



Special Closed Session of March 2, 2022

**Santa Cruz Port Commission  
MINUTES**

*Commission Members Present (via teleconference):*

Reed Geisreiter	Chair
Darren Gertler	Vice-chair
Dennis Smith	Commissioner
Stephen Reed	Commissioner
Toby Goddard	Commissioner

**SPECIAL PUBLIC SESSION – 5:00 PM**

Chair Geisreiter convened the special public session at 5:00 PM via teleconference.

1. Oral Communication
2. Announcement of Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54956.8

At 5:00 PM, Chair Geisreiter announced that the Commission will meet in closed session to discuss agenda item 3.

**SPECIAL CLOSED SESSION**

3. Conference with Real Property Negotiators  
Property: 616 Atlantic Avenue  
Agency Designated Representative: H. MacLaurie  
Under Negotiation: Lease

**SPECIAL PUBLIC SESSION**

4. Action and Vote Disclosure after Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54957.1

Chair Geisreiter announced that the Commission took no reportable action in closed session on item 3.

Chair Geisreiter adjourned the special open session following the closed meeting at 5:35 PM.

---

Reed Geisreiter, Chair



Special Closed Session of March 14, 2022

**Santa Cruz Port Commission  
MINUTES**

*Commission Members Present (via teleconference):*

Reed Geisreiter	Chair
Darren Gertler	Vice-chair
Dennis Smith	Commissioner
Stephen Reed	Commissioner
Toby Goddard	Commissioner

**SPECIAL PUBLIC SESSION – 5:00 PM**

Chair Geisreiter convened the special public session at 5:00 PM via teleconference.

1. Oral Communication
2. Announcement of Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54956.9(d)(4)

At 5:00 PM, Chair Geisreiter announced that the Commission will meet in closed session to discuss agenda item 3.

**SPECIAL CLOSED SESSION**

3. Conference with Legal Counsel – Anticipated Litigation  
Initiation of Litigation (1 Case)

**SPECIAL PUBLIC SESSION**

4. Action and Vote Disclosure after Closed Session Pursuant to Government Code (Ralph M. Brown Act) Section 54957.1

Chair Geisreiter announced that the Commission took no reportable action in closed session on item 3.

Chair Geisreiter adjourned the special open session following the closed meeting at 6:20 PM.

---

Reed Geisreiter, Chair



Regular Public Session of March 22, 2022

**Santa Cruz Port Commission  
MINUTES**

*Commission Members Present (via teleconference):*

Reed Geisreiter	Chair
Darren Gertler	Vice-chair
Dennis Smith	Commissioner
Stephen Reed	Commissioner
Toby Goddard	Commissioner

**REGULAR PUBLIC SESSION – 7:00 PM**

Chair Geisreiter convened the regular public session at 7:00 PM via teleconference.

1. Pledge of Allegiance
2. Oral Communication

Commissioner Gertler reported that he recently participated in the Santa Cruz Commercial Fishermen’s Association meeting, which was well attended.

The Commission expressed support for the new agenda design and layout, specifically the reintroduction of the harbor’s three boat circle logo.

A brief discussion ensued regarding the Port District’s logo variations. There was consensus among the Commission to reincorporate the three boat circle logo onto future letterhead and branding material.

**CONSENT AGENDA**

3. Approval of Minutes
  - a) Special Public Budget Meeting of February 15, 2022
  - b) Regular Public Meeting of February 22, 2022
4. Approval of Month-to-Month Rental Agreement – Paved Lot (Tenant: Bayside Marine)
5. Approval of Sublease Agreement – 2222 E. Cliff Drive, Suite 220 (Tenant: Estriatus Law)
6. Approval of Resolution 22-09, Continuing Virtual Public Meetings in Accordance with Assembly Bill 361

MOTION: Motion made by Commissioner Reed, seconded by Commissioner Smith to approve consent agenda items 3 through 6.  
- *Motion carried unanimously by roll call.*

- Gertler: YES
- Smith: YES

- *Reed: YES*
- *Goddard: YES*
- *Geisreiter: YES*

## **REGULAR AGENDA**

### 7. Consideration of 6-Pak Charter Application – Seabright Sportfishing

Discussion: Harbormaster Anderson requested that the Commission consider authorization of a 6-pak charter operation in the northeast harbor. He stated that approval of this request will have minimal impact in the area.

Commissioner Geisreiter expressed support for approving the proposed charter operation. Commissioner Smith agreed.

MOTION: Motion made by Vice-chair Gertler, seconded by Commissioner Goddard to approve a 6-pak charter permit application for Jason Collins of Seabright Sportfishing.

- *Motion carried unanimously by roll call.*

- *Gertler: YES*
- *Smith: YES*
- *Reed: YES*
- *Goddard: YES*
- *Geisreiter: YES*

### 8. Update on Local Chapter Formation of CSDA – Insurance Requirements

Discussion: Commissioner Goddard requested that the Commission approve the Sample Certificate for Liability Coverage, which is included as Exhibit B of the CSDA Chapter Affiliation Agreement. He stated that approval of the sample certificate will allow the Port District to continue moving forward with the formation process of a county-wide chapter of the California Special Districts Association (CSDA), if enough local interest exists among other eligible agencies.

MOTION: Motion made by Commissioners Reed, seconded by Commissioner Smith to approve sample certificate for liability insurance coverage.

- *Motion carried unanimously by roll call.*

- *Gertler: YES*
- *Smith: YES*
- *Reed: YES*
- *Goddard: YES*
- *Geisreiter: YES*

### 9. Consideration of Hybrid Meeting Format for Port Commission Meetings



Discussion: Administrative Services Manager (ASM) Ritter stated that the Port District has been conducting virtual Port Commission meetings in accordance with Assembly Bill 361 since January 2022. She explained that new legislation (AB 1944) is currently being considered, and if signed into law, would allow the Port District the option to offer a virtual participation component for members of the public and Commissioners at future public meetings.

ASM Ritter requested that the Commission provide direction to staff on whether there is interest in procuring and implementing equipment to facilitate a hybrid (virtual and in-person) meeting format.

A brief discussion ensued regarding the potential benefits of a hybrid meeting platform. While there was a general consensus among the Commission to return to in-person meetings in April, there was support for exploring equipment and technology needs necessary to potentially transition to hybrid meetings in the future.

10. Approval of Cash / Payroll Disbursements – February 2022 (*There was no discussion on this agenda item*)

MOTION: Motion made by Commissioner Goddard, seconded by Vice-chair Gertler to approve cash and payroll disbursements for February 2022 in the amount of \$646,386.90.

- *Motion carried by roll call vote.*

- *Gertler: YES*
- *Smith: YES*
- *Reed: YES*
- *Goddard: YES*
- *Geisreiter: YES*

## **INFORMATION**

11. Port Director's Report

### Murray Street Bridge Seismic Retrofit Project – Independent Appraisal

Port Director MacLaurie stated that the Port District's appraisal report for the Murray Street Bridge Seismic Retrofit Project has been forwarded to the City of Santa Cruz and their consultant, Bender Rosenthal Inc. (BRI). Negotiations for a final settlement agreement continue, and BRI has given a preliminary indication that their settlement offer will increase by approximately \$750,000, which includes approximately \$500,000 to cover lost visitor berthing revenue as a result of permanent slip renters from FF-Dock being displaced to end-tie spaces.

Port Director MacLaurie stated that she anticipates that a settlement agreement will be provided to the Commission for review in the coming months.

### Insurance Coverage

Port Director MacLaurie informed the Commission of her intent to bind insurance coverage for FY23 by April 1. She stated that the District's insurer is having some difficulties securing coverage for the marine package policy, which includes coverage for docks, piers, and other marine infrastructure. Other coverages, such as cyber liability and public officials' liability insurance have renewals in place for April 1, with premiums increasing by approximately 15%.

U.S. Army Corps of Engineers (USACE) Dredging Reimbursement – FY22 Appropriation

Port Director MacLaurie stated that last week, the President signed the FY22 Omnibus Appropriations Package, which included \$525,000 in reimbursement for the Port District's dredging operation. She stated that this is the first time in at least a decade that the Port District has not had to rely on a subsequent work plan process to secure these annual funds.

Staff is currently working to submit the required FY23 appropriations, which are due by April 4, 2022.

Regional General Permit (RGP)

Port Director MacLaurie stated that the Port District's RGP application is still pending approval from U.S. Army Corps of Engineers' (USACE) and California Coastal Commission. Permit issuance is anticipated in the coming months.

12. Harbormaster's Report

Harbormaster Anderson stated that staff is preparing for the upcoming recreational salmon season, which is scheduled to open on April 2, 2022.

In response to a question posed by Commissioner Goddard, Harbormaster Anderson confirmed that heavy visitation, similar to the 2021 season, is expected for the upcoming commercial salmon season.

13. Facilities Maintenance & Engineering Report

Facilities Maintenance & Engineering (FME) Manager Wulf stated that staff has reinstalled the aerators throughout the harbor in preparation for any potential heightened anchovy activity.

FME Manager Wulf stated that the dredge crew continues to make significant progress deepening the federal navigation channel.

Commissioner Reed expressed his appreciation to the dredge crew for their hard work in maintaining the entrance channel this year. He stated that the depths reflected on the most recent sounding are very favorable. Commissioner Goddard agreed.

14. Bi-Annual Slip Vacancy Report / Waiting List Statistics

A brief discussion ensued regarding the significant increase in recent waiting list

applications. It was noted that over the last year and a half, 170 new waiting list applications have been processed.

In response to a comment made by Commissioner Goddard, staff stated that the formulas listed in the spreadsheet will be confirmed prior to the distribution of the June 30, 2022 report.

15. Financial Reports (*There was no discussion on this agenda item*)
  - a) Comparative Seasonal Revenue Graphs
16. Delinquent Account Reporting (*There was no discussion on this agenda item*)
17. Harbor Patrol Incident Response Report – February 2022 (*There was no discussion on this agenda item*)
18. Port Commission Review Calendar / Follow-Up Items (*There was no discussion on this agenda item*)

Chair Geisreiter adjourned the regular public session at 7:54 PM.

---

Reed Geisreiter, Chair

Santa Cruz Port District  
**Resolution 22-10**

April 26, 2022

On the motion of \_\_\_\_\_

Duly seconded by \_\_\_\_\_

A resolution commending Senior Deputy Harbormaster John Haynes, Deputy Harbormaster David Hill, and Deputy Harbormaster Parker Guy for their creditable actions in the line of duty, which resulted in the arrest of a wanted suspect that posed a significant threat to the welfare of the community.

WHEREAS, on April 10, 2022, Sr. Deputy Harbormaster Haynes, Deputy Harbormaster Hill, and Deputy Harbormaster Guy responded to an unusual circumstance in the harbor involving an armed suspect attempting to steal a vessel during unfavorable sea and weather conditions; and,

WHEREAS, Sr. Deputy Harbormaster Haynes, Deputy Harbormaster Hill, and Deputy Harbormaster Guy utilized their law enforcement training, knowledge, and skills to protect and maintain safety within the harbor while contacting the suspect; and

WHEREAS, the prompt and alert action of all three officers resulted in the successful apprehension of the suspect, who was later extradited to Humboldt County for questioning in an active homicide investigation.

NOW, THEREFORE, BE IT RESOLVED that the Santa Cruz Port Commission does hereby commend Senior Deputy Harbormaster Haynes, Deputy Harbormaster Hill, and Deputy Harbormaster Guy for their actions in the line of duty on April 10, 2022.

PASSED AND ADOPTED, by the Santa Cruz Port District Commission this 26th day of April, 2022, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

Approved by:

\_\_\_\_\_  
Reed Geisreiter, Chair  
Santa Cruz Port Commission



TO: Port Commission  
FROM: Blake Anderson, Harbormaster  
DATE: April 15, 2022  
SUBJECT: Consideration of 6-Pak Charter Permit Application – Barbarossa Fishing

**Recommendation:** *Consider approval of a launch ramp based 6-pak charter permit application for Justin Payton of Barbarossa Fishing.*

## BACKGROUND

Justin Payton currently owns a 25' Parker sportfisher, which he operates as part of his trailer-based charter business, Barbarossa Fishing. Mr. Payton currently has arrangements to operate from several neighboring harbors, including Half Moon Bay on a part-time basis.

To expand his business offerings, Mr. Payton is requesting authorization to operate his charter business out of the Santa Cruz Harbor launch ramp facility.

Mr. Payton has his Merchant Mariner's Credential (Captain's License, 100 Ton) and all necessary Coast Guard certifications for the vessel. Additionally, Mr. Payton is currently on the waitlist for a north harbor slip, which has an estimated wait time of approximately 18 to 24 months.

## ANALYSIS

While the request to operate a launch ramp based charter operation is atypical, similar approvals have been provided in the past (last approval granted in 2013, and subsequently expired). There are currently no approved charters operating out of the launch ramp.

Staff estimates that parking impacts will be minimal, as customers will arrive in one or two cars and visitor parking in the southeast harbor is generally readily available during the early morning hours when charter customers typically load. Most charters conclude by early afternoon, which would presumably open parking for other southeast visitors during the afternoon hours.

If this request is approved, it would not grant Mr. Payton any rights to operate his charter from visitor berthing or subleased spaces. Upon acceptance of a permanent slip through the wait list, Mr. Payton would be required to submit another charter permit application for Port Commission review, as future impacts may change.

Mr. Payton stated that he will retain all necessary USCG/CA Dept. of Fish and Wildlife licenses, abide by all Port District regulations, and maintain a safe, clean and professional operation.

## IMPACT ON PORT DISTRICT RESOURCES

If approved, the Port District will generate an additional \$714 in charter fees annually, plus associated launch fees and visitor parking revenue.

ATTACHMENTS: A. Charter Application (with supplemental information)

**BUSINESS USE OF SLIP / CHARTER PERMIT APPLICATION**

**CONTACT & BUSINESS INFORMATION**

Applicant Name:

Home Address:

Email Address:

Phone Number:

Assigned Slip #:  Slip Assigned through Port District Waiting List?  YES  NO

Vessel Pak Rating:  Vessel Type:  Vessel Size:

Vessel Draw:  Operating Schedule:

THE FOLLOWING INFORMATION MUST BE SUBMITTED AS PART OF THE APPLICATION PROCESS. THE INFORMATION WILL ASSIST IN THE APPROVAL PROCESS. ADDITIONAL INFORMATION MAY BE SUBMITTED, IF DESIRED.

**PROPOSED OPERATING PLAN**

Include days, times, and seasons of planned operation. Please note that any changes to the operating plan, including changes to the vessel's pak rating or size, will require additional Port Commission approval.

**PROPOSED PARKING PLAN**

Parking within the harbor is limited. Please address how parking will be utilized and any steps you will take to minimize parking impacts.

**SAFETY PLAN**

A comprehensive safety plan, outlining courses, certifications, licensing of each qualified vessel operator and/or skipper.

**INSURANCE REQUIREMENTS**

Liability insurance, in the amount of \$1 million, naming the Santa Cruz Port District as additional insured, must be provided.

**SIGNATURE**

Owner hereby agrees that, to the full extent permitted by law, Port District shall not be liable or responsible for any claims, demands, damages, debts, liabilities, obligations, costs, expenses, liens, actions or causes of action of any kind whatsoever, resulting (1) from any collision with any of the dredging equipment or any other boat, (2) from any collision or contact with the bottom of the Harbor or any obstructions on the bottom of the Harbor, (3) from any collision or contact with the jetties or surrounding beaches, or (4) from, or in any way relating to, the dredging operations or the lack of dredging operations, including, but not limited to, the closure of the Harbor entrance for any reason or under any circumstances

NAME:  SIGNATURE:

SIGNATURE:  DATE:

PRIMARY BANKING INSTITUTION:

**FOR PORT DISTRICT USE**

Application Fee:  Insurance Req't (Date Submitted):

Received Date:  Other Special Conditions:

Approval Date:

Justin Payton  
Barbarossa Fishing  
797 30<sup>th</sup> ave  
Santa Cruz, CA 95062

### Charter Permit Application – Santa Cruz Harbor

I have been fishing just about my entire life, growing up on the delta, living near the Sacramento River while attending Chico State University, and now have been living in Santa Cruz for over five years. I worked for the Department of Fish and Wildlife for 2 years on the Central Valley Anglers Project and a season for Pacific States as the commercial salmon surveyor for Moss Landing and Monterey. I also worked two commercial salmon seasons in Alaska while on college summer break.

