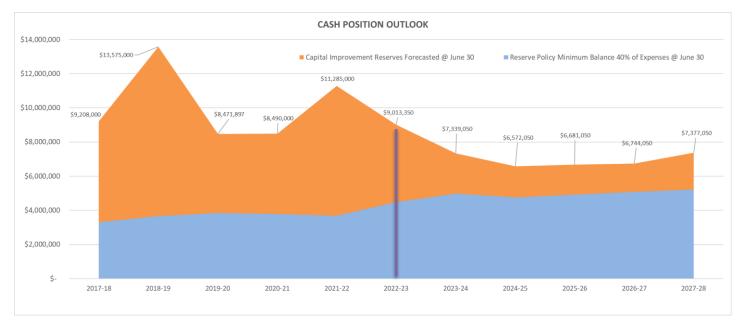


Chart 4 – 5-Year Cash Position Outlook

This final annual budget forecast also meets or exceeds the required bond covenant for net revenues to meet or exceed 115% of the current year debt service.

ATTACHMENTS:

Attachment 1 – Annual Budget FY2023-2024

Attachment 2 – Summary of Five-Year Capital & ADA Improvement Plan

Attachment 3 – Annual Budget by Department FY2023-2024

Attachment 4 – Proposed VPD Organizational Chart for FY2023-2024

Attachment 5 - Tenant Improvement Budget - FY2023-2024

Attachment 6 – Projections Forecasted FY2023-2024 to FY2026-2027

Attachment 7 – Resolution No. 3480 Adopting the FY2023-2024 Annual Budget

Attachment 8 – Resolution No. 3481 Adopting the FY2023-2024 Salary Schedule for Non-represented Employees

VENTURA PORT DISTRICT BUDGET FOR FISCAL YEAR 2023-24

Effective 7/1/2023

OPERATING REVENUE	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments	Mid-year Budget <u>2022-23</u>	Final Budget 2023-24	<u>Comments</u>
Parcel Lease Income	4,679,722	4,550,000	5,015,000	-	5,015,000	5,364,000	
Lease appreciation & signing rents	75,000	-	-	-	-	-	
Dry Storage Income	83,465	90,000	90,000	-	90,000	70,000	
Commercial Fishermen's Storage	84,602	85,000	88,000	-	88,000	91,500	
Parking Income	73,882	65,000	65,000	-	65,000	65,000	
State Lands Commission Grant	143,500	143,500	-	-	-	-	
Misc. Income/Rentals	162,871	120,500	102,000	-	102,000	119,500	
Harbor Village Lease Income				-	-		
Retail	607,016	590,000	655,000	-	655,000	657,000	
Restaurant	1,401,170	1,200,000	1,405,000	-	1,405,000	1,457,000	
Offices	665,962	760,000	780,000	-	780,000	811,000	
Charters	485,505	435,000	482,000	-	482,000	476,000	
Commercial Fishing Premises	174,940	198,000	185,000	-	185,000	180,000	
Fish Offloading	163,511	40,000	125,000	-	125,000	170,000	
Harbor Village Misc. Income	4,221	3,500	3,500	-	3,500	3,000	
Booth/Vendor Income	5,905	3,000	4,000	-	4,000	7,000	
Sponsorships	13,057	14,000	16,000	-	16,000	16,000	
Harbor Village Marina Slip Rentals	1,067,233	991,000	1,040,000	-	1,040,000	1,150,000	
Harbor Village CAM Income	379,479	380,000	396,000	-	396,000	400,000	
Harbor Village Merchants Promo Dues	123,812	119,000	117,000	-	117,000	130,000	_
TOTAL OPERATING REVENUE	10,394,853	9,787,500	10,568,500	-	10,568,500	11,167,000	
% increase / decrease over previous year	10%	15%	8%		8%	5.7%	Final FY23-24 over Mid-year FY22-23
			2%		2%		-

FY23-24 Annual Budget Continued, 7/01/2023

FYZ3-24 Annual Budget Continued, 7/01/2023							
	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments	Mid-year Budget <u>2022-23</u>	Final Budget <u>2023-24</u>	Comments
OPERATING EXPENDITURES							
Personnel Expenses							
Total Wages	1,883,200	2,006,000	2,215,100	5,000	2,220,100	2,341,600	Admin intern
Other Personnel Expenses							
Payroll Taxes & Unemployment	29,207	33,100	42,900	-	42,900	45,700	
Workers Comp Insurance	117,988	112,000	119,800	-	119,800	115,000	
Medical & Life Insurance	217,319	249,500	257,000	-	257,000	268,000	
Optional Benefit Plans	198,340	206,000	218,000	-	218,000	225,000	
Retirement Contributions	389,922	408,000	460,000	-	460,000	470,000	-
Totals Other Personnel Expenses	952,776	1,008,600	1,097,700	-	1,097,700	1,123,700	
Total Personnel Expenses	2,835,976	3,014,600	3,312,800	5,000	3,317,800	3,465,300	-
% increase / decrease over previous year	3%	9%	10%		10%	4%	Final FY23-24 over Mid-year FY22-23
Conoral Evnoncoc							
General Expenses Advertising (Public notices)	11,419	11,200	21,500		21,500	18,000	
Leasing / Real Estate	15,433	21,000	21,500	-	21,500	16,000	CoStor mound to subscription software
	7,200	21,000	21,000	-	21,000	- 10,000	CoStar moved to subscription software
Auto Mileage & Allowance	24,247	29,300		-	31,000	,	
Auto Equipment & Maintenance. Bad Debt		29,300	31,000 10,000	-	10,000	29,000	
Bank Fees & Other Miscellaneous	65,274 8,912	30,000 11,000	11,000	-	11,000	10,000 6,000	
	0,912 130,593	196,000	201,000	-	201,000	136,000	
Building Maintenance Telephone/WiFi Communications	45,291	41,500	35,000	-	35,000	31,500	
Conferences, Meetings & Training	45,291	41,500 50,500	69,700	-	69,700	68,800	
Contingency - Maintenance	19,070	50,500	09,700	-	09,700	80,000	
Dock & Fish Pier Maint. & Repairs	- 97,720	143.000	198,000	-	198.000	200,000	
Equipment Rental	97,720	17,000	198,000	-	198,000	200,000	
General Liability Insurance	315,559	319,000	380,000	-	380,000	404,000	
Grounds Maintenance	166,714	119,000	139,000	20,000	159,000	253,500	
Janitorial Supplies	68,603	75,000	75,000	20,000	75,000	72,000	
Land/Building Rental Expense	375	85,000	88,000	-	88,000	91,500	
Memberships	20,222	20,000	21,000	-	21,000	21,100	
Office Computer Equipment & Related	9,348	22,000	20,000	-	20,000	10,000	
Once Computer Equipment & Related	7,340	22,000	20,000	-	20,000	10,000	

FY23-24 Annual Budget Continued, 7/01/2023

FY23-24 Annual Budget Continued, 7/01/2023					Miducer	Eire - I	
	Actual	Budget	Budget	Adjustments	Mid-year Budget	Final Budget	
	<u>2021-22</u>	<u>2021-22</u>	<u>2022-23</u>	-	<u>2022-23</u>	<u>2023-24</u>	Comments
General Expenses Continued							
Office Supplies & Equipment	29,579	26,500	20,000	-	20,000	23,000	
Operating Supplies	39,196	50,000	53,500	-	53,500	45,500	
Other Equipment & Repairs	55,802	50,200	50,200	-	50,200	46,500	
Professional Serv Auditing & Accounting	28,233	37,000	40,000	74,000	114,000	80,000	GASB96 implemenation assistance
Legal - Professional Services, Judgements, Settleme	174,726	350,000	300,000	-	300,000	300,000	
Professional Serv Shellfish (VSE)	45,928	30,000	-	-	-	-	
Prof Serv - Commercial Fishing & Aquaculture Advo	61,920	60,000	80,000	-	80,000	90,000	
Professional/Outside Services	462,175	609,000	693,000	-	693,000	,	Additional Rincon services
Subscriptions - General & Cloud Based Software	38,184	138,800	78,500	10,000	88,500	93,000	
Uniforms & Tool Allowances	16,321	20,500	23,500	-	23,500	19,000	
Utilities and Trash	431,104	448,000	460,700	5,000	465,700	500,500	
Dredging Related Expenses	181,680	212,000	183,000	-	183,000	242,500	
Total General Expenses	2,581,586	3,232,500	3,332,100	109,000	3,441,100	3,720,400	
% increase / decrease over previous year	-19%	-5%	3%		6%	89	6 Final FY23-24 over Mid-year FY22-23
Marketing & Promotional Expenses							
Advertising & Marketing	113,764	126,200	138,000	-	138,000	140,000	
Ad Production/Graphic Design	26,232	20,000	25,000	-	25,000	30,000	
Annual Industry Memberships	850	3,700	3,000	-	3,000	3,000	
Street/Event Banners/Banner Production	4,077	7,200	600	-	600	600	
Village Maps/Joint Ads/Brochures	8,338	8,000	10,000	-	10,000	12,900	
Certified Rack Distribution Service	1,423	2,300	2,300	-	2,300	-	
Conferences/Meetings/Tourism Outreach, FAM/Med	7,442	8,000	11,500	-	11,500	11,500	
Entertainment/Music/Village Activation	33,912	34,500	34,250	-	34,250	40,000	
Brand Build via Promotions/Campaigns/Events	47,046	46,000	54,000	-	54,000	64,000	
Annual Decorations/Promenade Lighting & Flags	62,139	60,000	72,000	-	72,000	72,000	
Web Content Development/Social Marketing/Contes	15,473	23,700	23,500	-	23,500	23,500	
Web Content / Logo Research	-	-	-	-	-	15,000	
Total Marketing & Promotional Expenses	320,696	339,600	374,150	-	374,150	412,500	
% increase / decrease over previous year	-3%	3%	10%		10%	109	6 Final FY23-24 over Mid-year FY22-23
TOTAL OPERATING EXPENDITURES	5,738,258	6,586,700	7,019,050	114,000	7,133,050	7,598,200	
% increase / decrease over previous year	-9%	2%	7%	-	8%	6.5%	6 Final FY23-24 over Mid-year FY22-23
					24%		-
Operating Cash Flows In (Out)	4,656,595	3,200,800	3,549,450	(114,000)	3,435,450	3,568,800	
% increase / decrease over previous year	45%	59%	11%		7%	49	6 Final FY23-24 over Mid-year FY22-23