I have now owned three ocean fishing boats in my five years in Santa Cruz and know the local fisheries very well. I obtained my Captains License at the beginning of 2021 and have been operating part time fishing charters out of San Francisco and Half Moon Bay since then.

**Proposed Operating Plan:** I plan to operate a fishing charter out of the harbor, starting when this permit is approved and operating year round. Fishing charters will be planned on Saturdays and Sundays mainly, with the occasional weekday trips.

**Proposed Parking Plan:** The fishing charters that I will operate are mostly private charters, meaning that everyone comes in one or maybe two cars. Guests will purchase a parking pass and park in guest parking spots. I plan on operating out of the launch ramp area, where guests will meet me at the guest docks.

**Safety Plan:** The boat is equipped with all USCG required safety equipment. This includes a fire extinguisher for any size fires, multiple type IV throw pads for person over board, comprehensive first aid kit for minor injuries to traumas, and oil collection pads and booms for any oil or gas spillage.

Justin Payton is a USCG licensed OUPV Captain with a near coastal endorsement, allowing him to operate out to 100 miles offshore with 6 paying passengers. He also has a current CPR and First Aid Certificate from the American Heart Association. I have also completed a UPV inspection from the CSCG. Please see attached.

**Insurance:** I have \$1 million marine insurance through Markel and a \$2 million business liability policy from Thimble. Please see attached.





# MARKEL AMERICAN INSURANCE COMPANY

GLEN ALLEN, VIRGINIA

## WATERCRAFT DECLARATIONS PAGE

Page # 5

<b>Policy Number:</b> MTD00000627585	<b>Agency Number:</b> 10336 - X3509A	<b>Effective Date/Transaction:</b> 2022-03-17      Endorse
---	---	---

**Policy Period:** From 03/17/2022      To 03/17/2023 12:01 A.M. Standard Time at Your Mailing Address

<b>Insured Name and Mailing Address</b> JUSTIN PAYTON  797 30TH AVE  Santa Cruz, CA 95062	<b>Your Agent</b> 843-606-5270 MARITIME INSURANCE INTERNATIONAL INC PO BOX 30  WEST MYSTIC, CT 06388
--	--

**DECLARED USAGE**  
**Primary Usage and ID** Charter - Captained 1  
**Usage Type** Captained  
**Additional Usage Description**

**Hull Type** Sportfish      **# of Vessels** 1

**Mooring Location** 2906 MISSION ST. Santa Cruz Santa Cruz CA 95062

**Navigation Limits** Inland and coastal waters of California, no more than 50 miles offshore.

**Lay-Up** None      **From**      **To**

COVERAGE	LIMIT*	DEDUCTIBLE*	PREMIUM
Hull, Agreed Value/Actual Cash Value Partial	\$110,000 per occurrence	2% min \$500 per vessel	\$1,294
Watercraft Liability	\$1,000,000 per occurrence		\$593
Uninsured Watercraft	\$300,000 per occurrence		\$15
Medical Payments	\$5,000 per occurrence		\$10
Oil Pollution Liability	\$997,100 per occurrence		\$12
Personal Effects	\$10,000 per occurrence/per vessel	\$250 per vessel	\$100
Fishing Equipment	\$10,000 per occurrence	\$250 per vessel	\$120
Emergency Towing and Assist	\$500 per occurrence/per vessel		\$3
Trailer	See Schedule	See Schedule	\$35

\*If Hull Coverage is shown above, the Hull Limit is the total value for all insured vessels. See Vessel Schedule for the individual vessel limits and deductible amounts.

<b>Endorsement</b>	
<b>Premium Total \$6.00</b>	<b>Usage Premium \$2,188.00</b>

**Non-Seasonal Rating:** If you cancel the policy or if the policy is cancelled for nonpayment of premium, any return premium will be computed on a 90% pro-rata basis subject to our minimum earned premium. If we cancel the policy, any return premium will be computed on a pro-rata basis.

<b>Minimum Earned Premium</b> \$500.00	<b>Policy Taxes/Fees</b> \$0.00	<b>TOTAL ANNUAL PREMIUM</b> \$2,188.00
--	---------------------------------	--

See Detail

**AMENDED TRAILER INFO**

<b>Loss Payee</b> FIRST TEHNOLOGY FCU PO BOX 779004  Rocklin CA 95677	<b>Additional Insured</b> SANTA CRUZ PORT DISTRICT 135 5TH AVE.  Santa Cruz CA 95062
---	--

**Producer** MARITIME INSURANCE INTERNATIONAL INC      **Customer Ref#**

**Forms and Endorsements** Please see the back of this form.

**Signed on** 3/21/2022      at WEST MYSTIC, CT

*John R. Clark*

Insured

3/21/2022





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
03/05/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Verify Insurance Services, Inc. DBA Thimble Insurance Services 174 West 4th Street, Suite 204 New York, NY 10014 <a href="https://support.thimble.com/">https://support.thimble.com/</a>	<b>CONTACT NAME:</b> THIMBLE <a href="https://support.thimble.com/">https://support.thimble.com/</a> <b>PHONE (A/C, No, Ext):</b> _____ <b>FAX (A/C, No):</b> _____ <b>E-MAIL ADDRESS:</b> <a href="mailto:support@thimble.com">support@thimble.com</a>
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b> INSURER A : National Specialty Insurance Company 22608 INSURER B : _____ INSURER C : _____ INSURER D : _____ INSURER E : _____ INSURER F : <a href="https://www.thimble.com/check-policy-status/">https://www.thimble.com/check-policy-status/</a>
<b>INSURED</b> Justin Payton Barbarossa Fishing celtawakebrdr@aol.com 95062	

## COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
X	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER	Y Y	IBL-FK8D6Z48B	01/05/2022 12:00 AM PST	04/04/2022 11:59 PM PDT* See note on expiration date below.	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION S					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS per cov	Y/N N/A				PER STATUTE OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
						EACH OCCURRENCE \$ AGGREGATE \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**\*Please note that the insured has purchased a monthly policy that will automatically extend upon expiration of the policy if the insured pays the appropriate premium. At that time, you will receive a new Certificate of Liability Insurance, evidencing such extension.**

(con't. on form Acord 101)

<b>CERTIFICATE HOLDER</b> Santa Cruz Port District <a href="mailto:scpd@santacruzharbor.org">scpd@santacruzharbor.org</a>	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	--

FG 73712

USCG UNINSPECTED PASSENGER VESSEL SAFETY EXAMINATION RESULTS < 100 GT ≤ 6 Passenger for Hire				
Vessel Name		Vessel Examination Location	Prior Decal	Photos
Santa Cruz		Santa Cruz	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Bow <input type="checkbox"/> Stern
Registration/COD # CF 719122		Hailing Port	HIN	
Expiration Date: 31 DEC 23		Santa Cruz	PYMGS1411415	
Vessel Make, Model & Year Mfg.		Length	Gross Tons	Net Tons
Parker 2015		25'1"		08
Fuel Type:	Propulsion:	Hull Structure:	Horsepower:	Vessel Route & Endorsement
<input checked="" type="checkbox"/> Gas <input type="checkbox"/> Diesel <input type="checkbox"/> Electric	<input type="checkbox"/> Inboard <input checked="" type="checkbox"/> Outboard <input type="checkbox"/> Sail <input type="checkbox"/> Rowed	<input type="checkbox"/> Wood <input checked="" type="checkbox"/> Fiberglass <input type="checkbox"/> Steel <input type="checkbox"/> Aluminum	<input type="checkbox"/> Single <input checked="" type="checkbox"/> Twin 1502	<input type="checkbox"/> Local Area <input type="checkbox"/> Inland <input type="checkbox"/> Great Lakes <input type="checkbox"/> Near Coastal <input type="checkbox"/> Oceans <input checked="" type="checkbox"/> Livery for Hire <input checked="" type="checkbox"/> Coastwise
Owner Name		Marine Employer		
Justin Payton		Rochacossa Fishing		
Mailing Address, City, State, Zip Code		Mailing Address, City, State, Zip Code		
797 30th Ave Santa Cruz, CA 95062				
Telephone: 925-813-0379		Telephone:		
Email Address: justin.payton1@yahoo.com		Email Address:		
Name/Reference #/Expiration Date on Merchant Mariner Credential:		USA 000586267		
Justin Charles Payton		ref # 8461398 exp 02 FEB 26		
<input type="checkbox"/> A voluntary UPV dockside examination has been completed. However as a result of the examination of this vessel, the following deficiencies were noted that prevented the issuance of the Uninspected Passenger Vessel Safety Decal: (note deficiency with an explanation and identify any Extremely Hazardous Conditions (EHC) :   				
<p style="text-align: center;">When these deficiencies are corrected, please call to schedule a re-examination.</p>				
Examiner Printed Name & ID #:		Telephone #:		
Examiner Signature:		Date:		
<p><b>Congratulations!</b> Your vessel is in full compliance with all applicable UPV regulations. The issued decal is valid for ONE year provided that all regulatory and operating requirements remain current. Please keep this form on board and show it to the Coast Guard if the vessel is boarded.</p>				
<p>DECAL EXPIRATION DATE: <u>31 MAR 23</u></p>				
<p>I CERTIFY that I have personally examined the vessel and find it meets the requirements of this report at the time of the examination.</p>				
Examiner Printed Name & ID:		Issuing Examiner Signature:		Telephone #
David Cripe		<i>[Signature]</i>		831-521-8990
<p>By accepting this UPV decal you are pledging to always maintain your vessel and equipment to the standard of safety qualified for during this examination. Remove this decal if the vessel is sold or the vessel no longer meets the requirements or no longer engages as an Uninspected Passenger Vessel.</p>				
Vessel Representative Signature:		Date:		
<i>[Signature]</i>		31 MAR 22		
MISLE Entry Date:		Signature:		Page 1 of 3
LANT/PACAREAINST 16710.2		Original - USCG Copy - Owner Copy - Examiner		

# REQUIREMENTS FOR UNINSPECTED PASSENGER VESSEL (Continued)

REQUIREMENTS	GUIDE PAGE	REGULATION	YES	NO	N/A
<b>GARBAGE POLLUTION PREVENTION</b>					
Garbage Placard(s): Vessels ≥ 26 ft. posted in prominent locations	26 & 27	33 CFR § 151.59/151.66	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waste Management Plan: on board for vessels ≥ 40 feet and oceangoing	28	33 CFR § 151.57	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>LIFESAVING EQUIPMENT</b>					
Personal Flotation Device: 1 approved Type I in serviceable condition of appropriate size readily available for each person on board	29	46 CFR § 25.25-5 (c), § 25.25 -7 §25.25-9 (a), § 25.25-11, § 160.002-6	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hybrid PFD may be substituted if worn	29	46 CFR § 25.25-5 (f) (1) (2) (3) 46 CFR § 160.077-1	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PFD's: Retro Reflection material and light as applicable	29	46 CFR § 25.25-13/-15	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ring Buoy: Approved, immediately available with grabline in serviceable condition. Applies to vessels ≥ 26 ft.	30	46 CFR § 25.25-5 (d)/-7/-9 (b.) § 25.25-11, § 160.050	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Visual Distress Signals: number required, readily accessible, not expired.	31	33 CFR § 175.19/ § 175.110/.120/ § 175.125/.128/.130	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>FIRE PREVENTION AND SUPPRESSION</b>					
Fire Extinguisher(s): Sufficient number of serviceable Type B USCG approved or UL listed for marine use. Current service date where applicable.	35	46 CFR § 25.30-5 (b), §25.30-10 (b), (1) (3) (4), § 25.30-20 (a) (1) & (b)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gas Engines: ventilation ducts, blower(s) and backfire flame control	37, 38 & 41	33 CFR § 183.601 (2) (d) (f)/183.610 46 CFR § 25.35 -1/.40-1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cooking, Heating and Lighting Systems: All secured and compliant with remote shut off valve on LPG or CN cooking systems	40	46 CFR § 25.45-1/-2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>SAFETY INSTRUCTIONS AND ORIENTATION</b>					
Safety Orientation: Announcements are made prior to journey	43	46 CFR § 26.03-1 (a)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Passenger List or Count: Conducted for each day of operation	43	46 USC 3502	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Emergency Instructions: Posted in prominent & accessible location	44	46 CFR § 26.03-1 (a)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>MARINE SANITATION DEVICES</b>					
Certified Marine Sanitation Device correct for length Type 1 (only under 65ft.), Type II or Type III	46	33 CFR § 159.7 (a)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Acceptable method(s) of securing overboard discharge device	47	33 CFR § 159.7 (b) c)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Identification placard attached on Type I or II	47	33 CFR § 159.55/.59	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>OIL POLLUTION PREVENTION</b>					
Oil Pollution Placard: applies to vessels ≥ 26 ft. 5" x 8" posted in machinery space and bilge control area.	48	33 CFR § 155.450	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bilge Slops Retention: ability to contain oily water on board; oily-water separator.	49	33 CFR § 155.330/.350/.770	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Vessel Name: CF 719122

Date of Exam: 31 MAR 22

LANT/PACAREAINST 16710.2

\* Original - USCG \* Copy - Owner \* Copy - Examiner

Page 3 of 3



TO: Port Commission  
FROM: Holland MacLaurie, Port Director  
DATE: April 13, 2022  
SUBJECT: Approval of Long-Term Lease for Santa Cruz Yacht Club Dry Storage

**Recommendation: Award lease to Santa Cruz Yacht Club.**

## **BACKGROUND**

The current lease for the Santa Cruz Yacht Club (SCYC) commenced on April 1, 1992. A subsequent amendment extended the term through March 31, 2022. Despite its recent expiration, the lease remains effective on a month-to-month basis until new terms are finalized.

A Request for Proposals for a new long-term tenant was advertised in April 2022. One proposal for the new lease was received from the current tenant.

The tenant is not currently in default of any provisions of the lease.

## **ANALYSIS**

A summary of draft lease terms is below:

Tenant: Santa Cruz Yacht Club  
Term: Eight years  
Options: Three four-year options  
Rent: \$12,038/month  
Use: Vessel Dry Storage  
Insurance: \$2 million with Santa Cruz Port District named as additional insured

## **IMPACT ON PORT DISTRICT RESOURCES**

There is no cost to the Port District associated with the award of the lease.

ATTACHMENT: A. Draft Lease – Santa Cruz Yacht Club Dry Storage

LEASE AGREEMENT BETWEEN  
SANTA CRUZ PORT DISTRICT COMMISSION,  
AS LANDLORD  
AND  
SANTA CRUZ YACHT CLUB  
AS TENANT  
FOR  
DRY STORAGE SPACE  
IN SANTA CRUZ HARBOR  
DATED: May 1, 2022

**TABLE OF CONTENTS**

	<u>Page</u>
Recitals .....	5
1. Lease of Premises .....	5
2. Tenant Improvements .....	5
3. Term.....	6
4. Title to Improvements .....	6
5. Rent .....	6-8
(a) Fixed Minimum Rent or “Base Rent” .....	6
(b) Adjustments to Base Rent.....	6
(c) Percentage Rent .....	7
(d) Lease Year.....	7
(e) Payment of Fixed Minimum Rent .....	7
(f) Delinquent Payment.....	7
(g) Security Deposit.....	7
(h) Personal Guaranty .....	7
(i) Rent Review.....	7
6. Use.....	8-11
(a) Permitted Use .....	8
(b) License Charges .....	8
(c) Condition of Premises .....	8
(d) Provision of Services.....	8
(e) Continuous Use .....	8
(f) Refuse Disposal .....	8
(g) Hazardous Materials .....	9
(h) Effect on Navigable Waters .....	10
(i) Non-permitted Uses .....	10
(j) Compliance with Laws.....	11
(k) Management of Hoist.....	11
(l) Towing of Unpowered Vessels.....	11
7. Ownership of Improvements .....	11
(a) Title .....	11
(b) Liens.....	11
8. Construction of Improvements .....	11-13
(a) No Landlord Improvements.....	11
(b) Tenant Improvements .....	11

- (c) Contractor Requirements ..... 12
- (d) Reasonable Measures During Construction ..... 12
- (e) Comply with Labor Laws ..... 13
- (f) Americans with Disabilities Act ..... 13
- 9. Taxes and Assessments ..... 13
  - (a) Payable by Tenant ..... 13
  - (b) Substitute Taxes ..... 13
- 10. Insurance ..... 13-16
  - (a) Landlord’s Insurance ..... 13
  - (b) Tenant’s Insurance ..... 14
  - (c) Waiver of Subrogation ..... 15
  - (d) Submittal of Policies ..... 15
  - (e) Review of Coverage ..... 15
  - (f) Changes in Coverage ..... 15
  - (g) Primary Policy ..... 15
  - (h) Policy Limits ..... 16
  - (i) No Limit on Indemnity ..... 16
  - (g) Landlord’s Remedies ..... 16
- 11. Indemnification ..... 16-17
  - (a) Tenant’s Hold Harmless ..... 16
  - (b) Tenant’s Waiver of Claims ..... 16
  - (c) Landlord’s Hold Harmless ..... 17
- 12. Maintenance and Repairs ..... 17
  - (a) Tenant’s Obligations ..... 17
  - (b) Outside Areas ..... 17
  - (c) Landlord’s Obligations ..... 17
- 13. Utilities ..... 18
- 14. Assignment, Subletting and Licensing ..... 18
  - (a) Landlord’s Consent Required ..... 18
  - (b) Permitted Assignments, Subleases and Licenses ..... 18
  - (c) Encumbrances ..... 18
  - (d) Corporation or Partnership ..... 18
- 15. Damage or Destruction ..... 19-20
  - (a) Partial Damage-Insured ..... 19
  - (b) Partial Damage-Under or Uninsured ..... 19
  - (c) Total Destruction ..... 19
  - (d) Damage Near End of Term ..... 19
  - (e) Abatement of Rent ..... 20

(f) Waiver ..... 20

(g) Tenant's Property ..... 20

(h) Notice of Damage ..... 20

(i) Replacement Cost..... 20

16. Eminent Domain ..... 20-21

    (a) Termination ..... 20

    (b) Partial Taking Renders Economically Infeasible ..... 20

    (c) Partial Taking with Business Continued ..... 21

    (d) Repairs..... 21

    (e) Compensation ..... 21

17. Tenant Default ..... 21-22

18. Remedies ..... 22

    (a) Repossession ..... 22

    (b) No Repossession ..... 22

19. Attorneys' Fees ..... 23

20. Removal of Property ..... 23

21. Subordination ..... 23

    (a) Subordination of Lease ..... 23

    (b) Execution of Documents..... 23

22. Landlord's Right to Reenter ..... 24

    (a) Peaceable Surrender ..... 24

    (b) Waiver of Redemption and Stipulated Damages ..... 24

23. Reservations to Landlord ..... 24

24. Building/Premises Closure ..... 24

25. Force Majeure ..... 25

26. Notices ..... 25

27. No Commission..... 25

28. Waiver ..... 25

29. Holding Over ..... 26

30. Parking..... 26



31. Non-Discrimination..... 26

32. Entry by Landlord..... 26

33. Estoppel Certificates ..... 26

34. CASp Inspection ..... 27

35. General ..... 27-29

    (a) Entire Agreement ..... 27

    (b) Covenants and Conditions ..... 28

    (c) Binding on Successors..... 28

    (d) Joint and Several Liability ..... 28

    (e) Gender ..... 28

    (f) Captions ..... 28

    (g) Governing Law ..... 28

    (h) Time of Essence ..... 28

    (i) Partial Invalidity ..... 28

    (j) Relationship ..... 28

    (k) Corporate Authority ..... 28

    (l) No Recordation ..... 28

    (m) Calendar Days ..... 29

    (n) Counterparts ..... 29

36. Special Rules for Licensees for Dry Storage Space..... 29

37. State of California Harbors and Navigation Code..... 29

List of Exhibits

Exhibit “A” Premises Map and Diagram

**SANTA CRUZ PORT DISTRICT  
LEASE AGREEMENT**

THIS LEASE is made and entered into effective as of April 1, 2022, ("Effective Date"), by and between the SANTA CRUZ PORT DISTRICT COMMISSION, a political subdivision, 135 5th Avenue, Santa Cruz, California, 95062, hereafter referred to as "Landlord," and Santa Cruz Yacht Club, hereafter referred to as "Tenant." Landlord and Tenant are hereinafter referred to individually as "Party" or collectively as the "Parties."

RECITALS

A. Landlord is the owner of those certain premises (the "Premises") consisting of approximately one acre of land including approximately 600 square feet of land on which is situated a hoist and hoist pad area, and an approximately 100 lineal foot launching float, all as more particularly shown and described in Exhibit "A" attached hereto and incorporated herein by this reference.

B. Landlord and Tenant desire to continue their business relationship after termination of the Lease dated April 1, 1992, and all subsequent amendments which ends on March 31, 2022, by entering into this Lease, which has an Effective Date of May 1, 2022.

C. Landlord desires to lease the Premises to Tenant for dry storage of vessels in accordance with all terms and conditions of this Lease.

AGREEMENT TERMS

NOW, THEREFORE, in furtherance of the foregoing Recitals, which are incorporated herein, and in consideration of the mutual covenants contained herein, Landlord and Tenant hereby agree as follows:

1. Lease of Premises.

(a) Effective May 1, 2022, Landlord hereby agrees to lease the Premises to Tenant, and Tenant agrees to lease the Premises from Landlord, for the designated term, at the rental, and upon the other terms and conditions contained herein.

2. Tenant Improvements. Tenant shall purchase at its expense, and install or construct on the Premises, at its sole cost and expense, any equipment, furnishings and improvements required for the operation of the Santa Cruz Yacht Club to properly conduct the business ("Tenant Improvements"). All proposed improvements must be pre-approved, in writing by Landlord, properly permitted by the City of Santa Cruz and any and all other regulatory agencies with permitting jurisdiction prior to construction or installation, and in compliance with all applicable laws.

3. Term:

(a) Term. The term of this Lease commences as of May 1, 2022, and shall continue hereunder until midnight on April 30, 2030, for a period of eight (8) years, unless sooner terminated as provided herein. The term of this Lease is hereinafter referred to as the "Lease Term" or "Term."

(b) Option to Extend Lease. Provided that Tenant is not in material default of any part of this Lease at the time of the exercise of the option, Tenant shall have three options to extend the term of this Lease. The option terms shall be four (4) years from May 1, 2030, through April 30, 2034, and May 1, 2034, through April 30, 2038, and May 1, 2038, through April 30, 2042. Tenant may exercise the options, by giving Landlord notice of its exercise of the option to extend the Lease Term no earlier than one year prior to expiration of the Term, and no later than six (6) months prior to the expiration of the Term.

4. Title to Improvements. Free and clear title to any and all improvements and fixtures purchased or constructed by Tenant and installed upon the Premises shall upon such termination vest in Landlord without additional cost or expense to Landlord, and Tenant shall execute such additional documents as Landlord may reasonably require effectuating such transfer of title. Notwithstanding the foregoing, Tenant shall have the right to remove furniture, equipment and trade fixtures that are not fixed to the Premises during the thirty (30) days following the termination of the Lease and will retain title to any items removed.

5. Rent.

(a) Fixed Minimum Rent or "Base Rent". Beginning on the Effective Date, Tenant shall pay to Landlord each month a fixed amount of rent ("Fixed Minimum Rent" or "Base Rent") for the Premises which shall initially be equal to Twelve Thousand and Thirty Eighty Dollars (\$12,038.00), as adjusted as hereinafter provided.

In no event shall the aggregate amount Tenant charges its licensees and subtenants for dry berthing on the premises for any given period of time during the Lease term exceed 150% of the amount of rent payable by Tenant to Landlord under this Lease for the same period of time.

Landlord and Tenant agree to meet and discuss the monthly rent terms of this lease at Tenant's request if the following conditions arise: 1) if the entrance is closed for a time period of 6 months or greater; or 2) Tenant's dry storage vacancy rate exceeds 35% for 6 consecutive months or longer.

(b) Adjustments to Base Rent. On April 1 ("Adjustment Date"), and each year thereafter on April 1 for the term of this Lease, the Base Rent in effect for the month immediately preceding the Adjustment Date shall be adjusted by a percentage which is equal to the percentage that license fees charged for such wet berthing slips exceed the license fees previously charged for said slips. In no event shall the Base Rent for any year be less than the Base Rent for the preceding year.

(c) Percentage Rent. *Section deleted.*

(d) Lease Year. The term “lease year” means the period during the lease term commencing on April 1<sup>st</sup> of each year and ending at midnight on March 31<sup>st</sup> of the next succeeding year. The term “lease month” means the period from the 1st day of each calendar month during the lease term through the last day of the calendar month.

(e) Payment of Fixed Minimum Rent. The Fixed Minimum Rent shall be payable monthly in advance, without notice, offset, or abatement, by the first day of each calendar month of the Lease Term. All rent and other sums payable by Tenant hereunder shall be paid to Landlord in currency of the United States of America (or by personal check unless Landlord otherwise notified Tenant) at Landlord’s address set forth in Paragraph 23 hereof, or at such other place as Landlord may from time to time designate in writing.

(f) Delinquent Payment. Rent payments received on or after the 21<sup>st</sup> day of the month shall be deemed Delinquent Payments. A delinquency fee in the then current amount as set by the Landlord’s Board of Port Commissioners shall be applied to any delinquent payment. In addition, interest in the then current amount as set by the Landlord’s Board of Port Commissioners shall be applied on the last day of each month to the unpaid balance until paid in full.

(g) Security Deposit. Tenant will, no later than twenty (20) days prior to the commencement date of this Lease, deposit with Landlord a sum equivalent to one month’s Base Rent for the Premises as security for the faithful performance by Tenant of all of its obligations hereunder. If Tenant fails to pay rent or any other sums due hereunder, or otherwise defaults with respect to any provision of this Lease, Landlord may use, apply, or retain all or any portion of the Deposit for the payment of any rent or other sum in default, or to compensate Landlord for the payment of any other sum which Landlord may become obligated to spend by reason of Tenant’s default, or to compensate Landlord for any expenditures, loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of the Deposit, Tenant shall within ten (10) days after written demand therefor, deposit with Landlord an amount in cash sufficient to restore the Deposit to the full amount hereinabove stated. Landlord shall not be required to keep the Deposit separate from its general funds. The Deposit, less any portion thereof which Landlord is entitled to retain, shall be returned, without payment of interest, to Tenant within thirty (30) days after the later of expiration of the term hereof or the date on which Tenant vacates the Premises.

(h) Personal Guarantee. *Section deleted.*

(i) Rent Review. Prior to any Option being binding on Landlord, Landlord shall review the current Base Rent to determine Base Rent is equal to fair market rent. If Landlord in its sole discretion determines that an adjustment is necessary to bring the rent up to fair market rent, Landlord shall within thirty (30) days of Tenant’s notice of intent to exercise the option provide Tenant with written notice of the new base rent. If Landlord does not provide notice, Base Rent for the first year of the Extended Term shall be the same as the prior year and the Option shall be binding. If Landlord provides notice of a rent increase, Tenant shall have ten (10) days after receipt of written notice to withdraw its exercise of the Option. If Tenant does not provide notice of withdrawal of the exercise of Option within ten (10) days of

receiving notice of the new Base Rent, the Option shall be binding on tenant and the Base Rent shall be as set forth in the Landlord's notice.

6. Use.

(a) Permitted Use. Tenant shall use the Premises solely for dry storage of boats and for licensing of spaces for dry storage of boats, and for no other use or purpose whatsoever without the prior writing approval of Landlord. Although Tenant shall be entitled to license all spaces on the premises for dry storage of boats, it is understood and agreed that Landlord shall have exclusive control over the waiting list for such spaces, and that all such licensees shall comply with Landlord's reasonable rules, regulations, and policies regarding such waiting list (which shall be based on the same rules, regulations, and policies applicable to members of the general public with respect to wet berthing slips licensed by Landlord).

(b) License Charges. Tenant shall at all times maintain a complete schedule of the amounts charged for a license for dry storage space on the premises. Said charges shall be fair and reasonable.

(c) Condition of Premises. Tenant acknowledges that it recognizes the uniqueness of the Premises and adjacent outdoor areas, and accepts them in their current and disclosed "AS IS, IN ITS CURRENT CONDITION, WITH ALL FAULTS" condition existing on the Effective Date of this Agreement, subject to all applicable zoning, city, county, or state laws, ordinances and regulations affecting the use of the Premises and adjacent outdoor area.

(d) Provision of Services. Tenant shall maintain the necessary personnel, facilities and equipment, at all times during the Lease Term to conduct a marine retail operation on the Premises.

(e) Continuous Use. Tenant shall continuously and uninterruptedly during the Lease Term, during all normal business hours, and on such days as a majority of the other businesses in the Santa Cruz Small Craft Harbor are open for business, occupy and use the entire Premises for the purpose of operating a dry storage area on the Premises. Tenant shall at all times employ its best business judgment, efforts, and abilities to so operate the business conducted by Tenant on the Premises in a manner calculated to service adequately the public demand for the goods and services included within the business permitted herein.

(f) Refuse Disposal. Tenant shall be entitled to use designated refuse facilities provided in the harbor area for the disposal of dry refuse generated from Tenant's operations on the Premises, which facilities shall be situated at the location designated from time to time by Landlord. Tenant shall collect, sort and recycle refuse materials in accordance with the City of Santa Cruz Solid Waste and Recycling requirements.

(g) Hazardous Materials.

(i) Tenant warrants and agrees that no goods, merchandise, or materials shall be kept, stored, or sold in such a manner as to create any unusual hazard on the Premises; and no offensive or dangerous trade, business, or occupation shall be conducted thereon, and nothing shall be done on the Premises which will cause an increase in the rate of or cause a suspension or cancellation of the insurance upon the Premises or upon adjacent properties or improvements thereon.

(ii) No machinery or apparatus shall be used or operated on the Premises which will in any way injure the Premises, or adjacent properties or improvements thereon.

(iii) Tenant, at its sole cost and expense, shall comply with all Laws (as defined herein) affecting the Premises relating to the storage, placement, use and disposal of Hazardous Materials by Tenant, its agents, employees, invitees or contractors. Tenant shall be solely responsible for and shall defend, indemnify, and hold Landlord, its officers, directors, employees and its agents (collectively, the "Landlord Indemnified Parties") harmless from and against any and all claims, judgments, losses, orders, demands, causes of action, directives from environmental regulatory agencies, costs and liabilities, including without limitation attorneys' fees and costs, arising out of or in connection with the storage, placement, use or disposal of Hazardous Materials on or about the Premises by Tenant, its officers, directors, agents, employees, invitees, or contractors.

(iv) If the presence of Hazardous Materials introduced to the Premises by Tenant, its officers, directors, agents, employees, invitees or contractors results in contamination or deterioration of any improvements, water, soil, or other environmental media, then Tenant, at its sole cost and expense, shall promptly take any and all action necessary to investigate and clean up such contamination and restore the Premises and to the condition existing prior to the introduction of any Hazardous Materials.

(v) The term "Laws" shall mean any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipal, county, state, federal or other government agency or authority having jurisdiction over the parties to this Lease or the Premises, or both, in effect either at the date this Lease is fully executed or any time during the Term of this Lease.

(vi) As used herein, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States government. The term "Hazardous Materials" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance"

under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos; (vii) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317); (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601), and any amendments or successor statutes thereto.

(vii) The obligations of Tenant under subparagraphs 6(g)(i) through 6(g)(viii) shall survive the expiration of the Lease Term.

(viii) Tenant shall indemnify the Landlord Indemnified Parties from any damages suffered by any of the Landlord Indemnified Parties, including, without limitation, cleanup costs, as a result of the generation, use, storage, transport or release of Hazardous Materials by Tenant in, on or about the Premises or the Property. Prior to bringing or allowing any Hazardous Materials to be brought onto the Premise, Tenant shall notify Landlord as to the identity of said materials and the safeguards to be used in connection therewith. Landlord shall be entitled, in its sole discretion, to refuse to allow Hazardous Materials to be brought onto the Premises. Landlord's consent to the introduction of any hazardous material onto the Premises (i) shall not release Tenant from its duty to indemnify the Landlord Indemnified Parties for any damages resulting from such materials, (ii) shall not be deemed to waive Landlord's right to disapprove of any subsequent introductions of hazardous materials onto the Premises whether of the same or of a different nature than the material to which Landlord consented, and (iii) may be revoked at any time, in Landlord's sole discretion, whereupon Tenant shall remove such materials from the Premises within five (5) days of receipt of Landlord's demand for removal. In all events, if any hazardous materials become located upon the Premises for any reason other than as consented to by Landlord in accordance with the foregoing procedure, Tenant shall immediately notify Landlord as to the same.