FY23-24 Annual Budget Continued, 7/01/2023

FY23-24 Annual Budget Continued, 7/01/2023	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments	Mid-year Budget 2022-23	Final Budget 2023-24	<u>Comments</u>
NON-OPERATING and OTHER EXPENDITURES Harbor Patrol expenses not funded by property taxes COP's Interest Expense Principal Payments on bonds/loans 2018 Dock Project Financing Cost Issuance 2018 Dock Project Debt Interest Expense 2018 Dock Project Debt Principle Expense	67,301 250,920 1,008,300 - 203,375 160,682	299,900 237,000 1,009,000 - 207,000 161,000	421,100 242,000 1,004,000 - 200,000 168,000	25,000 - - - - - -	446,100 242,000 1,004,000 - 200,000 168,000	451,600 230,000 1,023,000 - 191,000 177,000	Operating Revenues
TOTAL NON-OPER. EXPENDITURES % increase / decrease over previous year	1,690,578 6%	1,913,900 14%	2,035,100 6%	25,000	2,060,100 8%	2,072,600 19	% Final FY23-24 over Mid-year FY22-23
Annual Cash Flows In (Out) from normal operations before any Improvements % increase / decrease over previous year	2,966,017 83%	1,286,900 285%	1,514,350 18%	(139,000)	1,375,350 7%	1,496,200 99	/ / Final FY23-24 over Mid-year FY22-23
Inner Harbor Maintenance Dredging Building Tenant Improvements Accessibility Improvements	221,717 44,348	425,000 30,000	477,000 405,000	(42,000) 545,000	435,000 950,000		See Attached Schedule See Attached Schedule
Capital Improvements Projects	731,426	1,761,000	2,665,000	(219,000)	2,446,000	2,385,000	See Attached Schedule
Special Funding	(1,173,154)	(916,500)	(656,000)	472,000	(184,000)	(734,000	FY20-21 Conservancy grant-Fisherman's storage & hoist FY21-22 State Lands Commission Grant) FY22-23 EV Charging Stations defered from FY21-22, add National Fish & Wildlife Grant and a portion of Division of Boating & Waterways Grant was deferred to FY23-24
Annual Cash Flows In(out) after Improvements	3,141,680	(12,600)	(1,376,650)	(895,000)	(2,271,650)	(1,674,300	<u>)</u>
Improvements funded through Unrestricted Improvement Reserve Fund	(3,141,680)	12,600	1,376,650	895,000	2,271,650	1,424,300	
Projected Reserve Balance State Lands Commission-received fy21-22 Dredging Reserve Fund	\$ 916,500	\$ 8,477,400 \$ - \$ 3,000,000	\$ 9,788,350 \$ 120,000 \$ 3,000,000		\$ 9,013,350 \$ - \$ 3,000,000	\$ -	

FY23-24 Annual Budget Continued, 7/01/2023

Harbor Patrol Department Expenses funded from Property Taxes and Assessments collected by the County of Ventura

	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments	Mid-year Budget 2022-23	Final Budget <u>2023-24 Comments</u>	
Property Taxes and Assessments % increase / decrease over previous year	1,548,615 5%	1,510,000 2%	1,580,000 5%	-	1,580,000 5%	1,627,000 3% Final FY23-24 over Mid-year FY22-23	
Harbor Patrol Personnel Expenses Total Wages Payroll Taxes & Unemployment Workers Comp Insurance Medical & Life Insurance Optional Benefit Plans Retirement Contributions Total Harbor Patrol Personnel Expenses	912,005 14,447 58,000 57,020 72,240 182,864 1,296,576	924,000 16,000 58,000 76,000 79,000 199,000 1,352,000	1,055,000 18,600 70,000 76,000 87,000 219,000 1,525,600	25,000 - - - - 25,000	1,080,000 18,600 70,000 76,000 87,000 219,000 1,550,600	1,119,000 19,500 58,000 74,000 94,000 235,000 1,599,500	
% increase / decrease over previous year <u>Harbor Patrol Other Expenses</u> Uniforms Oil & Fuel Expense Telephone/WiFi Communications Operating Supplies & Expense Harbor Maintenance Boat Maintenance Boat Maintenance Auto Equip & Maint. Conferences & Training Vessel Salvage Expense Summer Lifequard Services Professional Services Total Harbor Patrol Other Expenses % increase / decrease over previous year	7% 17,879 25,315 - 19,362 2,761 96,092 6,970 16,523 25,503 106,500 2,435 319,340 27%	9% 14,400 31,500 - 24,000 4,000 120,000 5,000 21,000 80,000 142,000 16,000 457,900 66%	13% 18,400 36,500 9,600 30,000 4,000 100,000 10,000 30,000 80,000 137,000 20,000 475,500 4%	- - - - - - - - - - - - - - - - -	15% 18,400 36,500 9,600 30,000 4,000 100,000 10,000 30,000 80,000 137,000 20,000 475,500 4%	3% Final FY23-24 over Mid-year FY22-23 16,000 36,500 9,600 30,000 100,000 100,000 30,000 30,000 144,000 13,000 479,100 1% Final FY23-24 over Mid-year FY22-23	
Total Harbor Patrol Expenses % increase / decrease over previous year	1,615,916 11%	1,809,900 19%	2,001,100 11%	25,000	2,026,100 12%	2,078,600 3% Final FY23-24 over Mid-year FY22-23	
Expenditures remaining after Property Tax Revenues were applied are funded from Operating Revenues	(67,301)	(299,900)	(421,100)	(25,000)	(446,100)	(451,600)	

FY23-24 Annual Budget Continued, 7/01/2023

Expenditures funded by Grants and Special Funding have been identified in the Capital Improvements Attachment 2

	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments	Mid-year Budget <u>2022-23</u>	Final Budget 2023-24	<u>Comments</u>
Grants and Special Funding NOAA Grant-Shellfish Aquaculture-2018	23,000	23,000	_				
Dredging Reserve Fund	-	-	-	-	-		0 Funds to be replenished in FY2024-2025
TOTAL GRANTS & SPECIAL FUNDING	23,000	23,000	-	-		250,000	0
Projects, Equipment and Training Expenses							
NOAA Grant-Shellfish Aquaculture-2018 Dredging of Inner Harbor	23,000	- 23,000	-	-	-	- 250,000	0
TOTAL PROJECTS & EQUIPMENT	23,000	23,000	-	-	-	250,000	0

Capital Improvements and ADA Improvements Plan Summary of Five Year Projection

# Dept. Project Location/Description	Fiscal Yr 23-24	Fiscal Yr 24-25	Fiscal Yr 25-26	Fiscal Yr 26-27	Fiscal Yr 27-28
1 HP Launch Ramp Floating Dock Replacement, Washdown Station ADA Improvement, Restroom Upgrades	650,000				
2 Capital Restroom & Interior Plumbing Upgrades: 1559	245,000				
3 Capital Restroom & Interior Plumbing Upgrades: 1583	200,000				
4 Capital Promenade Curved Wall & Patio Upgrades: 1575 and 1583	170,000				
5 Admin Paid Parking Infrastructure (Procurement of infrastructure expected after all approvals received)	150,000			50,000	
6 Capital Harbor Village Bldgsreplace/repair roofs/tiles/gutters - (FY23-24: partial work on 1583+1575, FY24-25:1575, FY25-26: 1583, FY26-27: 1	431) 125,000	1,175,000	900,000	250,000	
7 Maintenance Vehicle Replacement - Lift Vehicle (or equivalent) (Carried forward from FY22-23)	120,000				
8 Capital EV Charging Stations (VHV)(Deferred due to SCE schedule)	105,000			30,000	
9 Capital Harbor Entrance Feature Revitalization & Wayfinding (Schooner FY23-24, Spinnaker FY24-25)	100,000	100,000			
10 HP Vehicle Replacement - Harbor Patrol Dept. (EV or Hybrid)	95,000			100,000	
11 Maintenance Vehicle Replacement - Maintenance Dept. (2 EV or Plug-in Hybrid in FY23-24)	90,000		100,000		120,0
12 Capital 1575/1583 Pass-Through Repaving	60,000				
13 HP Harbor Patrol Boat House Repairs	55,000				
14 Capital 1567 Spinnaker #100 - Building Improvements (Deferred completion of switch gear installation)	50,000				
15 Admin Vehicle Purchase - Administration (EV) (deferred to FY23-24)	45,000				
16 Capital Harbor Village Wayfinding Signage, Entry Awnings	37,000	25,000			
17 HP Boat Replacement - Harbor Patrol Dept. (Supplement to Insurance Money, deferred to FY23-24)	35,000	350,000			
18 Capital National Park Service Bldg 1691 Bldg HVAC systems	33,000	,	100,000		
19 Capital Harbor Village Trash Enclosures (Wire Mesh Upgrade carried forward)	20,000				
20 Marina Fish Pier - fender camels		150,000			
21 Capital Harbor Village Elevator Upgrade - 1591 Spinnaker (last of the 5 elevators in the Village to be refurbished)		125,000			
22 Admin Ventura Harbor Village - Mobile Phone Repeater Infrastructure		75,000			
23 Capital 1567 B Building Patio Wall Replacement		55.000			
24 Maintenance Resurface Parking Lots (Harbor Village & Beach Lots - distributed over multiple years)		50,000	250.000	250.000	
25 Capital Parking Lot Lights & Poles - Parcel 19A		50,000	230,000	230,000	
26 Marina Dry Storage Lot Resurfacing		50,000			
27 Marina Vehicle Replacement - Courtesy Patrol (EV)		45,000			
28 Marina Fish Pier - resurfacing		45,000	400,000		
			,	275,000	
			75,000 50,000	275,000	1 500 0
30 Capital Sustainable Transporation Program - phased (includes paving, furniture, lights & poles) 31 HP Resurface Launch Ramp Parking Lot			50,000	250,000 75,000	1,500,0
				73,000	
A DA	75 000	50.000			
32 ADA Harbor Cove & Surfers Knoll - Retaining Wall & Shower Area Improvements (Grant funded)	75,000	50,000			
33 ADA 1583/1591 ADA Path of Travel Ramps	35,000			750.000	
34 ADA ADA Restroom Upgrade - 1691 (Boater's Restroom/Showers)				750,000	
Total Capital Improvemen	t Plan 2,385,000	2,250,000	1,875,000	1,280,000	1,620,0
Total ADA Improvemen		50,000	-	750,000	1,020,0
TOTAL CAPITAL IMPROVEMENTS & ADA IMPROVEM		2,300,000	1,875,000	2,030,000	1,620,0
	2,+30,000	2,000,000	1,010,000	2,000,000	1,020,0
Chapiel Funding from Division of Desting and Waterward Low & Deve Dest	Oront (650.000)				
Special Funding from Division of Boating and Waterways Launch Ramp Dock					
Special Funding for EV Charging Stations (CALeVIP & SCE) (deferred due to SCE contruction sch	edule) (84,000)				