(h) Effect on Navigable Waters. Under federal law, no construction, installation, dredging, filling, or other activity which would have an effect on navigation may be conducted in or adjoining navigable waters without a permit therefore first being issued by the Secretary of the Army. The Port Director in his/her sole discretion determines whether any proposed facility of Tenant may be construed to have an effect on navigation. In the event the Port Director so determines, Tenant shall prepare at its expense a permit application for submittal by Landlord in Landlord's name to the Corps of Engineers, United States Army. The permit application shall be prepared in strict conformity with regulations published by the United States Army.

(i) Non-permitted Uses. Tenant shall not permit the Premises to be used for any purpose not described in Paragraph 6(a), or for any unlawful purpose; and Tenant shall not perform, permit, or suffer any act of omission or commission upon or about the Premises which would result in a nuisance or a violation of the laws and ordinances of the United States, State of California, or City of Santa Cruz, as the same may be now or hereafter in force and effect. Without limiting the generality of the foregoing, Tenant specifically agrees not to cause or permit generation of unreasonable levels of



noise from any activity on the Premises which might disturb live-a-board slip licensees or residential neighbors of the Port District from 10 p.m. until 6:00 a.m. each day during the Lease Term.

(j) Compliance with Laws. Tenant shall abide by all applicable Laws, rules, codes, regulations, resolutions, ordinances and statutes of Landlord, the City of Santa Cruz, County of Santa Cruz, California Coastal Commission, State of California, or other governmental body where applicable, respecting the use, operation, maintenance, repair or improvement of the Premises and equipment therein, and shall pay for any and all licenses or permits required in connection with the use, operation, maintenance, repair, or improvement of the Premises. Landlord shall have no responsibility for obtaining any such licenses or permits, and shall have no liability to Tenant (nor shall Tenant have any right to terminate the Lease or receive abatement of rent or other charges) if Tenant, for any reason, is unable to obtain any such permits. Tenant acknowledges that Landlord has made no warranties or representations to Tenant regarding the suitability of the Premises for Tenant's intended use, and Tenant waives all claims against the Landlord Indemnified Parties regarding the suitability of the Premises for Tenant's intended uses.

(k) Management of Hoist. Tenant shall at all times supervise and manage the operation of the hoist on the premises and ensure its operation in a safe manner.

(l) Towing of Unpowered Vessels. Tenant shall use its best effort to provide for the towing of unpowered boats through the harbor channel and entrance.

7. Ownership of Improvements.

(a) Title. All structures, buildings, improvements, additions, and fixtures now existing or hereafter constructed, erected, or installed in or upon the Premises, and all alterations and additions thereto, shall be deemed a part of the Premises and title shall be vested in Landlord, and upon expiration or sooner termination of the Lease Term shall remain upon and be surrendered with the Premises as part thereof.

(b) Liens. Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Tenant. Tenant shall indemnify and hold Landlord harmless against liability, loss, damage, cost, and all other expenses (including but without limitation, attorneys' fees) arising out of claims of lien for work performed or materials or supplies furnished at the request of Tenant or persons claiming under Tenant.

8. Construction of Improvements.

(a) No Landlord Improvements. Landlord shall not be obligated to install or construct any improvements, additions, or alterations (collectively "improvements") on the Premises during the Lease Term.

(b) Tenant Improvements. All improvements, additions, or alterations Tenant may desire in the future shall be done in accordance with the provisions of this Paragraph 8(b). Tenant shall make, at its sole cost and expense, changes, alterations, or additions in and to Tenant Improvements



and structures on the Premises that may be required by any applicable Laws (including, but not limited to, the ADA from time to time). Tenant shall not construct any improvements to or modify the Premises in any way without the prior written consent of Landlord which shall not be unreasonably withheld. Any improvements to the Premises which are permitted by Landlord shall be installed or constructed by Tenant at Tenant's sole cost and expense; provided that, before commencing the installation or construction of any improvements on the Premises Tenant shall submit to Landlord, for Landlord's approval, final plans, specifications, construction contract and related documents, and a site plan prior to applying for any permits for such improvements. Upon obtaining Landlord's approval, which will not be unreasonably withheld, Tenant shall not amend or otherwise change such plans, specifications, construction related documents, or site plan without first obtaining Landlord's approval of such amendment or change. Tenant shall be solely responsible for obtaining all other governmental permits or approvals required for the installation or construction of any such improvements to the Premises, including, but not limited to, Coastal Commission approval, and approval of the City or County of Santa Cruz. Landlord shall have no liability whatsoever for Tenant's inability or failure to obtain any such permits or approvals, and shall provide copies of same to Landlord prior to commencing any work.

Tenant shall give at least thirty (30) days' advance notice to Landlord before actually commencing any improvement work on the Premises so that Landlord can post a notice of non-responsibility, if Landlord so chooses. Tenant shall call Landlord to request inspections at regular intervals as determined by Landlord, but in no event less than biweekly. Upon completion of any such improvements, Tenant shall deliver to Landlord a complete set of "as-built" plans respecting such improvements.

(c) Contractor Requirements. Tenant shall use licensed and insured contractors and any contract between Tenant and any contractor relating to any improvement work is subject to Landlord's prior approval in accordance with all of the following:

(i) Any contract between Tenant and any contractor relating to any improvement work is subject to Landlord's prior approval and shall contain release, defense and indemnity provisions in Landlord's favor to the fullest extent permitted by law in a form to be approved by Landlord, substantially similar to: "Contractor agrees to defend, indemnify, and hold harmless the Landlord, its officials, officers, directors, and employees from and against any damage, claim, liability, expense (including attorney fees and costs) in any way related to the acts or omissions of Contractor, its employees or agents on Landlord's property, except where caused by the sole negligence or willful misconduct of Landlord."

(ii) Contractor's insurance shall at a minimum meet the requirements applicable to Tenant as it relates to construction as set forth in Paragraph 10, and include Landlord, its officials, officers, directors, employees and volunteers as additional insureds, and a waiver of subrogation in Landlord's favor.

(d) Reasonable Measures During Construction. Tenant shall take all reasonably 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. Dust, noise

and other effects of such work shall be controlled by Tenant using methods customarily utilized in order to control deleterious effects associated with construction.

(e) Comply with Labor Laws. It shall be the obligation of Tenant (and any contractor and/or subcontractor under Tenant) to comply with and conform to all applicable State of California labor laws, rules and regulations (including, but not limited, prevailing wage laws and requirements and the Parties agree that Tenant shall be liable for any violation thereof.

(f) Americans With Disabilities Act. Throughout the term of this Lease, Tenant acknowledges and expressly accepts full responsibility and shall incur all costs and expenses for compliance with the requirements of the Americans with Disabilities Act (ADA) and any other local, state or federal law or regulation regarding the accessibility of the Premises by disabled individuals. Tenant agrees to release, indemnify, defend and hold Landlord (and its officers, directors, employees and agents) harmless for any claim, loss, expense or liability arising from Tenant's failure to fully comply with all such laws or regulations.

9. Taxes and Assessments.

(a) Payable by Tenant. Tenant shall pay directly to the taxing authority during each year or partial year during the Term hereof, all real and personal property taxes, general and special assessments, use and possessory taxes, environmental protection charges, and other charges of every kind or description whatsoever, foreseen or unforeseen, levied on or assessed against the Premises, improvements or personal property therein, the leasehold estate or any subleasehold estate permitted by Landlord. Tenant shall pay each installment of such taxes and assessments prior to the date such installment becomes delinquent. The taxes and assessments to be paid by Tenant hereunder shall be prorated at the end of the Lease Term, in order that Tenant will pay only the proportionate part of said taxes and assessments attributable to the period of the Lease Term. Tenant shall pay all supplemental or escape assessment levied or assessed against the Premises.

(b) Substitute Taxes. If at any time during the Lease Term, under the laws of the United States of America, the State of California, or any political subdivision thereof in which the Premises are located, a tax on rent or other charge by whatever name called, is levied, assessed, or imposed against Landlord, or against the rent payable hereunder to Landlord, as a substitute in whole or in part for any of the taxes described in Paragraph 9(a), Tenant, to the extent such substitute tax or other charge relieves Tenant from the payment of taxes provided for herein, shall pay such tax or other charge in the manner provided in this Paragraph 9.

10. Insurance.

(a) Landlord's Insurance. Landlord shall procure and maintain in full force and effect at all times during the Term of this Lease, fire and extended coverage insurance satisfactory to Landlord covering the Premises and all improvements therein in an amount not less than eighty percent (80%) of the actual replacement cost thereof. The insurance provided for in this Paragraph 10(a) shall, in Landlord's sole and absolute discretion, provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils ("special form"), and loss of rents covering Base Rent for a period of up to twelve (12) months, and shall contain an inflation endorsement. Insurance proceeds thereunder shall be payable to Landlord.

Landlord is not responsible for any damage to Tenant's property and shall have no obligation to insure against loss by Tenant to Tenant's leasehold improvements, fixtures, furniture, or other personal property in or about the Premises occurring from any cause whatsoever and Tenant shall have no interest in the proceeds of any insurance carried by Landlord. Landlord shall be entitled to carry any such insurance in the form of a blanket policy covering Tenant's property in addition to the Premises. Landlord may, at Landlord's sole discretion, bill Tenant for the cost of the above-described insurance in an amount proportional to the square footage of the Premises as calculated from Landlord's inventory of insured spaces and the premiums charged by Landlord's insurer for all of the square footage of buildings covered by such insurance policy. The Tenant's share of such insurance premiums shall be Additional Rent and shall be payable within fifteen (15) days of receipt of an invoice for such Additional Rent. Landlord, in its sole discretion, may allow Tenant to pay such Additional Rent in 12 equal monthly installments or may require Tenant to pay such Additional Rent in one installment.

(b) Tenant's Insurance. During the Term of the Lease, Tenant shall maintain, at its sole cost and expense, if applicable, the following insurance policies:

(i) "All Risk" Property Insurance covering risks of loss normally insured under a "special form" policy, covering Tenant's leasehold improvements, fixtures, equipment, furniture and other personal property in or about the Premises. Such insurance shall be maintained with limits no less than \$1,000,000 or in an amount sufficient to cover not less than one hundred percent (100%) of the full replacement value thereof (whichever is greater) with no coinsurance penalty provision. Landlord shall be a loss payee as its interests shall appear.

(ii) Commercial General Liability Insurance protecting Landlord and Tenant against liability for bodily injury and property damage, including completed operations, contractual liability coverage and products liability, as well as "personal and advertising injury" liability occasioned by any occurrence in, on, about, or related to the Premises in an amount not less than Two Million Dollars (\$2,000,000) each occurrence and annual aggregate. Such policy shall also include liquor liability coverage. Tenant shall cause Landlord, its employees, officials, officers, directors, agents and volunteers to be named as an additional insured under such policy.

(iii) Workers' Compensation and Employer's Liability Insurance as required by applicable law against liability arising on account of injuries or death to workers or employees on the Premises or any improvement of Tenant. Such workers' compensation insurance shall be in amounts at least equal to the maximum liability of Tenant, its agents, and contractors under the Workers' Compensation Insurance and Safety Act of the State of California and the Federal Longshore and Harbor Workers' Compensation Act, as applicable. Tenant shall also maintain Employer's Liability insurance with limits no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease, \$1,000,000 disease – policy limit, \$1,000,000 disease – each employee. Such insurance shall include a waiver of subrogation in favor of Landlord.

(iv) Automobile Liability on an "Any Auto" Basis: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 combined single limit each occurrence/per accident for bodily injury and property damage.

(v) If Tenant commits, permits or causes the conduct of any activity or the bringing or operation of any equipment on or about the Premises creating unusual hazards, Tenant shall promptly, upon notice from Landlord, procure and maintain in force during such activity or operation insurance sufficient to cover the risks represented thereby. Landlord's demand for unusual hazard insurance shall not constitute a waiver of Landlord's right to demand the removal, cessation or abatement of such activity or operation.

(vi) Tenant shall procure, at Tenant's own cost and expense other insurance in amounts from time to time reasonably required by Landlord against other insurable risks if at the time they are commonly insured against for premises similarly situated.

(vii) All policies shall be placed with insurers admitted or eligible to do business in the State of California and rated A VIII or better by A.M. Best. All policies shall include a provision that prior written notice of policy cancellation, or for non-payment of premium will be provided. Tenant shall furnish Landlord with Certificates of Insurance showing evidence of the required insurance upon execution of this Lease and thereafter upon renewal or replacement of policies.

(c) Waiver of Subrogation. Tenant and Landlord each hereby waives any and all rights of recovery against the other, and against the officers, employees, agents and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against under any property insurance policy in force at the time of such loss or damage to the extent of the insurance proceeds actually paid in connection therewith. Tenant and Landlord shall, upon obtaining any of the policies of insurance required or desired hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of rights of recovery is contained in this Lease, and shall each use their best efforts to cause the insurer for each such policy to waive in writing any rights of subrogation it may have against the other party.

(d) Submittal of Policies. Tenant agrees to deposit with Landlord, at Landlord's request, a copy of each such policy or policies required hereunder and to keep such insurance in effect and the policy or policies therefore on deposit with Landlord during the entire Term of this Lease.

(e) Review of Coverage. Landlord shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of Landlord, the insurance provisions in this Lease do not provide adequate protection for Landlord and for members of the public using the Premises, Landlord may require Tenant, its contractor, or subcontractor to obtain (or may obtain at Tenant's expense) insurance sufficient in coverage, form and amount to provide adequate protection. Landlord's requirements shall be reasonable, but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required.

(f) Changes in Coverage. Landlord reserves the right to modify these requirements with notice to Tenant, including, but not limited to, limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

(g) Primary Policy. The insurance provided by the Tenant, its contractors, and/or subcontractors shall apply as primary insurance without qualification and that any other insurance maintained by Landlord shall be in excess only and shall not be called upon to contribute with the insurance of Tenant, its contractors, or subcontractors.

(h) Policy Limits. The limits of insurance described herein are not intended as a limitation of liability under this Lease. Tenant, its contractors and subcontractors may obtain higher limits in its discretion. If Tenant, its contractors, and/or subcontractors maintain higher limits than the minimums shown above, Landlord requires and shall be entitled to coverage for the higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Landlord.

(i) No Limit on Indemnity. The procuring of such required policy or policies of insurance shall not be construed to limit Tenant's liability hereunder or to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, Tenant shall be obligated the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Lease or with use or occupancy of the Premises.

(j) Landlord's Remedies. In case of failure on the part of Tenant to procure or to maintain in effect any insurance which Tenant is required to carry as provided in this Paragraph 10, Landlord may, but is not required to, at its discretion, and in addition to any other remedies it may have upon failure of Tenant to procure or to maintain in effect any insurance which Tenant is required to carry as provided in this Paragraph 10, procure or renew such insurance and pay any and all premiums therefore and all monies so paid by Landlord shall be repaid by Tenant to Landlord upon demand.

11. Indemnification.

(a) Tenant's Hold Harmless. To the fullest extent permitted by law and except as expressly stated otherwise herein, Tenant hereby indemnifies Landlord, its employees, elected officials, officers, attorney, agents and volunteers (collectively, the "Landlord Indemnified Parties") against and holds them harmless from any and all claims, damage, cost, liability, or expense, including but not limited to attorneys' fees and costs of suit, resulting from or arising out of Tenant's use of the Premises, Tenant's default in the performance of any obligation of Tenant under this Lease, any act or failure to act of Tenant or any employees, agents, contractors, customers, or other invitees of Tenant occurring in or about the Premises, or construction of any improvements by Tenant in the Premises. Such indemnification specifically includes without limitation any damage to property or injury or death to any person arising from the use of the Premises by Tenant or from the failure of Tenant to keep the Premises in good condition, order and repair. Tenant expressly agrees to exercise due care in the handling of fuel or any other flammable materials in, on, or around the Premises. Tenant shall maintain on the Premises adequate firefighting equipment, which shall remain under the use, control, maintenance, and repair of Tenant.

(b) Tenant's Waiver of Claims. Tenant hereby waives all claims against Landlord Indemnified Parties for damage to any property, goods, wares, or merchandise of Tenant stored in, upon, or about the Premises, and for injury to persons in, upon, or about the Premises from any cause whatsoever arising at any time, except as may be caused by the willful misconduct of Landlord. Landlord shall not be liable to Tenant for any damage caused by any person, in, upon, or about the Premises, whether a customer of Tenant or otherwise. Tenant expressly waives any claims against Landlord for damage to Tenant's business on the Premises or loss of goodwill or any other damage to Tenant arising from complete or partial closure of the Santa Cruz Harbor at any time and from time to time, whether such closure shall result from inclement weather, excess deposits of sand in the harbor, natural disaster, pandemic, emergency, construction or repair work, or any other reason whatsoever.

Landlord shall have no obligation or responsibility to prevent any such closures of the Santa Cruz Harbor; provided that, in the event any such closure shall be due to insufficient funding of Landlord, Landlord shall make a good faith effort to keep the Santa Cruz Harbor open during the portion of the year the public makes greatest use of harbor facilities.

(c) Landlord's Hold Harmless. Landlord hereby indemnifies and holds Tenant harmless from and against any and all damage to property or injury or death to any person and occurring in, on or about the "Public Areas" as shown and described on Exhibit "A" hereto, but only in proportion to and to the extent caused by Landlord's sole negligence or willful misconduct.

12. Maintenance and Repairs.

(a) Tenant's Obligations. Subject to Paragraph 15 below relating to damage and destruction, and subject to Landlord's maintenance responsibilities set forth in Paragraph 12(c) below, throughout the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain the Premises and every part thereof, and all fixtures, machinery and equipment located in or on the Premises and utilized in the conduct of Tenant's business in first class condition, order and repair, and in accordance with all applicable laws, rules, ordinances, orders and regulations of (1) municipal, county, state, federal, and other governmental agencies and bodies having or claiming jurisdiction of the Premises and all their respective departments, bureaus, and officials; and (2) all insurance companies insuring all or any part of the Premises or improvements or both. For purposes of this paragraph, the obligation to repair includes the obligation to replace as and when reasonably necessary. Without limiting the foregoing, Tenant at Tenant's sole cost shall maintain in good and safe condition, order and repair, and replace as and when necessary, all improvements made by Tenant to the Premises. Tenant shall be solely responsible for paying the full cost of repairing any damage caused by Tenant Improvements.

(b) Outside Areas. Tenant acknowledges that the cleanliness and neat and attractive appearance of the Premises is a material concern of Landlord. Accordingly, Tenant shall continuously exercise diligence throughout the Lease Term in keeping the Premises and areas within an approximate twenty-five foot radius of the Premises in a clean, sanitary and attractive condition. Tenant shall arrange for regular and prompt disposal of garbage generated by Tenant's operations on the Premises, and shall not permit garbage or refuse or associated equipment or supplies to accumulate in or around the Premises. Tenant shall not cause or permit odors that Landlord in its reasonable discretion determines are offensive to emanate from the Premises and/or outside areas.

(c) Landlord's Obligations. Notwithstanding anything to the contrary contained in this Paragraph 12, and subject to the provisions of Paragraph 15 below relating to damage and destruction, Landlord shall maintain in good condition, order and repair the water and electrical connections, if any, servicing the Premises, except to the extent any such maintenance is necessitated by damages due to the negligence or greater culpability of Tenant, its agents, employees or invitees. Landlord shall have no obligation to maintain or repair under this Paragraph 12(c) until a reasonable amount of time after receipt by Landlord of notice from Tenant of the need therefore, specifying the nature of the maintenance or repair needed. The parties agree that no more than thirty (30) days to begin maintenance or repair is a reasonable amount of time under this provision.



13. Utilities. Tenant shall pay promptly as the same become due and payable all bills and costs for water, gas, electricity, telephone, cable, internet, refuse, sewer service charges, and any other utilities or services supplied to the Premises via separate meter or as apportioned by Landlord. Tenant shall also pay for all costs and connection charges for services and/or utilities it desires expanded or added to those presently available for Tenant's use. If additional garbage containers are required, Tenant shall arrange for bins and service from Santa Cruz Municipal Utilities at Tenant's sole cost and expense. Tenant shall use energy-saving fixtures wherever practicable, and shall cooperate in any conservation efforts undertaken by Landlord to reduce costs associated with utilities provided to Tenant at Landlord's expense. Landlord shall not be liable to Tenant for any interruption or failure of any utility or other services to the Premises.

14. Assignment, Subletting and Licensing.

(a) Landlord's Consent Required. Tenant shall not assign, sublease, mortgage, pledge, hypothecate, encumber, license, or transfer the Premises or any part thereof, or this agreement or any rights or obligations hereunder, or grant any permit to any person(s) to use the Premises for any purpose not expressly stated within this Lease without Landlord's written consent, which is subject to Landlord's sole and absolute discretion.

(b) Permitted Assignments, Subleases and Licenses. No assignment, sublease, or other transfer of the portion of the Premises under this Lease, which is used for a marine retail operation shall be allowed.

(1) Sublease Assignments and Subleases. No sublessee, licensee or assignee may sublease or assign any interest in the Lease without first obtaining Landlord's written consent thereto. Tenant agrees to provide Landlord with all terms and conditions of any agreement between Tenant and its sublessee, assignee, or other transferee.

(2) Sublease Rents or License Payments. If Tenant shall enter into an assignment, sublease or license ("Transfer") hereunder:

(i) Tenant shall pay to Landlord fifty percent (50%) of the monthly rent or consideration payable by a subtenant or assignee to Tenant for the Transfer, which is in excess on a per square foot basis, of Tenant's Base Rent payable to Landlord (hereinafter, the "Excess Transfer Amount"). This Excess Transfer Amount shall be due and payable monthly to Landlord commencing with the Transfer date and in accordance with Paragraph 5 (e) of this Lease and shall be subject to delinquent fees in accordance with Paragraph 5 (f).

(c) Encumbrances. Neither Tenant nor any Transfer shall allow any encumbrance of all or any portion of the Premises.

(d) Corporation or Partnership. The assignment, pledge for security purposes, or other transfer during the Lease Term of any class of voting stock or other controlling interest in said corporation (whether in a single transaction or a series of transfers) which in the aggregate exceeds fifty percent (50%) of such class of stock or other controlling interest shall be deemed to be an assignment within the meaning of this Lease. If Tenant becomes a partnership, and Landlord consents thereto, the assignment, pledge, for security purposes, or other transfer during the Lease term of any

interest in the partnership of a general or limited partner thereof, shall be deemed an assignment within the meaning of this Lease.

15. Damage or Destruction.

(a) Partial Damage-Insured. Subject to the provisions of Paragraphs 15(b) and 15(c), if the Premises or any improvements therein are damaged, such damage involves damage to the Building to the extent of less than eighty percent (80%) of the then replacement value thereof (excluding excavations and foundations of the Building), such damage was caused by an act or casualty covered under an insurance policy provided for in Paragraph 10, and the proceeds of such insurance received by Landlord are sufficient to repair the damage (or in the event any lender shall require such insurance proceeds to be applied to pay any sums owed under its loan), Landlord shall at Landlord's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect.

(b) Partial Damage-Under or Uninsured. Subject to the provisions of Paragraphs 15(a) and 15(d), if at any time during the term hereof the Premises or any improvements are damaged, such damage involves damage to the Building to the extent of less than eighty percent (80%) of the then replacement value thereof (excluding excavations and foundations of the Building), and the insurance proceeds received by Landlord are not sufficient to repair such damage, or such damage was caused by an act or casualty not covered under an insurance policy, Landlord may at Landlord's option either (a) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (b) give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to cancel and terminate this Lease as of the date of the occurrence of such damage. In the event Landlord elects to give such notice of Landlord's intention to cancel and terminate this Lease, Tenant shall have the right, within ten (10) days after receipt of such notice, to agree in writing on a basis satisfactory to Landlord to pay for the entire cost of repairing such damage less only the amount of insurance proceeds, if any, received by Landlord, in which event this Lease shall continue in full force and effect, and Landlord shall proceed to make such repairs as soon as reasonably possible. If Tenant does not give such notice within such ten (10) day period, this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

(c) Total Destruction. If at any time during the term hereof either the Premises or the improvements contained therein are damaged from any cause, whether or not covered by the insurance provided for in Paragraph 10, and such damage involves damage to the Building to the extent of eighty percent (80%) or more of the replacement value thereof (excluding excavations and foundations of the Building), including any total destruction required by any authorized public authority, this Lease shall at the option of Landlord terminate as of the date of such total destruction. Landlord shall exercise its right to terminate this Lease by delivery of notice to Tenant within thirty (30) days after the date that Tenant notifies Landlord of the occurrence of such damage. In the event Landlord does not elect to terminate this Lease, Landlord shall at Landlord's expense repair such damage as soon as reasonably possible, and this Lease shall continue in full force and effect.

(d) Damage Near End of Term. If the Premises or the improvements therein are destroyed or damaged in whole or part during the last year of the term of this Lease, Landlord may at Landlord's option cancel and terminate this Lease as of the date of occurrence of such damage by



giving written notice to Tenant of Landlord's election to do so within thirty (30) days after the date of occurrence of such damage.

(e) Abatement of Rent. Notwithstanding anything to the contrary contained elsewhere in this Lease, if the Premises are partially damaged and Landlord repairs or restores them pursuant to the provisions of this agreement Paragraph 15, the Base Rent payable hereunder for the period commencing on the occurrence of such damage and ending upon completion of such repair or restoration shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired during the period of repair; provided that, nothing herein shall be construed to preclude Landlord from being entitled to collect the full amount of any rental loss insurance proceeds if such rental loss insurance is then carried with respect to the Premises. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration.

(f) Waiver. Tenant waives the provisions of California Civil Code Sections 1932(2) and 1933(4), and any similar or successor statutes relating to termination of leases when the thing leased is substantially or entirely destroyed, and agrees that such event shall be governed by the terms of this Lease.

(g) Tenant's Property. Landlord's obligation to rebuild or restore shall not include restoration of Tenant's equipment, merchandise, or any improvements, alterations or additions made by Tenant to the Premises.

(h) Notice of Damage. Tenant shall notify Landlord within five days after the occurrence thereof of any damage to all or any portion of the Premises. In no event shall Landlord have any obligation to repair or restore the Premises pursuant to this Paragraph 15 until a reasonable period of time after Landlord's receipt of notice from Tenant of the nature and scope of any damage to the Premises, and a reasonable period of time to collect insurance proceeds arising from such damage (unless such damage is clearly not covered by insurance then in effect covering the Premises).

(i) Replacement Cost. The determination in good faith by Landlord of the estimated cost of repair of any damage, or of the replacement cost, shall be conclusive for purposes of this Paragraph 15.

16. Eminent Domain.

(a) Termination. In the event the whole or any part of the Premises is condemned in the lawful exercise of the power of eminent domain by any public entity, then this Lease shall terminate as to the part condemned on the date possession of that part is taken.

(b) Partial Taking Renders Economically Unfeasible. If only a part of the Premises is condemned, but such taking makes it economically unfeasible for Tenant to use the remainder of the Premises for the purposes contemplated by this Lease, then Tenant may, at its option, terminate this Lease as of the date possession of the condemned part is taken by giving written notice to Landlord of its intention within thirty (30) days following the date said possession is taken.

(c) Partial Taking with Business Continued. If only part of the Premises is condemned and this Lease is not terminated as set forth above, then this Lease shall, as to the

condemned portion of the Premises, terminate as of the date possession of such portion is taken. The Base Rent shall thereupon be reduced in the same proportion that the area of the Premises taken bears to the initial total area of the Premises. The Base Rent, as so reduced, shall continue to be subject to adjustment in accordance with Paragraph 5 hereof.

(d) Repairs. Tenant shall, at its sole cost and expense and in a prompt and expeditious manner, make all necessary repairs or alterations to the remainder of the Premises so as to make them reasonably suitable for Tenant's continued occupancy for those uses and purposes contemplated by this Lease.

(e) Compensation. All compensation awarded or paid upon the total or partial taking of the fee title to the Premises or part of the Premises, or for the taking of all or any portion of the Premises, shall belong to Landlord. The Building and other improvements made by Landlord on the Premises at Landlord's expense shall belong to Landlord. Landlord shall not be entitled to any compensation paid to Tenant for costs incurred by Tenant in removing its furniture, equipment, and trade fixtures from the condemned Premises. Nor shall Landlord be entitled to any compensation paid to Tenant in the proceedings or action for such taking with respect to removal or relocation costs, or anticipated or lost profits (excluding the value of this Lease to Tenant) or damages to any personal property or detriment to the business of Tenant, or any special damages to Tenant (excluding the value of this Lease to Tenant).

17. Tenant Default. Tenant shall be deemed in default under this Lease upon occurrence of any of the following:

(a) Tenant fails to pay a monetary sum when due under this Lease (provided that Tenant shall not be deemed in default if Tenant pays such sum within 10 days after notice from Landlord that such sum is overdue; and provided further that, Tenant shall not be entitled to any such 10 day grace period or notice and shall be deemed in default immediately upon failure to so pay when due if Landlord has already delivered two notices of overdue payments within the immediately preceding 12 month period;

(b) Tenant fails to perform any of its other obligations under this Lease; provided that, if such failure is of the nature that it may be cured, Tenant shall not be deemed in default if Tenant cures such failure within 20 business days, or in the event the cure cannot be reasonably completed within 20 business days begins substantial efforts to cure within 20 business days, after written notice from Landlord of such failure;

(c) Tenant's interest in the Premises or the Lease, or any part thereof, is assigned or transferred, either voluntarily or by operation of law (except as expressly permitted by other provisions of this Lease), including, without limitation, the filing of an action by or against Tenant, or by any member of Tenant if Tenant is a partnership or joint venture, under any insolvency or bankruptcy laws, or if Tenant makes a general assignment for the benefit of its creditors, or;

(d) Tenant vacates, abandons, or surrenders the Premises during the lease term.

(e) Tenant fails to comply with or obtain any necessary permit or license. Tenant shall not be deemed in default if Tenant cures such failure within 20 days after notice from Landlord of such failure

(f) In the event of a default by Tenant under this Lease, Landlord may pursue such remedies as it may have for such default under law or in equity, including but not limited to the remedies set forth below.

18. Remedies. In the event of any breach or default by Tenant, Landlord may, at Landlord's option, exercise any and all rights available to a landlord under the laws of the State of California (including, but not limited to, those rights and remedies set forth in California Civil Code Sections 1951.2, 1951.4, and 1951.8), including, without limitation, the right to do any of the following:

(a) Repossession. Landlord may repossess the Premises and remove all persons and property therefrom. If Landlord repossesses the Premises because of a material breach of this Lease, this Lease shall terminate, and Landlord may recover from Tenant:

(i) the worth at the time of award of the unpaid rent which had been earned at the time of termination including interest at ten percent (10%) per annum or the maximum allowed by law whichever is less;

(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 including interest at ten percent (10%) per annum or the maximum allowed by law whichever is less;

(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 for the same period that Tenant proves could be reasonably avoided, computed by discounting such amount by the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%); 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.

(b) No Repossession. If Landlord does not repossess the Premises, then this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession and Landlord may enforce all of its rights and remedies under this Lease, including the right to recover the rent and other sums due from Tenant hereunder. For the purposes of this Paragraph 18, the following do not constitute a termination of Tenant's right to possession:

(1) Acts of maintenance or preservation by Landlord or efforts by Landlord to relet the Premises; or

(2) The appointment of a receiver by Landlord to protect Landlord's interest under this Lease.

19. Attorneys' Fees. If any action at law or in equity shall be brought to recover any rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants, agreements, or conditions of this Lease, or for the recovery of the possession of the Premises, the prevailing party shall be entitled to recover from the other party, as a part of the prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered. "Prevailing party" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other party after the other party's breach or default, if such action is settled or dismissed upon the payment by the other party of the sums allegedly due or performance of the covenants allegedly breached or the plaintiff obtains substantially the relief sought by it in the action.

20. Removal of Property. Tenant hereby irrevocably appoints Landlord as agent and attorney in fact of Tenant, to enter upon the Premises, in the event of a default by Tenant hereunder, and to remove any and all furniture and personal property whatsoever situated upon the Premises, and to place such property in storage for the account of and at the expense of Tenant. In the event that Tenant shall not pay the cost of storing any such property after the property has been stored for a period of 90 days or more, Landlord may sell any or all of such property, at public or private sale, in such manner and at such times and places as Landlord in its sole discretion may deem proper, without notice to Tenant or any demand upon Tenant for the payment of any part of such charge or the removal of any such property, and shall apply the proceeds of such sale first to the costs and expenses of such sale, including reasonable attorneys' fees actually incurred; second, to the payment of the costs of or charges for storing any such property; third, to the payment of any other sums of money which may then or thereafter be due to Landlord from Tenant under any of the terms hereof; and fourth, the balance, if any, to Tenant.

21. Subordination.

(a) Subordination of Lease. This Lease, at Landlord's option, shall be subordinate to any mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon all or any portion of the Premises and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee or trustee shall elect to have this Lease prior to the lien of its mortgage or deed of trust, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage or deed of trust, whether this Lease is dated prior or subsequent to the date of said mortgage or deed of trust or the date of recording thereof.