1,620,000

TOTAL CAPITAL IMPROVEMENTS & ADA IMPROVEMENTS WITH FUNDING

2,300,000

1,875,000

2,030,000

1,761,000

VENTURA PORT DISTRICT **BUDGET BY DEPARTMENT** FISCAL YEAR 2023-24

Effective 7/1/2023

Changes for final budget presented in Green Bold

	Actual 2021-22	Budget 2021-22	Budget Adjustments 2022-23	Mid-year Budget <u>2022-23</u>	Final Budget <u>2023-24</u>	<u>Comments</u>
OPERATING REVENUE						
Parcel Lease Income	4,679,722	4,550,000	5,015,000	5,015,000	5,364,000	
Lease appreciation/signing rent/option fee	75,000	-	-	-		
Dry Storage Income	83,465	90,000	90,000	90,000	70,000	
Commercial Fishermen's Storage	84,602	85,000	88,000	88,000	91,500	
Boat Wash-down Income	7,293	5,000	5,000	5,000	2,000	
Commercial ID's Income	11,345	10,500	12,000	12,000	13,500	
Parking Income	73,882	65,000	65,000	65,000	65,000	
Harbor On-site Event & Filming Permit Fees	40,218	35,000	40,000	40,000	45,000	
Sales of Services & Supplies	17,830	5,000	5,000	5,000	3,000	
Misc. Rentals	37,735	40,000	40,000	40,000	56,000	
State Lands Commission Income	143,500	143,500	-	-	-	Grant revenues used for operating expenditures
Investment Income	48,450	25,000	-	-	-	
Harbor Village Lease Income		·				
Retail	607,016	590,000	655,000	655,000	657,000	
Restaurant	1,401,170	1,200,000	1,405,000	1,405,000	1,457,000	
Offices	665,962	760,000	780,000	780,000	811,000	
Charters	485,505	435,000	482,000	482,000	476,000	
Commercial Fish Premises	174,940	198,000	185,000	185.000	180,000	
Fish Offloading	163,511	40,000	125,000	125,000	170,000	
Tenant Late Charges	506	1,000	1,000	1,000	1,000	
Vending Machines/Misc. Sales	3,715	2,500	2,500	2,500	2,000	
Booth/vendor income	5,905	3,000	4,000	4,000	7,000	
Sponsorships/Co-Op Advertising	13,057	14,000	16,000	16,000	16,000	
Marina Slip Rentals	1,020,887	965,000	1,000,000	1,000,000	1,100,000	
Marina Electrical Income	46,346	26,000	40,000	40,000	50,000	
CAM Income	379,479	380,000	396,000	396,000	400,000	
Merchants Promotion Dues	123,812	119,000	117,000	117,000	130,000	
TOTAL OPERATING REVENUE	10,394,853	9,787,500	10,568,500 -	10,568,500	11,167,000	
Increase / -Decrease over previous year	10%	15%	8%	8%		Final FY23-24 over MidYr FY22-23

8% 2% 5.7% Final FY23-24 over MidYr FY22-23

2%

	Actual	Budget	Budget	Adjustments	Mid-year Budget	Final Budget	0t.
	<u>2021-22</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2022-23</u>	<u>2022-23</u>	<u>2023-24</u>	<u>Comments</u>
OPERATING EXPENDITURES BY DEPARTMENT							
Maintenance Personnel Expenses							
Regular Salaries	372,868	469,000	453,000	(5,000)	448,000		Allocate portion to Marketing events
Overtime Pay	14,486	5,000	12,000		12,000	13,000	
Holiday Pay	3,689	3,000	4,000		4,000	3,000	
Payroll Taxes & Unemployment	5,113	8,200	8,000		8,000	8,000	
Workers Comp Insurance	47,440	48,400	49,000		49,000	47,000	
Medical & Life Insurance	42,146	60,000	60,000		60,000	45,000	
Employee Optional Benefits	29,650	42,000	43,000		43,000	40,000	
Retirement Contributions	97,469	113,000	114,000		114,000	79,000	
Total Maintenance Personnel Expenses	612,861	748,600	743,000	(5,000)	738,000	647,500	
Increase / -Decrease over previous year	7%	40%	-1%		-1%	-12%	Final FY23-24 over MidYr FY22-23
Maintenance Other Expenses							
Uniforms	5,098	7,500	9,000		9,000	6,000	
Oil & Fuel Expense	8,065	8,000	8,500		8,500	8,000	
Operating Supplies	27,019	32,000	35,500		35,500	35,000	
Janitorial Supplies	22,867	25,000	25,000		25,000	15,000	
Equipment Rental	6,492	6,000	7,500		7,500	5,000	
Auto Maintenance	6,049	9,000	9,000		9,000	10,000	
Building Maintenance	116,350	175,000	180,000		180,000	120,000	
Grounds Maintenance	161,869	106,500	126,500	20,000	146,500	200,000	
Docks Maint. & Repairs	251	13,000	13,000		13,000	15,000	
Equipment & Repairs	54,635	44,000	44,000		44,000	40,000	
Conferences & Training	3,850	6,500	8,000		8,000	8,000	
Utilities-Electrical	62,180	60,000	65,000		65,000	73,500	
Utilities-Gas	7,185	6,000	7,000		7,000	16,000	
Utilities-Water	41,457	45,000	45,000		45,000	38,000	
Trash Disposal	24,509	25,000	25,000	5,000	30,000	30,000	
Sand Management	-	-	-	· ·	-	23,500	
Contingency	-	-	-		-	80,000	
Professional/Engineering/Outside Services	117,324	171,000	171,000		171,000	183,500	
Total Maintenance Other Expense	665,200	739,500	779,000	25,000	804,000	906,500	
Increase / -Decrease over previous year	12%	9%	5%	-,	9%	,	Final FY23-24 over MidYr FY22-23
Total Maintenance	1,278,061	1.488.100	1,522,000	20.000	1,542,000	1.554.000	
Increase / -Decrease over previous year	10%	22%	2%		4%		Final FY23-24 over MidYr FY22-23

	Actual	Budget	Budget	Adjustments	Mid-year Budget	Final Budget	• • •
	<u>2021-22</u>	<u>2021-22</u>	<u>2022-23</u>	<u>2022-23</u>	<u>2022-23</u>	2023-24	<u>Comments</u>
Administration & General Personnel Expense	750.004	740.000				070.000	
Regular Salaries	753,664	742,000	908,000		908,000	972,000	
Part-time Pay	-	-	-		-		Admin intern
Overtime Pay	1,738	1,000	3,000		3,000	6,000	
Holiday Pay Payroll Taxes	1,877	<u>1,000</u> 11,700	1,000		1,000	1,000	Admin intern
Workers Comp Insurance	11,579	4.500	<u>18,500</u> 5,500		18,500 5,500		Admin intern
Medical & Life Insurance	<u>4,500</u> 47,187	4,500	<u> </u>		63,000	4,000 61,000	
OPEB Benefits	12.264	14.500	15.000		15.000	15.000	
Employee Optional Benefits	74,544	78.000	87.000		87.000	89.000	
Retirement Contributions	138,519	141.000	176.000		176.000	195,000	
Total Admin. & General Personnel Expense	1,045,872	1,049,700	1,277,000		1,277,000	1,372,200	
Increase / -Decrease over previous year	-2%	-1%	22%	-	1,277,000		Final FY23-24 over MidYr FY22-23
	-270	-170	22%		2270	170	Final F123-24 Over Mid 11 F122-23
General & Administration Other Expenses						10.000	
Advertising & Tenant Recognition Program	11,419	11,200	21,500		21,500	18,000	
Leasing / Real Estate	15,433	21,000	21,000		21,000	-	CoStar moved to subscription software
Telephone/WiFi Communications	45,291	41,500	35,000		35,000	31,500	
Rental Expense-Fishermen's Storage	375	85,000	88,000		88,000	91,500	
General Insurance	163,919	165,000	197,000		197,000	203,000	
Memberships	13,484	13,200	14,600		14,600	13,500	
Memberships-LAFCO Contribution.	6,738	6,800	6,400	40.000	6,400	7,600	
Subscriptions - General & Cloud Based Software	38,184	138,800	65,000	10,000	75,000	76,000	
Office Supplies & Equipment	29,579	26,500	20,000		20,000	23,000	
Office Computer Equipment	6,186	10,000	20,000		20,000	10,000	
Security cameras/installs/maintenance	3,162	12,000	-		-	-	
Equipment Rental/Lease	3,461	11,000	11,000		11,000	14,500	
Auto Mileage & Allowance Conferences, Meetings & Trainings	7,200	10,000	10,000		10,000	10,000	
	15,850	41,000	58,700	74.000	58,700	57,800	
Professional Services - Auditing & Accounting	28,233	37,000	40,000	74,000	114,000		GASB96 implemenation assistance
Legal - Professional Services, Judgements, Settlements	174,726	350,000	300,000		300,000	300,000	
Professional Services Shellfish (VSE)	45,928	30,000	-		-	-	
Prof. ServCommercial Fishing & Aquaculture Advocacy	61,920	60,000	80,000		80,000	90,000	
Professional Services - All others	224,030	265,000	352,000		352,000		Additional Rincon services
Bad Debt/Uncollectable accounts	65,274	30,000	10,000		10,000	10,000	
Bank Fees & Other Misc.	8,912	11,000	11,000		11,000	6,000	
Total Admin. & General Other Expenses	969,304	1,376,000	1,361,200	84,000	1,445,200	1,508,400	
Increase / -Decrease over previous year	-35%	-4%	-1%		5%	4%	Final FY23-24 over MidYr FY22-23
Total Admin & General Expense	2,015,176	2,425,700	2,638,200	84,000	2,722,200	2,880,600	
Increase / -Decrease over previous year	-21%	-3%	9%		12%	6%	Final FY23-24 over MidYr FY22-23