(b) Execution of Documents. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage or deed of trust, as the case may be, and failing to do so within ten (10) days after written demand, does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney in fact and in Tenant's name, place and stead, to do so.

22. Landlord's Right to Reenter.

(a) Peaceable Surrender. Tenant agrees to yield and peaceably deliver possession of the Premises to Landlord on the date of termination of this Lease, regardless of the reason for such termination. Upon giving written notice of termination to Tenant, Landlord shall have the right to reenter and take possession of the Premises on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the Lease and reentry of any Premises by Landlord shall in no way alter or diminish any obligation of Tenant under the Lease terms and shall not constitute an acceptance or surrender.

(b) Waiver of Redemption and Stipulated Damages. Tenant waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Premises for any reason or in the event Landlord reenters and takes possession of the Premises in a lawful manner.

23. Reservations to Landlord. The Premises are accepted by Tenant subject to any and all existing easements and encumbrances. Landlord reserves the right to install, lay, construct, maintain, repair, and operate such sanitary sewers, drains, stormwater sewer, pipelines, manholes, and connections; water and gas conduits; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, and along any part of the Premises, and to enter the Premises for any and all such purposes. Landlord also reserves the right to grant franchises, easements, rights of way, and permits in, over, upon, through, across, and along any and all portions of the Premises. No right reserved by Landlord in this clause shall be so exercised as to interfere unreasonably with Tenant's operations hereunder.

Landlord agrees that rights granted to third parties by reason of this clause shall contain provisions that the surface of the land shall be restored as early as practicable to its original condition upon the completion of any construction. Landlord further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Premises by Tenant, the monthly Base Rent may be reduced on a temporary basis in proportion to the temporary interference with Tenant's use of the Premises, based on the Landlord's sole and absolute discretion.

24. Building/Premises Closure. Tenant acknowledges and understands that for public health, welfare and safety reasons, the Building and/or Premises may be subject to closure (either full or partial) due to conditions and/or events, including, but not limited to, ocean (including, but not limited to, high surf), waterfront and/or weather related conditions, as well as Force Majeure events (as defined in Paragraph 25 - Force Majeure) (collectively "Closure Conditions"). Tenant enters into this Lease with full knowledge of the existing conditions of the Premises and its exposure to Closure Conditions, and with the understanding that at any point during the Term, Landlord may close the Building and/or Premises to public and tenant access and use (including, but not limited to Tenant's access and/or use) due to Closure Conditions, without any liability to Tenant by virtue of such closure and/or related actions. During any such period of closure where Tenant is completely unable to access and use the Premises, Tenant shall not be in default to Landlord for failure to continuously operate pursuant to Paragraph 6.c. Use.

25. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, abnormal adverse weather conditions, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations or controls, enemy or hostile government action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of and not caused by the fault or negligence of the party obligated to perform, shall excuse the performance by such party for a period equal to that resulting from such prevention, delay or stoppage. However, nothing contained in this Paragraph shall excuse the prompt payment of rent by Tenant as required by this Lease. Tenant's obligations to make payment for rental and other charges pursuant to the terms of this Lease shall be excused or reduced only as elsewhere expressly and specifically provided in this Lease.

26. Notices. All notices, statements, demands, requests, approvals or consents given hereunder by either party to the other party shall be in writing and shall be sufficiently given and served upon the other party if served personally or if sent by first class mail of the United States Postal Service, certified, return receipt requested, postage prepaid, and addressed to the parties as follows:

Landlord: SANTA CRUZ PORT DISTRICT  
Attention: Port Director  
135 5<sup>TH</sup> Avenue  
Santa Cruz, CA 95062

Tenant: SANTA CRUZ YACHT CLUB  
244 4<sup>TH</sup> Avenue  
Santa Cruz, CA 95062

or to such other address as any party may have furnished to the others as a place for the service of notice. Notices sent by mail shall be deemed served on the date actually received, as indicated on the return receipt.

27. No Commission. Landlord and Tenant each agree that Landlord and Tenant, respectively, have not had any dealings with any realtor, broker, or agent in connection with the execution of this Lease. Tenant shall pay the commission or compensation payable to any agent or broker employed by Tenant in connection with the execution of this Lease.

28. Waiver. The waiver by Landlord or Tenant of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. Landlord's acceptance of partial payments of rent or any other sum due hereunder shall not be deemed a waiver of its right to recover the full amount of such payment and shall not be deemed an accord and satisfaction whether or not the amount due is disputed by the parties.

29. Holding Over. Any holding over after the expiration of the Term with the consent of Landlord shall be construed to be a tenancy from month to month on the same terms and conditions specified herein so far as applicable other than Base Rent which shall be increased to 150% of the current Base Rent.

30. Parking. Tenant acknowledges that all parking areas and all other common areas within the Santa Cruz Small Craft Harbor shall remain under the operation and control of Landlord. Tenant possesses no legal interests with regard to the parking areas. In addition to the dry storage yard, Landlord hereby leases two parking spaces free of charge to Tenant for Tenant's exclusive use for parking for its Fourth Avenue property. The two spaces, as shown on Exhibit B, are located on the south side of the dry storage yard. Landlord reserves the right to relocate the two parking spaces provided the spaces are in reasonable proximity to the Fourth Avenue property.

The parking spaces will be designated "SCYC Members and Guests Only" with signage provided and maintained at Tenant's expense. Landlord agrees to remove the parking meters. Tenant agrees to provide all required painting and signage for a handicapped space as required by law.

Parking enforcement for the two parking spaces leased to Tenant for Tenant's exclusive use shall be determined by the Port Director in consultation with Tenant, in Port Director's sole discretion. Any vehicle parking in one of the two parking spaces shall display a Port District permit or shall be subject to citation by the Port District and any citation revenue received from such parking citations shall be retained by the Port District. Nothing herein shall require Landlord to enforce any parking restrictions for the two parking spaces leased to Tenant.

31. Non-Discrimination. Tenant agrees in the conduct of Tenant's business not to discriminate against any person or class of persons by reason of sex, race, creed, national origin, age, or physical condition. Tenant shall make its accommodations and services available to all persons on equal and reasonable terms.

32. Entry by Landlord. Landlord and its agents shall be entitled to enter into and upon the Premises at all reasonable times, upon reasonable notice (except in the case of an emergency, in which event no notice shall be required), during regular business hours for purposes of inspecting or making repairs, alterations or additions to all or any portion thereof, or any other part of the Building, including the erection and maintenance of such scaffolding, canopies, fences and props as may be required, or for the purpose of posting notices of non-responsibility for alterations, additions, or repairs, and during the 180 day period prior to the expiration of this Lease, to place upon the Premises any usual or ordinary "for rent" signs and exhibit the Premises to prospective tenants at reasonable hours, all without any abatement of rent and without liability to Tenant for any injury or inconvenience to or interference with Tenant's business, quiet enjoyment of the Premises, or any other loss occasioned thereby.

33. Estoppel Certificates; Financial Statements.

(a) Estoppel Certificates. Within fifteen (15) days after request therefor by Landlord, Holder, or any prospective mortgagee or owner, Tenant agrees as directed in such reasonable request to execute an Estoppel Certificate in recordable form, binding upon Tenant, certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, a description of such



modifications and that this Lease as modified is in full force and effect); (ii) the dates on which rent Fixed Minimum Rent, Sublease Rent and Percentage Rent have been paid; (iii) that Tenant is in the possession of the Premises if that is the case; (iv) that Landlord is not in default under this Lease, or, if Tenant believes Landlord is in default, the nature thereof in detail; (v) that Tenant has no offsets or defenses to the performance of its obligations under this Lease (or if Tenant believes there are any offsets or defenses, a full and complete explanation thereof); (vi) that Tenant has accepted the Premises and the condition thereof and of all improvements thereto and has no claims against Landlord or any other party with respect thereto; (vii) that if an assignment of rents or leases has been served upon the Tenant by a Holder, Tenant will acknowledge receipt thereof and agree to be bound by the provisions thereof, (viii) that Tenant will give to the Holder copies of all notices required or permitted to be given by Tenant to Landlord; and (ix) to any other information reasonably requested. Tenant's failure to deliver such certificate within such time will be conclusive upon Tenant (A) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (B) that there are no uncured defaults in Landlord's performance, and (B) that not more than one month's rent has been paid in advance. Without limiting the foregoing, if Tenant fails to deliver any such certificate within such fifteen (15) day period, Landlord may deliver to Tenant an additional request for such certificate and the failure of Tenant to deliver such certificate within five days after delivery of such additional request shall be an Event of Default.

34. CASp Inspection. Landlord states that the Premises have not been inspected by a Certified Access Specialist (CASp). This notice is provided by Landlord:

"A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of the construction-related accessibility standards within the premises."

Notwithstanding anything to the contrary in this Lease, (a) Tenant may elect at any time to perform a CASp inspection of the Premises at Tenant's expense; (b) any repairs or modifications necessary to correct violations of applicable construction-related accessibility standards within or about Premises are the responsibility of Tenant; (c) any construction-related accessibility improvements by Tenant or alterations of or improvements to the Premises are the responsibility of the Tenant; (d) any repairs or modifications to correct violations of applicable construction-related accessibility standards in areas which Landlord is responsible for, are the responsibility of Landlord.

35. General.

(a) Entire Agreement. This Lease, together with all Exhibits attached hereto which are incorporated herein by this reference, contains all of the terms, covenants, and conditions agreed to by Landlord and Tenant relating to the Premises and the subject matter hereof, and supersedes all promises and agreements, written or oral, by either party to the other relating in any way to the Premises which are not expressly set forth herein. Tenant is not relying on any representations or warranties made by Landlord, and acknowledges that Landlord has not made any representations or

## DRAFT LEASE

warranties to Tenant, except as may expressly be set forth herein. This Lease cannot and shall not be amended orally or in any manner other than by an agreement in writing signed by both Landlord and Tenant or their respective successors in interest.

(b) Covenants and Conditions. Each term and each provision of this Lease performable by Tenant shall be construed to be both a covenant and a condition, all of which conditions shall be for the sole benefit of Landlord.

(c) Binding on Successors. The covenants and conditions hereof, subject to the provisions as to subletting and assignment, shall apply to and bind the heirs, successors, executors, administrators, subtenants, and assigns to the parties.

(d) Joint and Several Liability. All persons who have signed this Lease shall be jointly and severally liable hereunder.

(e) Gender. When the context of this Lease requires, the masculine gender includes the feminine, a corporation, or a partnership, and the singular number includes the plural.

(f) Captions. The captions of the numbered and lettered paragraphs of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

(g) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California and venue shall be Santa Cruz County.

(h) Time of Essence. Time is of the essence as to all of the provisions of this Lease with respect to which time of performance is a factor.

(i) Partial Invalidity. If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

(j) Relationship. Tenant shall not be an agent of Landlord for any purpose, and nothing in this Lease shall be deemed to create a partnership relationship between Tenant and Landlord.

(k) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that s/he is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the board of directors of said corporation or in accordance with the bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of a resolution of the board of directors of said corporation authorizing or ratifying the execution of this Lease.

(l) No Recordation. Tenant shall not record either this Lease or a short form memorandum of this Lease.

(m) Calendar Days. All references herein to "days" shall mean calendar days unless otherwise stated.

(n) Counterparts. This Lease may be executed on one or more copies and each counterpart will be considered an original and binding to the party executing it. A scanned, electronic, facsimile or other copy of a party's signature shall be treated the same as an original.

36. Special Rules for Licensees for Dry Storage Space. All owners of boats occupying dry storage space on the premises shall enter into a license agreement with Tenant prior to occupying said space, which license shall contain provisions in accordance with Paragraph 6 and this Paragraph 36.

No licensees of dry storage space on the premises shall be entitled to obtain from, or retain a license issued by, the Santa Cruz Port District, for a wet berthing slip within the Santa Cruz Harbor.

All licensees of Tenant of dry storage space on the premises (the "Licensees") shall be subject to Santa Cruz Port District Ordinances, as though the Licensees were licensees of the Santa Cruz Port District for wet berthing slips. The Licensees shall comply with all obligations set forth in said ordinances and shall be subject to license revocation or suspension in accordance with said ordinances in the event of default or noncompliance thereunder. Landlord shall be entitled to enforce compliance with said ordinances against the Licensees directly, rather than through Tenant.

The Licensees shall be entitled to use Tenant's hoist to raise and lower their boats stored on the premises into and out of the harbor water, subject to such reasonable rules as Tenant may promulgate regarding use of the hoist. Licensees who are not members in good standing of the Santa Cruz Yacht Club shall, at Tenant's option, pay a reasonable fee, as determined by Tenant, for use of the hoist.

All licensees shall be entitled to obtain parking permits from Landlord, and shall be entitled to obtain keys from Landlord in order to use such restrooms, showers, and gates on Santa Cruz Port District property as shall be reasonably designated by Landlord.

All license agreements entered into by Tenant with the Licensees shall expressly acknowledge the legal burdens imposed on and legal benefits granted to the Licensees by this Paragraph.

37. State of California Harbors and Navigation Code. This Lease will not become effective until it is reviewed and approved by the State of California Division of Boating and Waterways, as provided in California Harbors and Navigation Code Section 72.0.

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

**LANDLORD:**

SANTA CRUZ PORT DISTRICT COMMISSION,  
a political subdivision

ATTEST:

\_\_\_\_\_  
Holland MacLaurie, Port Director

By: \_\_\_\_\_  
Reed Geisreiter, Chairman

**TENANT:**

SANTA CRUZ YACHT CLUB  
a California nonprofit corporation

By: Vance C. Landis-Carey  
Commodore Vance Landis-Carey

**EXHIBIT 'A'**  
**Premises Map and Diagram**



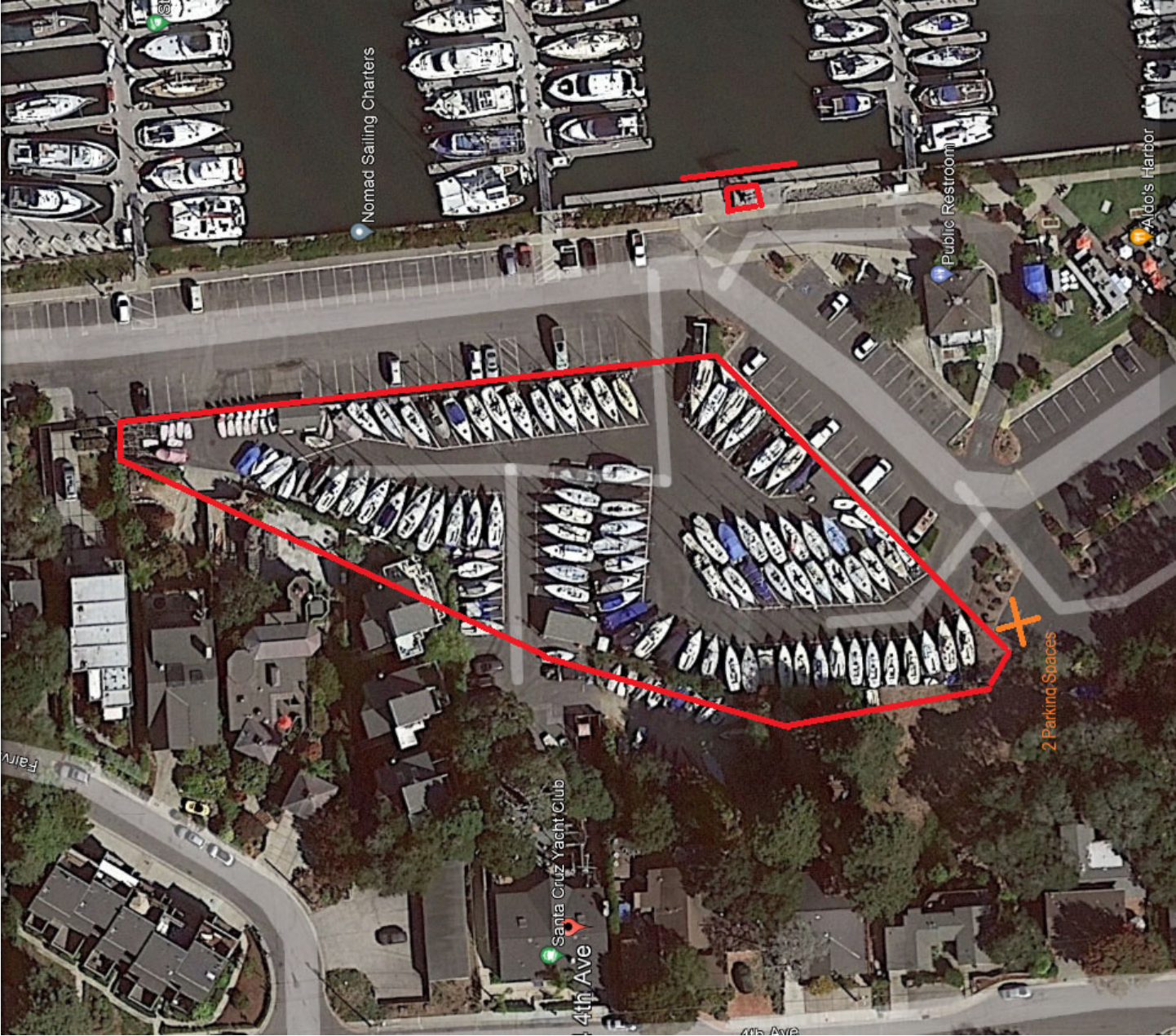


Exhibit A  
Premise Map



TO: Port Commission  
FROM: Holland MacLaurie, Port Director  
DATE: April 8, 2022  
SUBJECT: Denial of Claim – J. Tomasello

**Recommendation: Deny the claim submitted by Joseph Tomasello.**

## BACKGROUND

Mr. Joseph Tomasello submitted a claim to the Port District in the amount of \$24,096.38 for damages resulting from a collision with a dredge anchor wire on December 28, 2021. Mr. Tomasello was transiting out of the harbor to begin a commercial fishing trip at the time of the collision.