	Actual	Budget	Budget /	Adjustments 2022-23	Mid-year Budget 2022-23	Final Budget 2023-24	Commonto
	<u>2021-22</u>	<u>2021-22</u>	2022-23	2022-23	2022-23	2023-24	Comments
Harbor Village Marina Personnel Expenses							
Regular Salaries	264.655	285,000	294,000		294,000	323,000	
Part-time Pay	-	-	-		-	-	
Overtime Pay	10,121	8,000	10,000		10,000	6,500	
Holiday Pay	7,128	7,500	8,500		8,500	9,000	
Payroll Taxes	4,004	4,400	5,500		5,500	6,500	
Workers Comp Insurance	33,398	29,800	32,000		32,000	32,000	
Group Medical Insurance	48,179	50,000	50,000		50,000	58,000	
Employee Optional Benefits	43,300	36,000	38,000		38,000	39,000	
Retirement Contributions	71,354	71,000	79,000		79,000	91,000	
Total Marina Expenses Personnel	482,139	491.700	517,000	-	517.000	565,000	
Increase / -Decrease over previous year	6%	5%	5%		5%	· ·	Final FY23-24 over MidYr FY22-23
······································							
Harbor Village Marina Other Expenses							
Uniforms	7,214	6,500	8,000		8,000	8,000	
Fuel expense	2,863	2,300	3,500		3,500	3,000	
General Insurance	42,495	44,000	47,000		47,000	54,000	
Operating Supplies	12,029	15,000	15,000		15,000	8,000	
Subscriptions/Cloud based software/Memberships	-	-	13,500		13,500	17,000	
Janitorial Supplies	13,721	15,000	15,000		15,000	12,000	
Other Equipment Repairs	999	2,200	2,200		2,200	2,500	
Building Maintenance	39	1,000	1,000		1,000	1,000	
Grounds Maintenance	969	2,500	2,500		2,500	2,500	
Dock Maint. & Repairs	67,723	95,000	100,000		100,000	100,000	
Fish Pier Repairs	29,746	35,000	85,000		85,000	85,000	
Conferences & Training	175	3,000	3,000		3,000	3,000	
Utilities-Electrical	97,172	80,000	98,000		98,000	110,000	
Utilities-Gas	7,793	6,000	6,700		6,700	13,000	
Utilities-Water	35,979	45,000	40,000		40,000	39,000	
Trash Disposal	23,808	23,000	23,000		23,000	30,000	
Professional/Outside Services	64,941	105,000	90,000		90,000	90,000	
Misc. Expense	-	500	500		500	-	
Total Marina Other Expenses	407,666	481,000	553,900	-	553,900	578,000	Final FY23-24 over MidYr FY22-23
Increase / -Decrease over previous year	2%	8%	15%		15%	4%	
Total Marina Expenses	889,805	972.700	1.070.900	_	1,070,900	1.143.000	
Increase / -Decrease over previous year	4%	6%	10%		10%	, ,,,,,,	Final FY23-24 over MidYr FY22-23
nordase / -Deordase over previous year	470	070	1070		1070	170	

	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments 2022-23	Mid-year Budget <u>2022-23</u>	Final Budget <u>2023-24</u>	<u>Comments</u>
Harbor Village Common Area Maintenance (CAM) Personnel Expe	nses						
Regular Salaries	245,168	278,000	292,000		292,000	308,000	Allocate portion to Marketing events
Part-time Pay	-	-	-		-		
Overtime Pay	15,065	7,000	13,000		13,000	13,000	
Holiday Pay	5,095	5,000	5,000		5,000	5,000	
Payroll Taxes	3,992	4,200	5,900		5,900	6,000	
Workers Comp Insurance	31,650	28,300	32,000		32,000	31,000	
Group Medical Insurance	50,409	51,000	51,000		51,000	59,000	
Employee Optional Benefits	36,846	36,000	36,000		36,000	36,000	
Retirement Contributions	52,054	52,000	57,000		57,000	64,000	
Total C.A.M. Personnel Expenses	440,279	461,500	491,900	-	491,900	522,000	
Increase / -Decrease over previous year	7%	4%	7%		7%	6%	Final FY23-24 over MidYr FY22-23
Harbor Village Common Area Maintenance (CAM) Other Expenses							
Uniforms	4.009	6.500	6.500		6.500	5.000	
Oil & Fuel Expense	7,270	10.000	10.000		10.000	8.000	
General Insurance	109,145	110.000	136,000		136.000	147,000	
Operating Supplies	148	2,500	2,500		2,500	2,500	
Janitorial Supplies	32,015	35,000	35,000		35,000	45,000	
Building Maintenance	14,204	20,000	20,000		20,000	15,000	
Grounds Maintenance	3,876	10,000	10,000		10,000	27,500	
Equipment & Repairs	168	4,000	4,000		4,000	4,000	
Utilities-Electrical	44,243	48,000	48,000		48,000	48,000	
Utilities-Water	55,605	70,000	63,000		63,000	63,000	
Trash Collection	31,173	40,000	40,000		40,000	40,000	
Professional/Outside Services	55,880	68,000	80,000		80,000	80,000	
Total C.A.M. Other Expenses	357,736	424,000	455,000	-	455,000	485,000	
Increase / -Decrease over previous year	-3%	3%	7%		7%	7%	Final FY23-24 over MidYr FY22-23
Total CAM Expenses	798.015	885.500	946.900	-	946,900	1.007.000	
Increase / -Decrease over previous year	2%	3%	7%		7%		Final FY23-24 over MidYr FY22-23

	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments 2022-23	Mid-year Budget 2022-23	Final Budget 2023-24	Comments
Harbor Marketing Personnel Expenses							
Regular Salaries	156,631	154,000	169,000	5,000	174,000	231,500	New full-time hire & allocate maintenance time
Part-time Pay	27,591	38,000	40,000		40,000	21,500	
Overtime Pay	2,924	2,000	2,000	5,000	7,000	7,000	
Holiday Pay	500	500	600		600	600	
Payroll Taxes	4,519	4,600	5,000		5,000	5,000	
Workers Comp Insurance	1,000	1,000	1,300		1,300	1,000	
Medical & Life Insurance	17,134	18,000	18,000		18,000	30,000	
Employee Optional Benefits	14,000	14,000	14,000		14,000	21,000	
Retirement Contributions	30,526	31,000	34,000		34,000	41,000	
Total Marketing Personnel Expenses	254,825	263,100	283,900	10,000	293,900	358,600	
Increase / -Decrease over previous year	3%	5%	8%		12%	22%	Final FY23-24 over MidYr FY22-23
Harbor Marketing Other Expenses							
Advertising & Marketing	113,764	126,200	138,000		138,000	140,000	
Ad Production/Graphic Design	26,232	20,000	25,000		25,000	30,000	
Annual Industry Memberships	850	3,700	3,000		3,000	3,000	
Street/Event Banners/Banner Production	4,077	7,200	600		600	600	
Village Maps/Joint Ads/Brochures	8,338	8,000	10,000		10,000	12,900	
Certified Rack Distribution Service	1,423	2,300	2,300		2,300	-	
Conferences/Meetings/Tourism Outreach, FAM/Media Tours	7,442	8,000	11,500		11,500	11,500	
Entertainment/Music/Village Activation	33,912	34,500	34,250		34,250	40,000	
Brand Build via Promotions/Campaigns/Events	47,046	46,000	54,000		54,000	64,000	
Annual Decorations/Promenade Lighting & Flags	62,139	60,000	72,000		72,000	72,000	
Web Content Social Marketing/Contests	15,473	23,700	23,500		23,500	23,500	
Web Content / Logo Refresh	-	-	-		-	15,000	
Total Marketing Other Expenses	320,696	339,600	374,150	-	374,150	412,500	
Increase / -Decrease over previous year	-3%	3%	10%		10%		Final FY23-24 over MidYr FY22-23
Total Marketing Expenses	575,521	602,700	658,050	10,000	668,050	771,100	
Increase / -Decrease over previous year	0%	4%	9%		11%	15%	Final FY23-24 over MidYr FY22-23

	Actual 2021-22	Budget <u>2021-22</u>	Budget <u>2022-23</u>	Adjustments 2022-23	Mid-year Budget <u>2022-23</u>	Final Budget <u>2023-24</u>	<u>Comments</u>
Total Operating Exp. Before Dredging Increase / -Decrease over previous year	5,556,578 -6%	6,374,700 5%	6,836,050 7%	114,000	6,950,050 9%	7,355,700 5.8%	Final FY23-24 over MidYr FY22-23
Harbor Dredging and Related Expenses	47,722	60,000	50,000		50,000	75,000	
Dredging Professional Services Washington Lobbyist Prof Services	60,000	60,000	60,000		60,000	60,000	
Dredging. Regulatory Require. & Permits	70,131	83,000	53,000		53,000	85,000	
Dredging Conferences	3,827	8,000	20,000		20,000	22,500	
Dredging Misc. Expenses	-	1,000	-		-	-	
Total Harbor Dredging Expenses	181,680	212,000	183,000	-	183,000	242,500	
Increase / -Decrease over previous year	-47%	-48%	-14%		-14%	33%	Final FY23-24 over MidYr FY22-23
TOTAL OPERATING EXPENDITURES Increase / -Decrease over previous year	5,738,258 -9%	6,586,700 2%	7,019,050 7% 22%	114,000	7,133,050 8% 24%	7,598,200 6.5%	9 Final FY23-24 over MidYr FY22-23
Operating Cash Flows In (Out)	4,656,595 45%	3,200,800 59%	3,549,450 11%	(114,000)	3,435,450 7%	3,568,800	, Final FY23-24 over MidYr FY22-23

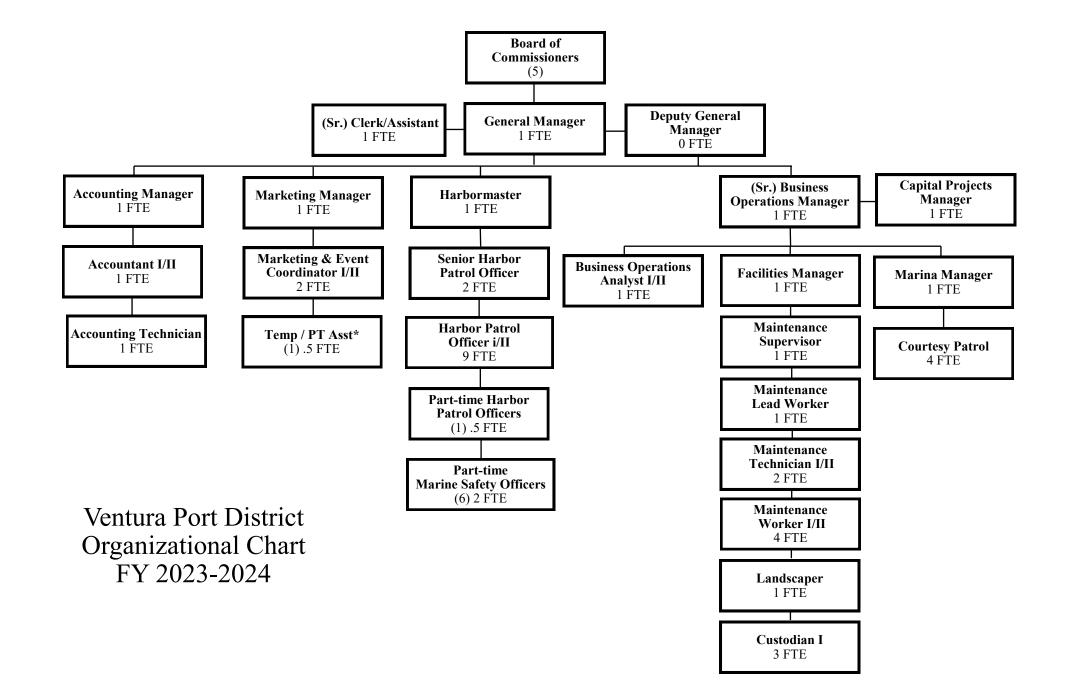
	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments 2022-23	Mid-year Budget <u>2022-23</u>	Final Budget <u>2023-24</u>	<u>Comments</u>
NON-OPERATING and OTHER EXPENDITURES							
Harbor Patrol exp. not funded by prop. taxes	67,301	299,900	421,100	25,000	446,100	451,600	Remaining Patrol expenditures are funded from Operating Revenues
COP's & Purchase Agreements Interest Payment	250,920	237,000	242,000		242,000	230,000	
Principal Payments on Bonds & Purchase Agreements	1,008,300	1,009,000	1,004,000		1,004,000	1,023,000	
2018 Dock Project Debt Interest Payment	203,375	207,000	200,000		200,000	191,000	
2018 Dock Project Debt Principle Payment	160,682	161,000	168,000		168,000	177,000	
TOTAL NON-OPER. EXPENDITURES Increase / -Decrease over previous year	1,690,578 6%	1,913,900 14%	2,035,100 _{6%}	25,000	2,060,100 8%	2,072,600 1%	Final FY23-24 over MidYr FY22-23
Annual Cash Flows In (Out) from normal operations before any Improvements	2,966,017	1,286,900	1,514,350	(139,000)	1,375,350	1,496,200	
Increase / -Decrease over previous year	83%	285%	18%		7%	9%	
Inner Harbor Maintenance Dredging	-	-	-	-	-	250,000	
Building Tenant Improvement's	221,717	425,000	477,000	(42,000)	435,000	1,159,500	See attached schedule
Accessibility Improvements	44,348	30,000	405,000	545,000	950,000	110,000	See attached schedule
Capital Improvement Projects	731,426	1,761,000	2,665,000	(219,000)	2,446,000	2,385,000	See attached schedule
Special Funding	(1,173,154)	(916,500)	(656,000)	472,000	(184,000)	(734,000)	FY20-21 Conservancy grant-Fisherman's storage & hoist FY21-22 State Lands Commission Grant FY22-23 portion of EV Charging Stations Grant & Division of Boating & Waterways launch ramp grant FY23-24 EV Charging Stations & Division of Boating & Waterways launch ramp Grant defered from FY22-23
Annual Cash Flows In (Out) after Improvements	3,141,680	(12,600)	(1,376,650)	(895,000)	(2,271,650)	(1,674,300)	
Reserve Balance State Lands Commission Grant Dredging Reserve Fund	10,368,500 916,500 3,000,000	8,477,400 - 3,000,000	9,788,350 120,000 3,000,000		9,013,350 - 3,000,000	7,339,050 - 2,750,000	to be replenished in FY2024-2025

		Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments 2022-23	Mid-year Budget 2022-23	Final Budget 2023-24	Comments
Harbor Patrol Department Ex Taxes and Assessments co	openses funded from Property llected by the County of							
Ventura	_							
Property Taxes & Assessment		1,548,615	1,510,000	1,580,000	-	1,580,000	1,627,000	
	Increase / -Decrease over previous year	5%	2%	5%		5%	3%	Final FY23-24 over MidYr FY22-23
Harbor Patrol Personnel Expe	2000							
Regular Salaries	11365	751.478	834.000	925.000		925.000	969.000	
Part-time Pay		16,955	35,000	50.000		50.000	40,000	
Overtime Pay		115,948	25,000	50,000	25,000	75,000	60,000	
Holiday Pay		27,624	30,000	30.000	20,000	30,000	50,000	
Payroll Taxes & Unemploymer	nt	14,447	16,000	18,600		18.600	19,500	
Workers Comp Insurance		58,000	58,000	70,000		70,000	58,000	
Medical & Life Insurance		57,020	76,000	76,000		76,000	74,000	
Employee Optional Benefits		72,240	79,000	87,000		87,000	94,000	
Retirement Contributions		182,864	199,000	219,000		219,000	235,000	
Total Harbor Patrol Personne	l Expense	1,296,576	1,352,000	1,525,600	25,000	1,550,600	1,599,500	
	Increase / -Decrease over previous year	7%	9%	13%		15%	3.2%	Final FY23-24 over MidYr FY22-23
Harbor Patrol Other Expenses								
Uniforms		17,879	14,400	18,400		18,400	16,000	
Oil & Fuel Expense		25,315	31,500	36,500		36,500	36,500	
Telephone/WiFi Communicatio	ons	-	-	9,600		9,600	9,600	
Operating Supplies & Expense		19,362	24,000	30,000		30,000	30,000	
Harbor Maintenance		2,761	4,000	4,000		4,000	10,000	
Boat Maintenance		96,092	120,000	100,000		100,000	100,000	
Auto Equip & Maintenance		6,970	5,000	10,000		10,000	10,000	
Conferences & Training		16,523	21,000	30,000		30,000	30,000	
Vessel Salvage Expense		25,503	80,000	80,000		80,000	80,000	
Summer Lifeguard Services		106,500	142,000	137,000		137,000		As per 2023 Summer Life Guard agreement
Professional Services		2,435	16,000	20,000		20,000	13,000	
Total Harbor Patrol Other Exp		319,340	457,900	475,500	-	475,500	479,100	
	Increase / -Decrease over previous year	27%	66%	4%		4%		Final FY23-24 over MidYr FY22-23
Total Harbor Patrol Exper		1,615,916	1,809,900	2,001,100	25,000	2,026,100	2,078,600	
	Increase / -Decrease over previous year	11%	19%	11%		12%	3%	Final FY23-24 over MidYr FY22-23
Expenditures remaining after F	Property Tax Revenues were							
applied		(67,301)	(299,900)	(421,100)	(25,000)	(446,100)	(451,600)	
applied	Increase / -Decrease over previous year	-430%	719%	40%		49%	1%	Final FY23-24 over MidYr FY22-23
	,,							

	Actual 2021-22	Budget 2021-22	Budget 2022-23	Adjustments 2022-23	Mid-year Budget <u>2022-23</u>	Final Budget <u>2023-24</u>	<u>Comments</u>
Expenditures funded by Grants and Special Funding - Grants	for FY2023-202	4 have been i	dentified in th	e Capital Improv	ements attachr	ment 2	
Grants and Special Funding							
NOAA Grant-Shellfish Aquaculture 2015 & 2018	23,000	23,000	-	-	-	-	
Dredging Reserve Fund	-	-	-	-	-	250,000	
TOTAL GRANTS & SPECIAL FUNDING	23,000	23,000	-	-	-	250,000	
Projects, Equipment and Training Expenses							
NOAA Grant-Shellfish Aquaculture 2015 & 2018	23,000	23,000	-	-	-	-	
Dredging of Inner Harbor	-	-	-	-	-	250,000	
TOTAL PROJECTS & EQUIPMENT	23,000	23,000	-	-	-	250,000	

Ventura Port District FY23-24 Budget Authorized Positions by Department (Full Time Equivalents)