The claim (Attachment A) includes \$5,061.98 for towing, assessment, and damage repair to the vessel's propeller and rudder. Partial receipts are included with claim. To facilitate repairs, the claimant had the vessel hauled out at the Santa Cruz Harbor Boatyard on December 30, 2021, and it was launched on January 8, 2022. As a result, Mr. Tomasello is claiming \$19,034.40 in lost income.

To date, the Port District has waived \$996.00 in haulout and layday fees in connection with this claim. Additionally, the Port District's records show that the claimant's insurance policy lapsed on January 11, 2020. Mr. Tomasello has been unable to provide evidence of insurance since that date.

## ANALYSIS

The claimant is seeking \$5,061.98 for the costs of repairs to the vessel and \$19,034.40 for lost income. Staff offered to settle the claim for the damage to the vessel pursuant to the \$5,000 authority granted under Port Commission Policy 1030.1 (Property Damage Claims). The claimant declined settlement and indicated he would prefer to pursue the entire amount of the claim.

The claimant is a slip licensee who has executed a Port District slip license agreement (Attachment B). Section 5 of the slip license agreement, Liability of Parties, includes a Waiver of Claims that specifically addresses collisions with dredge equipment.

Government Code Section 912.6 states:

“(a) In the case of a claim against a local public entity, the board may act on a claim in one of the following ways:

(1) If the board finds the claim is not a proper charge against the public entity, it shall reject the claim.

(2) If the board finds the claim is a proper charge against the public entity and is for an amount justly due, it shall allow the claim.



(3) If the board finds the claim is a proper charge against the public entity but is for an amount greater than is justly due, it shall either reject the claim or allow it in the amount justly due and reject it as to the balance.

(4) If legal liability of the public entity or the amount justly due is disputed, the board may reject the claim or may compromise the claim.

(b) In the case of a claim against a local public entity, if the board allows the claim in whole or in part or compromises the claim, it may require the claimant, if the claimant accepts the amount allowed or offered to settle the claim, to accept it in settlement of the entire claim.

Staff believes both the legal liability of the Port District and the amount claimed are in dispute and recommends the Commission deny the claim, as stated in Government Code § 912.6 (4) above.

ATTACHMENTS:     A.     Claim Submitted by J. Tomasello  
                      B.     Slip License Agreement dated March 3, 1989

**Joseph Tomasello** Cell phone 831-588-7294  
3570 Garden St. E-mail:  
Santa Cruz, Ca 95062 joetomasello@hotmail.com

**Santa Cruz Harbor Port  
District**  
135 5<sup>th</sup> Ave  
Santa Cruz, CA 95062

---

**24 February 2022**

Date of Accident: 12/28/2021  
Location of accident: Entrance of Santa Cruz Harbor  
M/V: Sea Breeze  
Captain: Joseph Tomasello  
Total damage amount, (including loss wages): **\$24,096.38**

Dear Sir or Madam,

The early morning of December 28, 2021, approximately 4:30 am I was exiting Santa Cruz Harbor, while passing the fuel dock at high tide, my vessel came to an abrupt stop. Not sure what had happened, I put the boat into neutral and immediately started to drift towards the rocks that were near the fuel dock. At that point I tried to put the boat in forward gear as well as backward with no success. Assessing that the dredge cable must be caught in my rudder which somehow damaged my prop, I tried to hail Harbor Patrol on the radio several times to no avail.

Monte Ash with TowBoatU.S. was the only one I could reach. He quickly got me to the fuel dock where we discussed our options. Best plan of action was to bring me back to my slip. I had a vessel full of crabbing gear, that needed to be unloaded before I could get hauled out.

Later that morning, I had a diver inspect the damages. According to his assessment my prop was badly damaged, and my rudder was damaged as well.

12/29/21, during high tide, TowBoatU.S. moved me to the hoist to unload my gear and bags of salt. This took a crew of two, 2.5 hours to complete.

Waiting again for high tide, on December 30, 2021, TowBoatU.S. took me over to the haul out well of Santa Cruz Boatyard. Taking a deckhand and myself 1.5 hrs.

Friday 12/31/21 it took me and a helper 2.5 hours to remove the prop. I then drove 3.5 hours to deliver the prop to Bay Propeller and promptly returned.

---

Monday the 3<sup>rd</sup>, of January 2022, I drove another 3.5 hours back and forth to retrieve the prop and installed it that same day with the help of another person that took 2.5 hours of labor. I needed to replace the prop zincs as well as reapply new bottom paint. The rudder keywag needed replacing which cost \$12.00 to replace and 1.5 hours of labor.

The day that Sea Breeze went back into the water, my deckhand and I took 2.5 hours to reload my crabbing gear. M/V Sea Breeze was out of commission for a total of 4 days.

Loss wages incurred was determined by averaging the pounds per trap of two hauls of two different fishermen. Thus totaling \$115.36 per trap. I then multiplied this by the number of traps I possess, 165. Deriving at the total of **\$19,034.40\*** as loss income.

TowBoatU.S. bill: **\$1,450.00\***

Bay Propeller bill: **\$1,155.00\***

Moss Landing Boatworks bill (zincs): **\$119.98\***

Diver bill:\* **\$425.00**

Ray's bill:\* **\$500.00**

Deckhand and My labor costs (total of 20 hours @ \$70.00/hour), plus (keywag-\$12.00): **\$1,412.00**

**Total amount incurred: \$24,096.38**

If you have any questions, feel free to contact me at the information above. Hope to hear back from you shortly.

\*(See Attachments)

Sincerely,



**Captain Joseph Tomasello, owner/Operator of M/V Sea Breeze**

Fisherman 1/Total traps 175		Fisherman 2/Total traps 350		trips
pounds	\$5.00/lb	pounds	\$5.00/lb	
9622	\$48,110.00	1504	\$7,520	Trip 1
4806	\$24,030.00	1940	\$9,700.00	Trip 2
	\$72,140.00		\$17,220.00	
	\$36,070.00	adverage per trip	\$810.00	
Per trap	\$206.11	Per trap	\$24.60	

**Adverage per trap** **\$115.36** X165 (# of traps Joe has)

**Loss wages** **\$19,034.40**

**Invoice**

001390

SOLD TO		SEA SNAZZLE		SHIP TO	
ADDRESS		SC Harbor Commercial Dock		ADDRESS	
CITY, STATE, ZIP		831-1588-7294		CITY, STATE, ZIP	
CUSTOMER ORDER NO.		SOLD BY		TERMS	
ORDERED		SHIPPED		PRICE	
1				UNIT	
DESCRIPTION		VESSEL HULL INSPECTION		AMOUNT	
FOLLOWING COLLISION/ENTANGLEMENT		WITH DREDGE ANCHOR CABLE.		425	
EMERGENCY DIVE WORK COMPLETED		PLEASE PAY UPON RECEIPT.			
CHECKS MADE PARASITE		ANTHONY STUKAN			
790 MARGUERITE PARK WAY BOX 1		SANTA CLARA CA 95062		425	
				20	

© 1984 S&S

08-18



**Job Work Order**

*Seatonese*

ESTIMATE (VALID FOR 30 DAYS)

DATE \_\_\_\_\_ SERVICE  WILL CALL  PHONE \_\_\_\_\_  
 NAME **BSD of SANTA CRUZ** MAKE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ **BOAT SANDING & DETAIL** MODEL \_\_\_\_\_  
**Ray Villalba** SERIAL \_\_\_\_\_

ITEM TO BE SERVICED **831-331-9288** NATURE OF SERVICE REQUEST **495 Lake Avenue**  
**vilraysd@gmail.com** **Santa Cruz, Ca. 95062**



QTY.	PART #	DESCRIPTION OF PARTS OR MATERIALS	PRICE	AMOUNT
		Sold to		
		NOMASELO		
		2 gal. Trinidad		
		"Pro" Black		
		Retail price \$	250.00	
		Per gal		
LABOR PERFORMED			TOTAL MATERIALS	
			TAX	
			TOTAL LABOR	
			TOTAL AMOUNT	500.00

*Paid cash.*

DATE WANTED *12/29/21* DEPOSIT *paid in full* RECEIVED BY *[Signature]*

ESTIMATES ARE FOR LABOR ONLY, MATERIAL ADDITIONAL. WE WILL NOT BE RESPONSIBLE FOR LOSS OR DAMAGE CAUSED BY FIRE, THEFT, TESTING, OR ANY OTHER CAUSES BEYOND OUR CONTROL.

AUTHORIZED BY: *[Signature]* **Job Work Order ORIGINAL**

TERMS - NET CASH  
NO GOODS HELD OVER 30 DAYS

Comm. Fish.  
1 yr. Lease/Leasable  
by H.M.

SANTA CRUZ PORT DISTRICT  
135 Fifth Avenue, Santa Cruz, California 95062  
(408) 475-6161

APPLICATION FOR SLIP LICENSE

Date: 3-3-89

Name of Application (i.e. Registered Owner) JOE TOMASELLO

Business Address 915 BAY ST

City SANTA CRUZ Zip 95060 Phone 402-9489 409-0104

Residence Address 915 BAY ST

City SANTA CRUZ Zip 95060 Phone 409-0104

Name of Legal Owner JOSEPH P TOMASELLO  
(such as corporation, lienholder, or other name appearing on evidence of title)

Address 915 BAY ST Phone 409-0104

Permission is requested to berth the vessel described below in the Santa Cruz Small Craft Harbor subject to the terms of the Agreement set forth below.

Name of Vessel F/V MARAUDER

Registration or Documentation No. 255029 Home Port SANTA CRUZ

Length 34.0" (including bowsprit, pulpit, boarding step, etc.)

Beam 10.7" Draft 4.1" Height 40' Type of Rig Fishing

BY SIGNING THE FOLLOWING AGREEMENT, OWNER REPRESENTS AND WARRANTS TO THE SANTA CRUZ PORT DISTRICT THAT THE FOREGOING INFORMATION IS COMPLETE AND ACCURATE, THAT NO OTHER PARTY HAS ANY LEGAL RIGHT, TITLE OR INTEREST IN OR TO THE VESSEL, AND THAT OWNER SHALL GIVE THE SANTA CRUZ PORT DISTRICT WRITTEN NOTICE OF ANY CHANGES IN THE ABOVE INFORMATION IMMEDIATELY UPON THE OCCURRENCE OF ANY SUCH CHANGE.

SLIP LICENSE AGREEMENT

This Slip License Agreement is made by and between the Santa Cruz Port District, a governmental agency (hereinafter referred to as "Port District") and JOSEPH P TOMASELLO (hereinafter individually or collectively, as the case may be, referred to as "Owner"). As used throughout this Slip License Agreement, the term "Owner" means the individual or individuals, as the case may be, signing said Agreement as the Owner. The Owner shall be the Licensee.

RECITALS:

A. Port District operates and maintains a berthing facility for use by members of the public commonly known as the Santa Cruz Small Craft Harbor (the "Harbor"), located in Santa Cruz, California.

B. Owner desires to berth Owner's vessel described above (hereinafter referred to as the "Vessel") at Slip No. 3-8, Rack No. \_\_\_\_\_ (hereinafter referred to as the "Slip") at said berthing facility.

C. Owner acknowledges that Port District cannot control the weather or other natural conditions existing at the Harbor and that the Harbor is subject to heavy breaking surf.



commissioners, agents or employees, from any responsibility for Port District's willful injury to person or property of another, or violation of law.

F. Port District and its officers, commissioners, agents and employees are entitled to all the benefits conferred under the Tort Claims Act, California Government Code § 810 et seq. A copy of this Act may be obtained at the Port District harbor office.

NOW, THEREFORE, the parties hereby agree as follows:

1. Grant of License. Port District hereby grants to Owner, and to Owner only, an exclusive license to berth the Vessel at the Slip on a month-to-month basis beginning on the 1st day of MARCH, 1989 and continuing thereafter until terminated pursuant to the provisions of this Agreement. Said slip license shall constitute a "permit" within the meaning of the provisions of the Santa Cruz Port District Ordinances (the "Port District Ordinances"). During the term of this Agreement, Owner shall also have the non-exclusive right to use, in conjunction with other authorized members of the public, adjacent floats, docks, gangways, lighting, fresh water, power outlets, vehicle parking spaces, and restrooms owned by Port District, subject to such reasonable charges for using any one or more of the same as Port District may choose to assess from time to time. Port District shall maintain in good order and repair such adjacent floats, docks, gangways, lighting, fresh water, power outlets, vehicle parking spaces, and restrooms.

2. Slip Fees.

(a) Terms of Payment. Owner shall pay to Port District each month, in lawful money of the United States, slip license fees for the berthing rights granted hereunder at the monthly rate posted in the Port District Harbor Office (the "Harbor Office"), as said rate may be modified by Port District from time to time. Said slip fees shall be due and payable in advance on the first day of each month during the term of this Agreement, without offset, at Port District's office at 135 Fifth Avenue, Santa Cruz, California 95062, or at such other place as may from time to time be designated by Port District in writing.

(b) Late Payment. Owner acknowledges that late payment by Owner to Port District of slip fees will cause Port District to incur costs not contemplated by this Agreement, the exact amount of which is extremely difficult and impracticable to fix. Such costs include, without limitation, processing, accounting, and collection costs. Therefore, if any installment of slip fees is not received by Port District within fifteen (15) days after the date due, Owner shall pay to Port District an additional sum of \$15.00, which sum the parties agree represents a fair and reasonable estimate of the costs that Port District will incur by reason of late payment by Owner. Such amount may be increased by Port District from time to time, but no more than once each year, to reflect increases in such costs. Any such increase in late charges shall be effective upon the posting of written notice of such increase in the Harbor Office. Acceptance by Port District of such late charge shall not prevent Port District from exercising any of the rights and remedies available to Port District in connection with any continuing failure to pay, including termination of vessel berthing rights. Notwithstanding the foregoing, Port District reserves the right to waive such late charges with respect to commercial fishermen who demonstrate to the satisfaction of Port District the existence of circumstances which warrant waiver of such charges. For purposes of the preceding sentence, "commercial fishermen" shall be deemed to be the same individuals identified by Port District as commercial fishermen who are able to qualify for special berthing rights under Port District's commercial fishing policies for berthing on R, S and T docks.

3. Security Deposit. Owner upon execution of this Agreement, shall deposit with Port District the sum of One Hundred Fifty Dollars (\$ 155.00 ) as a deposit for the faithful performance of Owner's obligations hereunder. Port District, at its sole option, and without limiting in any way any other rights or remedies it may have under this Agreement or at law, may claim and apply from time to time such amounts of said deposit as are reasonably necessary in Port District's judgment to remedy Owner's defaults in the payment of fees and other charges hereunder, to repair damages to the Harbor (over and above normal wear and tear) caused by Owner or Owner's

said deposit shall be returned to Owner as soon as Port District has regained possession of the Slip and is able to determine the amount of the deposit it may claim hereunder. Port District shall have the right to commingle the security deposit with other funds of Port District and shall not be obligated to pay Owner interest on the security deposit. OWNER MAY NOT WITHOUT PORT DISTRICT'S CONSENT USE ANY PORTION OF THE SECURITY DEPOSIT AS PAYMENT OF OWNER'S LAST MONTH'S OR OTHER SLIP FEES OR ANY OTHER CHARGES.