Position Name	FY22-23 Authorized positions (not all positions are budgeted)	FY22-23 Budgeted positions	FY23-24 Authorized positions (not all positions are budgeted)	FY23-24 Proposed budgeted positions	Change Budgeted FY23-24 compared to Budgeted FY22-23
Maintenance Department					
Facilities Manager	1.00	1.00	1.00	1.00	-
Maintenance Supervisor	1.00	1.00	1.00	1.00	-
Maintenance Lead Worker	1.00	1.00	1.00	1.00	-
Maintenance Technician II	1.00	1.00	1.00	1.00	-
Maintenance Technician I	1.00	1.00	1.00	1.00	-
Maintenance Worker II *	2.00	2.00	1.00	1.00	(1.00)
Maintenance Worker I	3.00	3.00	3.00	3.00	-
Landscaper	1.00	1.00	1.00	1.00	-
Custodian	3.00	3.00	3.00	3.00	-
Maintenance Department Total	14.00	14.00	13.00	13.00	(1.00)
* Correction FY22-23-Fulltime Maintenance Lead	Worker position fill	ed by promoting	a Maintenance Work	er II employee	
		,, ,, ,, ,, ,, ,, ,, ,, ,, ,, ,, ,, ,,		1 5	
Administration Department					
General Manager	1.00	1.00	1.00	1.00	_
Deputy General Manager	1.00	-	1.00	-	_
Business Operations Manager	1.00	_	1.00	_	_
Senior Business Operations Manager	1.00	1.00	1.00	1.00	_
Business Operations Analyst II	1.00	1.00	1.00	1.00	_
Business Operations Analyst I	1.00	1.00	1.00	-	_
Capital Projects Manager	1.00	- 1.00	1.00	- 1.00	-
Administrative Assistant/Clerk of Board	1.00	1.00	1.00	1.00	-
		- 1.00		- 1.00	-
Executive Assistant/Clerk of Board	1.00		1.00		-
Accounting Manager	1.00	1.00	1.00	1.00	-
Accountant II	1.00	-	1.00	-	-
Accountant I	1.00	1.00	1.00	1.00	-
Accounting Technician	1.00	1.00	1.00	1.00	
Administration Department Total	13.00	8.00	13.00	8.00	-
Llaukan Villaus Manina Danautusant					
Harbor Village Marina Department	1.00	4.00	1.00	1 00	
Marina Manager	1.00	1.00	1.00	1.00	-
Courtesy Dockmaster	4.00	4.00	4.00	4.00	-
Harbor Village Marina Department Total	5.00	5.00	5.00	5.00	-
Markating Department					
Marketing Department	1.00	4.00	1.00	1 00	
Marketing Manager	1.00 1.00	1.00	1.00	1.00	-
Marketing & Events Coordinator II		1.00	1.00	1.00	-
Marketing & Events Coordinator I	1.00	-	1.00	1.00	1.00
Part-Time Marketing Assistants	1.00	1.00	0.50	0.50	(0.50)
Marketing Department Total	4.00	3.00	3.50	3.50	0.50
Hard an Datash Dan articlarity					
Harbor Patrol Department	4.00	4.00	4.00	1.00	
Harbormaster	1.00	1.00	1.00	1.00	-
Senior Harbor Patrol Officer	2.00	1.00	2.00	2.00	1.00
Harbor Patrol Officer II	5.00	5.00	4.00	4.00	(1.00)
Harbor Patrol Officer I	3.00	5.00	5.00	5.00	-
Part-time Harbor Patrol Officer	0.50	0.50	0.50	0.50	-
Marine Safety Officer	2.00	2.00	2.00	2.00	-
Harbor Patrol Department Total	13.50	14.50	14.50	14.50	-
					/a =a:
Total All Full Time Equivalent Positions	49.50	44.50	49.00	44.00	(0.50)



FY23-24 Building Tenant Improvements

Budgeted Items		
Scheduled Improvements	Budgeted District Contribution to Building Tenant Improvements	\$ 935,000
Unscheduled Improvements	Renovations due to possible Tenant turnover at lease expiration	\$ 124,500
Contingency	Renovations due to unscheduled Tenant turnover (early termination)	\$ 100,000
		\$ 1,159,500

VENTURA PORT DISTRICT HISTORICAL & PROJECTED REVENUE AND EXPENSE CASH FLOWS Minimum Unrestricted Reserves at **40%** of Operating Expenses

	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 forecasted	2023-24 forecasted	2024-25 forecasted	2025-26 forecasted	2026-27 forecasted	2027-28 forecasted
Cash Flows In (Out) from normal operations before any Improvements	\$ 357,402	\$ 1,620,214	\$ 2,966,017	\$ 1,375,350	\$ 1,496,200	\$ 1,971,000	\$ 2,284,000	\$ 2,393,000	\$ 2,553,000
Significant Assumptions -									
Cash Flow Out - Reimburse Dredging Inprovement Fund for Inner Harb	or Dredging					(250,000)			
Cash Flow Out - Inner Harbor Dredging					(250,000)				
Cash Flow Out - Tenant Improvements	(168,681)	(134,906)	(221,717)	(435,000)	(1,159,500)	(300,000)	(300,000)	(300,000)	(300,000)
Cash Flow Out - Accessibility Enhancements	(110,161)	(110,000)	(44,348)	(950,000)	(110,000)	(50,000)	-	(750,000)	-
Cash Flow Out - Capital Improvements as per 5-Year Plan Projection	(5,100,480)	(820,703)	(731,426)	(2,446,000)	(2,385,000)	(2,250,000)	(1,875,000)	(1,280,000)	(1,620,000)
EV Charging Station/National Fish&Wildlife/DBW Grants-FY22-23/	FY23-24	318,600	1,173,154	184,000	734,000	-	-	-	-
Improvements that will need to be funded through Unrestricted Improvement Reserves	(5,021,920)			(2,271,650)	(1,674,300)	(879,000)			
Cash Flow In after Improvements are completed		873,205	3,141,680				109,000	63,000	633,000
	-								
	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28
Forecasted Unrestricted Reserve Balances	Actual	Actual	Actual	forecasted	forecasted	forecasted	forecasted	forecasted	forecasted
Forecasted Reserves at beginning of each fiscal year	13,493,817	7,616,795	8,419,000	11,285,000	9,013,350	7,339,050	6,572,050	6,681,050	6,744,050
Improvements funded from Improvement Reserves	(5,021,920)	-	-	(2,455,650)	(2,408,300)	(517,000)	-	-	-
Cash Used to reimburse Dredging Improvement Fund	-	-	-	-	-	(250,000)	-	-	-
Cash Flow In after Improvements are completed less grant funding	-	873,205	1,692,846	-	-	-	109,000	63,000	633,000
Cash Flow In from Grant fund reimbursements	-	-	1,173,154	184,000	734,000	-	-	-	-
Forecasted Unrestricted Reserves at end of year	8,471,897	8,490,000	11,285,000	9,013,350	7,339,050	6,572,050	6,681,050	6,744,050	7,377,050
Total All Unrestricted Reserves Forecasted at June 30 each year	8,471,897	8,490,000	11,285,000	9,013,350	7,339,050	6,572,050	6,681,050	6,744,050	7,377,050

As outlined below, with the proposed expenditures the 40% reserve balance is maintained and the unrestricted Improvement balance remains favorable.

	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 forecasted	2023-24 forecasted	2024-25 forecasted	2025-26 forecasted	2026-27 forecasted	2027-28 forecasted
TOTAL Reserves Forecasted at June 30 each year	8,471,897	8,490,000	11,285,000	9,013,350	7,339,050	6,572,050	6,681,050	6,744,050	7,377,050
Reserve Policy Minimum Balance 40% of Expenses at June 30 each y(3,850,000	3,790,000	3,680,000	4,480,000	4,980,000	4,760,000	4,920,000	5,080,000	5,230,000
Capital Improvement Reserve Fund at June 30 each year	4,621,897	4,700,000	7,605,000	4,533,350	2,359,050	1,812,050	1,761,050	1,664,050	2,147,050

VENTURA PORT DISTRICT HISTORICAL & PROJECTED CASH FLOWS Minimum Unrestricted Reserves at **40%** of Operating Expenses

	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 forecasted	2023-24 forecasted	2024-25 forecasted	2025-26 forecasted	2026-27 forecasted	2027-28 forecasted
Revenue									
Operating Revenue % Increase / -Decrease Forecasted	8,413,254 -3.0%	9,491,185 12.8%	10,127,903 6.7%	10,568,500 4.4%	11,167,000 5.7%	11,614,000 4.0%	12,079,000 4.0%	12,562,000 4.0%	13,064,000 4.0%
Parking Revenue Forecast (Village & Beaches) Onetime-Tenant Fees State Lands Commission Income-portion used for operating expenses_	101,000	912,000	75,000 143,500			300,000	500,000	500,000	500,000
Total Operating Revenues % Increase / -Decrease Forecasted	8,413,254 -6.2%	9,491,185 12.8%	10,346,403 9.0%	10,568,500 2.1%	11,167,000 5.7%	11,914,000 6.7%	12,579,000 5.6%	13,062,000 3.8%	13,564,000 3.8%
Non-Operating Revenue (Includes prop taxes) % Increase / -Decrease Forecasted	1,395,833 5.8%	1,477,535 5.9%	1,597,065 8.1%	1,580,000 -1.1%	1,627,000 3.0%	1,660,000 2.0%	1,693,000 2.0%	1,727,000 2.0%	1,762,000 2.0%
Total All Revenue	9,809,087	10,968,720	11,943,468	12,148,500	12,794,000	13,574,000	14,272,000	14,789,000	15,326,000
% Increase / -Decrease Forecasted	-4.7%	11.8%	8.9%	1.7%	5.3%	6.1%	5.1%	3.6%	3.6%
_									
Expenses	6.117.974	5 024 (95	5 55(579	(050 050	7 255 700	7 (50 000	7.05(.000	8.274.000	8,605,000
Operating Expenses (excludes Harbor Patrol) % Increase / -Decrease Forecasted	0,117,974 2.7%	5,934,685 -3.0%	5,556,578 -6.4%	6,950,050 25.1%	7,355,700 5.8%	7,650,000 4.0%	7,956,000 4.0%	8,274,000 4.0%	8,605,000 4.0%
Harbor dredging & related expense % Increase / -Decrease Forecasted	188,832 -26.9%	342,178 81.2%	181,680 -46.9%	183,000 0.7%	242,500 32.5%	170,000 -29.9%	163,000 -4.1%	163,000 0.0%	163,000 0.0%
Sub-Total Operating Expenses (excludes Harbor Patrol) % Increase / -Decrease Forecasted	6,306,806 1.5%	6,276,863 -0.5%	5,738,258 -8.6%	7,133,050 24.3%	7,598,200 6.5%	7,820,000 2.9%	8,119,000 3.8%	8,437,000 3.9%	8,768,000 3.9%
Harbor Patrol Expenses % Increase / -Decrease Forecasted	1,526,915 13.5%	1,457,170 -4.6%	1,615,916 10.9%	2,026,100 25.4%	2,078,600 2.6%	2,162,000 4.0%	2,248,000 4.0%	2,338,000 4.0%	2,432,000 4.0%
Total Operating Expenses % Increase / -Decrease Forecasted	7,833,721 3.6%	7,734,033 -1.3%	7,354,174 -4.9%	9,159,150 24.5%	9,676,800 5.7%	9,982,000 3.2%	10,367,000 3.9%	10,775,000 3.9%	11,200,000 3.9%
Non-operating and Other Expenses Principle/Interest & deferred refunding Principle/Interest/Fees - 2018 Vlg Marina Dock Renovations Total Non-operating expenses	1,246,964 371,000 1,617,964	1,196,726 417,747 1,614,473	1,251,364 371,913 1,623,277	1,246,000 368,000 1,614,000	1,253,000 368,000 1,621,000	1,253,000 368,000 1,621,000	1,253,000 368,000 1,621,000	1,253,000 368,000 1,621,000	1,205,000 368,000 1,573,000
% Increase / -Decrease Forecasted	2.7%	-0.2%	0.5%	-0.6%	0.4%	0.0%	0.0%	0.0%	-3.0%
Total All Expenses	9,451,685	9,348,506	8,977,451	10,773,150	11,297,800	11,603,000	11,988,000	12,396,000	12,773,000
% Increase / -Decrease Forecasted	3.5%	-1.1%	-4.0%	20.0%	4.9%	2.7%	3.3%	3.4%	3.0%
Cash Flows In (Out) from normal operations before any Improvements	\$ 357,402	\$ 1,620,214	\$ 2,966,017	\$ 1,375,350	\$ 1,496,200	\$ 1,971,000	\$ 2,284,000	\$ 2,393,000	\$ 2,553,000

Note: Revenues generated from grants are not normally included in the Revenue category-a portion SLC used for operating expenditures has been included in fiscal year 21-22



RESOLUTION NO. 3480

RESOLUTION OF THE BOARD OF PORT COMMISSIONERS OF THE VENTURA PORT DISTRICT ADOPTING THE 2023-2024 FISCAL YEAR BUDGET

WHEREAS, it is necessary and appropriate for the Board of Port Commissioners of the Ventura Port District to adopt a Budget for Fiscal Year 2023-2024; and

WHEREAS, a Preliminary Budget was presented to and reviewed by the Board of Port Commissioners on June 7, 2023; and

WHEREAS, the Preliminary Budget was deemed appropriate and adopted by resolution No. 3477 by the Board of Port Commissioners on June 7, 2023; and

WHEREAS, the Board of Port Commissioners has determined that the appropriations specified in the Final Budget are necessary for the efficient maintenance and operation of the Ventura Port District.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the Ventura Port District that the District Fiscal Year 2023-2024 Final Budget is hereby approved.

PASSED, APPROVED AND ADOPTED by the Board of Port Commissioners this 21st day of June 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Michael Blumenberg, Chairman

Anthony Rainey, Secretary



RESOLUTION NO. 3481

RESOLUTION OF THE BOARD OF PORT COMMISSIONERS OF THE VENTURA PORT DISTRICT ESTABLISHING THE SALARY SCHEDULE FOR NON-REPRESENTED EMPLOYEES OF THE DISTRICT FOR THE FISCAL YEAR 2023-2024

WHEREAS, on June 29, 2022, the Board of Port Commissioners (the "Board) passed, approved, and adopted at a regular meeting of the Board, Resolution No. 3456, wherein the Board established a salary schedule for non-represented employees for Fiscal Year 2022-2023.

WHEREAS, on February 1, 2023, the Board rescinded Resolution No. 3456 and adopted Resolution No. 3467, wherein the Board approved administrative updates including clarification of Fitness/Wellness Cost Reimbursement Benefit language that was added to the Ventura Port District Human Resources Manual.

WHEREAS, the Board has determined that it is in the best interest of the District to amend the salary schedule to increase the bottom and the top of the salary range as shown below.

WHEREAS, as a result of such amendments, the Board finds it desirable and in the best interest of the District to rescind Resolution No. 3467 and to adopt the revised Resolution No. 3481 in the manner set forth herein; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Port Commissioners of the Ventura Port District that the Salary Schedules set forth below shall become effective for the first full pay period in the new fiscal year, which is July 12, 2023:

Classification	Monthly Range				
Accountant I	\$4,797 -	\$6,715			
Accountant II	\$5,330 -	\$7,462			
Accounting Manager*	\$6,884 -	\$10,688			
Accounting Technician	\$4,031 -	\$6,169			
Administrative Assistant/Clerk of the Board	\$4,741 -	\$7,254			

Business Operations Analyst I*	\$4,821	-	\$6,856
Business Operations Analyst II*	\$5,464	-	\$7,713
Business Operations Manager*	\$9,738	-	\$12,682
Capital Projects Manager*	\$7,203	-	\$10,812
Custodian I	\$2,931	-	\$4,487
Deputy General Manager*	\$11,277	-	\$15,202
Executive Assistant/Senior Clerk of the Board*	\$5,215	-	\$7,980
Facilities Manager*	\$6,744	-	\$9,828
Landscaper	\$3,867	-	\$5,921
Maintenance Lead Worker	\$4,494	-	\$7,499
Maintenance Supervisor*	\$5,735	-	\$8,779
Maintenance Technician I	\$4,494	-	\$6,876
Maintenance Technician II	\$4,713	-	\$7,499
Maintenance Worker I	\$3,225	-	\$4,935
Maintenance Worker II	\$3,867	-	\$5,921
Marina Manager*	\$5,676	-	\$8,687
Marketing & Event Coordinator I	\$4,069	-	\$5,395
Marketing & Event Coordinator II	\$4,474	-	\$5,935
Marketing Manager*	\$6,184	-	\$9,465
Senior Business Operations Manager*	\$10,712	-	\$13,951

*Exempt Employee Status

Part-time & Temporary Employee	Hourly Range
Administrative/Marketing Services	\$15.00 - \$27.43

BE IT FURTHER RESOLVED that employees with an employment agreement including the General Manager shall have their salary established as described in the Human Resources Manual; and

BE IT FURTHER RESOLVED that all other rates of pay shall be confined to a Salary Resolution established by the Board and will be based on a range, and

BE IT FURTHER RESOLVED that merit increases shall be subject to the policy established in the Human Resources Manual. Individual increases shall be limited to the limits of the defined salary ranges; and

BE IT FURTHER RESOLVED that the District shall contribute a maximum of \$725.00 per month toward the employee's cost of health and dental insurance. The District's Optional Benefit Plan shall continue to be \$475.00 per month. Those employees who choose not to participate in the District's health and dental insurance plans will receive \$216.00 per month as additional salary.

BE IT FURTHER RESOLVED that on July 1, 2018, the District implemented an employee vision plan. The District shall contribute the monthly premiums for said vision plan for the employees and their dependents, as appropriate; and

BE IT FURTHER RESOLVED that each year during the budget process and at such other times as the Board of Port Commissioners shall determine in its discretion, the Board of Port Commissioners shall review the Salary Range Plan to ensure that the specified salary ranges are appropriate for identified positions given the duties and responsibilities of such positions.

PASSED, APPROVED and ADOPTED this 21st day of June 2023 at the regular meeting of the Board of Port Commissioners of the Ventura Port District, Resolution No. 3481 was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Michael Blumenberg, Chair

Anthony Rainey, Secretary



BOARD OF PORT COMMISSIONERS JUNE 21, 2023

STANDARD AGENDA ITEM 5 APPROVAL OF ANNUAL PROFESSIONAL SERVICES AGREEMENTS FOR ADMINISTRATIVE, ADVOCACY, TECHNICAL, AND LEGAL SUPPORT SERVICES

VENTURA PORT DISTRICT BOARD COMMUNICATION

TO:	Board of Port Commissioners
FROM:	Brian D. Pendleton, General Manager
	Todd Mitchell, Sr. Business Operations Manager
	Jessica Rauch, Clerk of the Board
SUBJECT:	Approval of Annual Professional Services Agreements for Administrative,
	Advocacy, Technical, and Legal Support Services

RECOMMENDATION:

That the Board of Port Commissioners approve the Professional Services Agreements with:

- a) Swift Chip, Inc. in the amount of \$110,000 from July 1, 2023 to June 30, 2024, \$113,500 from July 1, 2024 to June 30, 2025 and \$116,500 from July 1, 2025 to June 30, 2026 to provide information technology services.
- b) Carpi & Clay, Inc. in the amount of \$60,000 to provide the District with federal advocacy services from July 1, 2023 to June 30, 2024.
- c) K&L Gates in the amount of up to \$80,000 to provide advocacy for the establishment of aquaculture in proximity to Ventura Harbor and legal support for regulatory agency permitting particularly as it concerns inner harbor dredging and beach maintenance.
- d) Liebert Cassidy Whitmore in the amount of up to \$60,000 to provide human resources legal services from July 1, 2023 to June 30, 2024.
- e) Rincon Consultants, Inc. in the amount of up to \$165,000 to provide dredging support, inner harbor dredging technical support, and coastal development permitting support from July 1, 2023 to June 30, 2024.
- f) Dixon Consultants, Inc. in the amount of up to \$55,000 to provide managed parking consulting, permitting, stakeholder engagement, and procurement support from July 1, 2023 to June 30, 2024.
- g) RRM Design Group, Inc. in the amount of \$40,000 to provide architectural design services for the planning of developing the Parcel 5 grass lawn area from July 1, 2023 to June 30, 2024.

SUMMARY:

Professional Service Agreements (PSAs) have been used successfully to streamline engineering, administrative, technical, and legal work required to complete certain projects, assistance in receiving federal and state funding and run the day-to-day operations of the District.

Board approval is required to enter into these agreements as they are over the General Manager's \$25,000 threshold. These PSAs are included in the FY2023-2024 Budget.

GUIDING PRINCIPLES

- 1) Maintain a safe, navigable, and resilient harbor.
- 2) Advance the harbor's vibrant, working waterfront in support of commercial and recreational fishing and boating.
- 3) Grow financial sustainability through a reliable, recurring revenue stream supplemented with grants and public-private partnership investment while maintaining responsible budgeting practices.
- 4) Establish and implement harbor-wide environmental sustainability policies and practices through collaboration with our business partners.

- 5) Build respectful, productive relationships with employees, tenants, residents, visitors, stakeholders, public officials, and elected representatives while promoting diversity, equity, and inclusion.
- 6) Provide exceptional public service and organizational transparency.
- 7) Provide high-quality Harbor and coastal visitor-serving amenities, services, facilities and infrastructure.
- 8) Support the Channel Islands National Park in its efforts to provide a first-class visitor center, educational resources, and ferry boat services to the islands.

FIVE-YEAR OBJECTIVES

- D) Ensure dredging occurs annually at the federal Harbor entrance and as needed in the inner Harbor.
- E) Encourage public and civic engagement; maintain high levels of organizational transparency; and promote Harbor-wide diversity, equity and inclusion through District policies, procedures and programs.
- F) Support current and future commercial fishing and sustainable aquaculture industries. Maintain and improve working waterfront facilities and infrastructure.
- M) Collaborate with Master Tenants and National Park Service to plan, improve, and develop the Harbor in a financially and environmentally sustainable way.
- N) Maintain and grow Channel Islands National Park Service (NPS) presence and customer visitation to the Harbor.
- P) Implement parking management, traffic circulation, and multi-modal transportation strategies.
- R) Seek opportunities to grow revenues and secure grants; continue to improve the quality, efficiency, and transparency of financial reporting, monitoring, and property management.
- V) Maintain and improve Harbor Village facilities, infrastructure, and amenities.

BACKGROUND:

The following is the scope of work for each PSA:

a) Swift Chip, Inc.

Swift Chip has been providing information technology services since 2019. They will continue to provide daily services for District operations and include the following areas of responsibility:

- Computers
- Printers
- Servers
- Vendor Coordination (e.g. Telecommunications, Internet Services)
- Technology Solution Design

b) Carpi & Clay, Inc.

Carpi & Clay's core business is focused primarily on representing, advancing and protecting the financial, legislative and regulatory interests of California local governments, public agencies and not-for-profit institutions. In the last six months they have been instrumental in assisting the District with inclusion of dredging the Harbor entrance channel in both the President's and Congressional budgets again this time for 2024. As federal funding becomes even more constrained, an effective advocacy and lobbying firm is essential to the District. Other duties they perform for the District are:

- Assist the Ventura Port District with securing annual appropriations for the maintenance dredging of the federal Ventura Harbor entrance channel area by the US Army Corps of Engineers.
- As required, meet with Members of the California Congressional delegation, and work closely with the offices of Congressman Padilla, Congresswoman Brownley, Senators Feinstein and Padilla on both funding issues and policy legislation. This will help to facilitate more productive relationships and support for initiatives.
- Organize strategic Congressional lobbying trips (in person in Ventura, in DC, and/or virtual) that support the Ventura Port District's goals, purpose, and intended results. When Ventura Harbor officials or staff are in Washington, D.C. Carpi & Clay provide direct support to include office space, meeting arrangements, and full staff support. Once completed, Carpi & Clay would ensure follow-up discussions to learn about the successes of the trip and determine next steps.
- Carpi & Clay will interact with all relevant government agencies, and specifically the U.S. Army Corps of Engineers, at all relevant levels to enable a full and cooperative approach and a successful outcome.
- Provide support for issues impacting or benefiting the Harbor as they arise.

c) K&L Gates

Robert Smith, a Partner at K&L Gates, will be assisting the Port District in advocating for the establishment of an Aquaculture Opportunity Area (AOA) by the National Oceanic and Atmospheric Administration (NOAA) in proximity to Ventura Harbor. In addition, K&L Gates will provide legal support for regulatory agency permitting particularly as it concerns inner harbor dredging and beach maintenance.

Task 1: NOAA AOA Process

NOAA is currently preparing a Draft Environmental Impact Statement ("DEIS"), which is anticipated to be publicly released within the first quarter of 2024. The DEIS will identify potential alternative sites for approval, which is likely to include one or more locations in proximity to Ventura Harbor. This will be a critical opportunity for the District to advocate for establishment of an AOA near Ventura. Further, there have been a number of comments received from potential supporters and opponents, and the next four to six months provide an opportunity for the District to conduct outreach to solicit potential support for a potential AOA location near Ventura. Mr. Smith will assist with strategic planning and outreach concerning this effort, as well as prepare comments on the DEIS once it becomes publicly available.

Task 2: Regulatory Agency Coordination and Permitting Support

District staff has a number of activities that require regulatory agency approval including coastal development permitting related to inner harbor dredging and beach maintenance. Mr. Smith provides expertise in coastal permitting matters and will provide strategic advice and legal counsel to the District in the permitting process to advance the District's applications, coordinate meetings with regulatory officials, and help secure timely approvals.

d) Liebert Cassidy Whitmore (LCW)

Oliver Yee, Partner will be the Port District's primary point of contact. Mr. Yee provides representation and legal counsel to LCW's public agency, education, and nonprofit clients. He leads the firm's Audit Services Practice Team. In addition, Oliver's practice involves representing and advising clients on a variety of labor and employment issues including labor negotiations, personnel rules and policies, the Fair Labor Standards Act, laws and regulations of public employment retirement plans, the Brown Act and Public Records Act, unfair labor practices, employee grievances, leave and disability issues, and disciplinary actions. He regularly advises executive management, human resources management and governing bodies on complex legal issues and matters.

The PSA scope will include, but not be limited to labor negotiations, personnel rules and policies, the Fair Labor Standards Act, laws and regulations of public employment retirement plans, unfair labor practices, employee grievances, leave and disability issues, and disciplinary actions.

e) Rincon Consultants, Inc.

Task 1: Annual dredging environmental consulting, material testing, and shoreline monitoring services

Ventura Port District requires the support of an outside consultant on an annual basis to complete the environmental monitoring and reporting coincident with the outer and inner harbor dredging programs.

Due to the impacts of the atmospheric river inputting sediment into the harbor, dredging will need to be conducted in 2024. This effort will require additional project management support.

In addition, one area of the harbor is expected to require additional material testing as this area is not typically dredged. This requires engagement with the Southern California Dredging Material Management Team (SC-DMMT) to define the testing requirements, perform them, and report on them to the SC-DMMT prior to commencing dredging.

FEMA grant funding is being pursued to offset the cost of inner harbor dredging including much of this technical support, including the material testing.

Task 2: Permit Amendments

Previous dredging permits-imposed limitations on the placement of inner harbor dredge material. Unlike the federal navigation channel, the inner harbor sediment is primarily fine grain and is subject to special conditions for dredging and placement.

A revised and updated permit with the Los Angeles Regional Water Quality Board for dredging has been obtained. In addition, the US Army Corps of Engineers has advised that their revised permit will be issued by the end of summer.

Staff and Rincon continue to provide additional information and respond to comments from the California Coastal Commission to obtain an updated and revised permit. Based on the most recent meeting with Coastal Commission staff, significant additional work is going to be required to have the permit issued.

Task 3: Coastal Development Permit for Beach Management

The California Coastal Commission has expressed their desire for the Port District to apply for a new Coastal Development Permit to replace one issued in 1980 for managing the beach and coastal access.

f) Dixon Resources Unlimited, Inc.

Task 1: Prepare a Coastal Development Permit for Managed Parking

Having obtained general support from the City of Ventura, the District's next step will be to submit a Coastal Development Permit for Managed Parking. Dixon Resources Unlimited (Dixon) has performed this for a number of agencies in California managing parking along the coast.

Task 2: Support with Completing a Shared Parking Agreement

District staff have drafted a preliminary shared parking agreement with the City, which is under review by the City. Dixon again has notable experience with this and will assist in finalizing a mutually suitable agreement. Dixon is also acting as a consultant to the City's Public Works department and is well informed regarding the City's managed parking program and requirements.

Task 3: Stakeholder Engagement

Implementation of managed parking will require significant stakeholder engagement and education to be successful. Dixon has extensive experience in this field including presentations to agency boards and council and at public gatherings. This task will include developing a public engagement plan and multiple stakeholder outreach initiatives.

Task 4: Procurement Support

When Tasks 1 and 2 are successfully completed, Dixon will assist the District in completing procurement of equipment and services.

g) RRM Design Group, Inc.

In 2011, the District engaged the services of RRM Design Group (RRM) to assist with preliminary designs for the grass lawn area at Parcel 5 among other tasks. In March of this year, RRM returned to the Board to revisit the designs previously prepared and to gather input for direction on a design for that parcel. The Board's feedback was supportive of the general vision previously developed. Therefore, staff is recommending the approval of a contract with RRM to further develop the design for the parcel. If approved by the Board, the contract could later be expanded to pursue permitting of the project and assistance with grant applications.

FISCAL IMPACTS:

These annual PSAs have been included in the FY2023-2024 Budget.

ATTACHMENTS:

None.