4. Conditions of Use. Owner shall perform and comply with each and every term and condition of this Agreement to be performed or complied with by Owner, including, without limitation, the conditions of use contained in this Paragraph 4.

(a) Use. Owner shall not cause or permit the Slip to be used for any purpose other than the berthing of the Vessel and other uses reasonably incidental thereto and not prohibited herein. Owner shall not live aboard the Vessel without the prior written consent of Port District.

(b) Securing Vessel. At all times while the Vessel is berthed at the Slip, Owner shall cause it to be safely and properly secured in a manner acceptable to Port District. If Port District deems it necessary from time to time to resecure the Vessel for any reason, then on the third and all subsequent occasions necessitating resecuring of the Vessel, Owner shall pay Port District a reasonable service charge for doing so plus the cost of all materials used therefor. However, Port District does not assume and shall have no responsibility or liability whatsoever for the safety of the Vessel, and shall not be liable for fire, theft, or any damage to the Vessel, its equipment, or any property in or on the Vessel, by reason of Port District's decision either to resecure the Vessel or not to resecure the Vessel, except only any such damage as is caused by Port District's wilful injury or sole gross and active negligence in resecuring the Vessel.

(c) Condition of Slip. Owner hereby acknowledges that Owner has inspected the Slip and those portions of the Harbor associated with the Slip, including, without limitation, the floats, walks, gangways, and ramps adjacent to the Slip, knows the condition of same, hereby accepts the Slip in such condition, and acknowledges that no statement or representation as to the condition of any of the same has been made by Port District.

(d) Guests. All guests, invitees and hired personnel of Owner shall conform their activities to the requirements of this Agreement. Port District shall have the right, but not the obligation, to ascertain that third parties aboard the Vessel are authorized by Owner to be aboard.

(e) Change of Slip. Port District reserves the right to reassign Owner to a different slip within the Harbor at any time to facilitate management of the Harbor, and Port District shall not be liable to Owner by reason of requiring such reassignment. From and after the date of any such reassignment, the new slip shall be deemed to be the Slip, as such term is herein defined, for all purposes under this Agreement.

(f) Assignment and Sublicense. Provided Port District first consents thereto, Owner has the right to sublicense the Slip for a period not to exceed six (6) months, subject to such reasonable charge therefor as Port District may from time to time choose to assess. Owner shall remain financially liable for all of Owner's obligations hereunder during said period. Except as set forth above, Owner shall not assign this Agreement or any rights hereunder, voluntarily or involuntarily, or sublicense the Slip or any part thereof, to any other party or for use by any other Vessel. Any assignment or sublicense in violation of this paragraph shall be void and shall automatically terminate this Agreement.

(g) Regulations and Laws. Owner at all times shall comply with all applicable laws, ordinances, statutes, rules, regulations and rulings of federal, state and local governments and the boards, agencies and departments thereof relating to Owner's use of the Slip and Owner's activities within the Harbor, including but not limited to the Port District Ordinances and rules and regulations, as the same may from time to time be modified. Owner hereby acknowledges receipt of a copy of the current 59 Port District Ordinances. Port District reserves the right to add to or otherwise modify said Ordinances and rules and regulations from time to time.

such usage at all times during the term of this Agreement for each and every twelve month period which may be selected by Port District upon examination of Owner's pattern of usage. Notwithstanding the foregoing, extended cruises or other lengthy absences from the Harbor will be considered on a case by case basis by Port District as evidence of Owner's continued use of the Vessel on a regular basis.

5. Liability of Parties.

(a) Waiver of Claims. Incident to the operation of the Harbor, Port District has provided certain fencing and gates, flood lighting and a harbor patrolman for protection of persons using the Harbor and their personal property. Nonetheless, because of the many feet of unfenced and exposed shoreline of the Harbor, and because of the many users of the Harbor with varied boating experience, it is financially infeasible for Port District completely to protect boats berthed in the Harbor from damage inflicted by other persons, or to protect those persons using the Harbor from physical harm caused by the negligence or wilful misconduct of other persons within the Harbor. In acknowledgment of the foregoing, Owner hereby waives any and all claims of liability against Port District, including but not limited to its Board of Commissioners, agents and employees (the Port District and its subordinates are all hereinafter collectively referred to as the "Indemnitees"), for any personal injury to or death of Owner and/or any member of Owner's family, and/or Owner's guests, agents, or employees, or for damage to or destruction of any property, including, without limitation, the Vessel, occurring on or about the Harbor, arising from any cause whatsoever other than the sole gross and active negligence or wilful misconduct of Port District. Such waiver shall extend to, but not be limited to, damage or loss from fire, theft, vandalism, malicious mischief, or collision, sustained by any boat, automobile or other personal property belonging to Owner permanently or temporarily maintained, stored, berthed, parked or operated in or about the Harbor, including but not limited to its floats, piers, parking lots, small boat launching ramp, and fuel float. Additionally, Port District conducts dredging operations, for the benefit of all Harbor users, with certain dredging equipment, including, but not limited to, a dredge, barges, pipelines and related dredging machinery and equipment (together the "dredging equipment"). Nevertheless, because of natural conditions existing at the Harbor, including, but not limited to, hard-breaking surf, the weather and the continual build up of silt (both in the Harbor entrance and inner Harbor), and because of the nature of the dredging operations, Port District cannot and does not agree to protect boats and persons using the Harbor from damage or injury to persons and/or property resulting from the dredging operations, the dredging equipment, or the resulting condition of the Harbor. In acknowledgment of the foregoing, Owner hereby agrees that, to the full extent permitted by law, Port District shall not be liable or responsible for any claims, demands, damages, debts, liabilities, obligations, costs, expenses, liens, actions or causes of action of any kind whatsoever, resulting (1) from any collision with any of the dredging equipment or any other boat, (2) from any collision or contact with the bottom of the Harbor or any obstructions on the bottom of the Harbor, (3) from any collision or contact with the jetties or surrounding beaches, or (4) from, or in any way relating to, the dredging operations or the lack of dredging operations, including, but not limited to, the closure of the Harbor entrance for any reason or under any circumstances whatsoever.

(b) Indemnification. In addition to the foregoing, Owner shall indemnify and hold harmless the Indemnitees from and against any and all damage, loss and expense, including but not limited to attorneys' fees and costs and expenses of litigation, and shall at his sole cost, upon the request of Port District, defend all suits brought against all or any of the Indemnitees, resulting from or arising out of any act or omission of Owner or its agents, employees, invitees, or anyone else for whom Owner may be legally responsible, occurring on or about the Harbor, including but not limited to the breach of this Agreement or the Port District Ordinances by any of such parties.

(c) Specific Disclaimers. Without in any way limiting the generality of the foregoing provisions, Port District shall to the full extent permitted by law, specifically have no liability or responsibility to Owner for the conditions of the beach, the availability of ingress to or egress from the waters of the Monterey Bay, or the Harbor, the conditions of the jetties and entrance channel leading to the Harbor, or damages caused to the Vessel by such conditions. Port District shall, to the full extent permitted by law, specifically have no liability or responsibility to Owner for



limited to, the closure of the Harbor entrance for any reason or under any circumstances whatsoever. Such non-liability and non-responsibility shall include, without limitation, any failure by Port District to dredge any portion of the Harbor, regardless of the length of time during which Port District may have failed to dredge. In addition, Port District shall not be liable for termination of this Agreement pursuant to Paragraph 6(d). In the event the Slip is an "inside tie", then without limiting the generality of the foregoing provisions, Owner specifically acknowledges that the Slip is by its very nature shallow and that rocks are commonly found under the Slip, and agrees that Port District shall in no event be responsible for any damage sustained by the Vessel from its resting on the bottom.

6. Termination. This Agreement may be terminated only as provided in this Paragraph 6.

(a) Thirty Days Notice. This Agreement may be terminated at any time by either party for any reason whatsoever upon giving the other party not less than thirty (30) days' prior written notice of termination.

(b) Transfer of Vessel. Owner shall be entitled to transfer all or any part of Owner's right, title or interest in the Vessel to any other party or parties. However, Owner must promptly apply to Port District for a renewed slip berthing license in the event Owner desires to continue using the Slip for berthing a different boat. Port District shall approve or disapprove such renewal within six (6) months of the date of such transfer. In the event Owner obtains a boat of similar size as the Vessel and desires to berth the same in the Slip, Port District shall not unreasonably withhold its consent to the renewal of Owner's license.

(c) Breach of Agreement. If Owner fails to abide by or perform any of the terms, conditions and promises as set forth in this Agreement to be abided by or performed by Owner, or if Owner fails to inform Port District of any changes in the information set forth in the Application for Slip License, Port District, without waiving any other rights or remedies it may have under this Agreement or at law, may immediately terminate this Agreement upon giving Owner written notice of termination.

(d) Destruction of Slip. This Agreement shall automatically terminate upon destruction of the Slip by siltation, or upon destruction of the walkways or gangways adjacent thereto by reason of fire, storm or any other cause; provided that, in the event a suitable slip for the Vessel is available elsewhere in the Harbor at the time of such termination, Port District shall offer Owner an opportunity to enter into a license agreement respecting such slip.

The termination of this Agreement shall not relieve Owner of any obligation or liability which arose or accrued prior to such termination.

7. Surrender. Upon termination of this Agreement, Owner shall remove the Vessel from the Slip, shall remove all other personal property belonging to Owner or in Owner's care, custody or control, and shall surrender the Slip to Port District together with all keys to the Harbor in as good condition as existed as of the date of this Agreement, subject to reasonable wear and tear. If the Vessel remains in the Slip after termination of this Agreement, the Vessel shall be considered abandoned, and shall be subject to the Ordinances of the Port District and to the statutes of the California Harbors & Navigation Code pertaining to disposition of abandoned vessels.

8. Remedies for Default. If Owner fails to pay slip fees or any other charges to be paid by Owner, or in the event of any other default or breach under this Agreement by Owner, Port District may, at its option, pursue any and all rights and remedies it may have under this Agreement and at law, including without limitation, the right to take possession and control of and remove and store the Vessel for the purpose of perfecting and executing upon Port District's statutory lien rights in the Vessel.

9. Relationship of Parties. Nothing in this Agreement shall be deemed to create a relationship between Port District and Owner other than that of licensor and licensee. In particular, this Agreement shall not be deemed to be a lease or rental agreement, or to create a landlord-tenant relationship between Port District and Owner. 61

other sums owed by Owner to Port District hereunder shall not constitute a waiver of Port District's right to payment in full of such fees or other sums.

11. Attorneys' Fees. In the event any legal action is instituted by either party hereto against the other party to enforce or interpret any provision of this Agreement or of any amendment or modification of this Agreement made subsequent hereto, the prevailing party shall be entitled to recover all costs of litigation, including without limitation, reasonably attorneys' fees, incurred in connection with such action, whether or not such action is prosecuted to final judgment.

12. Notice. Except as otherwise provided herein, any notice or communication given pursuant to this Agreement shall be in writing and may be delivered personally or be sent by first class mail, postage prepaid, addressed to the party to whom given at its address as shown hereinabove and deposited in the United States mail in California. Either party hereto may change its address to which notices and communications are to be given by giving written notice thereof to the other party in conformity with the provisions of this paragraph.

13. General.

(a) Joint and Several Liability. If Owner consists of more than one person, then the obligations of each said person as Owner, including but not limited to the indemnification provisions of Paragraph 5 above, shall be joint and several.

(b) Time of Essence. Time is of the essence of this Agreement and each and every provision hereof.

(c) Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and terminates and supersedes as of the date hereof any prior agreement(s) between the parties, written or oral. Any subsequent modification of this Agreement shall be in writing and signed by both parties.

(d) California Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Slip License Agreement as of the 4 day of April, 1989

"PORT DISTRICT"

The Santa Cruz Port District Board of Commissioners

By 

"OWNER"

By 

(BELOW LINE FOR OFFICE USE ONLY)

Slip Effective Date: MARCH 4 1989 Initial Monthly Slip Fee: 185.<sup>00</sup>  
Amount of Slip Fee Paid: \$ 185.<sup>00</sup> Account # 42228 Dock # 5-08  
Other \_\_\_\_\_: \_\_\_\_\_



TO: Port Commission

FROM: Holland MacLaurie, Port Director

DATE: April 14, 2022

SUBJECT: Approval of Assignment and Assumption of Subleases and Amended and Restated Lease Agreement – 2222 East Cliff Drive

**Recommendation:**

- 1. Approve the Assignment and Assumption of Subleases; and**
- 2. Approve Ordinance 22-01 authorizing the form, terms, and execution of an Amended and Restated Lease Agreement between the Santa Cruz Port District and O’Neill Sea Odyssey**

## BACKGROUND

The Port District and O’Neill Sea Odyssey (OSO) are currently parties to a lease agreement dated January 1, 2004, for the second story leasehold spaces at 2222 East Cliff Drive. The current lease expires on December 31, 2028.

In October 2018, the Port District and OSO reached agreement on terms of a lease extension for the period January 1, 2029, through December 31, 2043. Under the 2029 Lease Extension, the Port District would assume control of, and serve as landlord for, all second story suites, and OSO would maintain occupancy of Suites 222 and 234 at market rent, less a 50% public service discount.

Subject to terms of recent negotiations, the Port District and OSO have agreed to effectuate a new agreement (with terms similar to the 2029 Lease Extension), effective June 1, 2022. The parties have agreed to execute an Assignment and Assumption of Subleases (excluding Suite 234), terminate the 2004 Lease, fully amend and restate the 2029 Lease Extension, and enter into a new Amended and Restated Lease to become the operative lease agreement between the parties. The proposed lease term for the Amended and Restated Lease is June 1, 2022, to December 31, 2043.

In accordance with Sections 6200 et seq. of the H&N Code, leases of longer than 10 years are required to be approved by Ordinance. Ordinance 22-01 (Attachment A) is being recommended for adoption and authorizes the form, terms, and execution of the new Amended and Restated Lease. The Ordinance was advertised in accordance with H&N Code Section 6270.

## ANALYSIS

Under the new Amended and Restated Lease, the Port District will assume control of all second story suites (with OSO continuing to sublease Suite 234) pursuant to approval of the Assignment and Assumption of Subleases (Attachment C). Once approved, both the Assignment and Assumption of Subleases and the Amended and Restated Lease will be effective June 1, 2022.

Proposed terms for the Amended and Restated Lease are outlined below:

Tenant: O'Neill Sea Odyssey  
Space: 2222 East Cliff Drive, Suites 222 and 234 (approx. 1,639 SF, plus auxiliary 3<sup>rd</sup> story space of approx. 132 SF)  
Term: June 1, 2022 – December 31, 2043  
Options: None  
Rent: Market rent reduced by 50% public service discount  
Annual CPI increases April 1 of each year commencing in 2023  
Use: Non-profit, tax-exempt public education foundation focusing on marine biology, ecology and navigation and office space necessary for administration of the public education foundation  
Insurance: \$2 million with Santa Cruz Port District named as additional insured  
Other: Port District is landlord for all second story suites.  
OSO has non-exclusive use of the second story deck for classroom use.

**IMPACT ON PORT DISTRICT RESOURCES**

The Port District will recognize approximately \$108,000 per year in new revenue as a result of assuming control of the second story suites. Effective June 1, 2022, the Port District will also be responsible for maintenance of the second story deck, the elevator, and janitorial costs for restroom cleaning.

ATTACHMENT: A. Ordinance 22-01  
B. Amended and Restated Draft Lease  
C. Assignment and Assumption of Subleases



**SANTA CRUZ PORT DISTRICT  
ORDINANCE 22-01**

**AN ORDINANCE OF THE SANTA CRUZ PORT DISTRICT COMMISSION  
OF THE SANTA CRUZ PORT DISTRICT AUTHORIZING THE FORM, TERMS AND  
EXECUTION OF AN AMENDED AND RESTATED LEASE AGREEMENT BETWEEN  
SANTA CRUZ PORT DISTRICT AND O'NEILL SEA ODYSSEY**

**WHEREAS**, the Santa Cruz Port District ("District") is the owner of certain real property and improvements at 2222 East Cliff Drive, a multi-tenant building on the east side of Santa Cruz Harbor in the City and County of Santa Cruz.

**WHEREAS**, the District and O'Neill Sea Odyssey ("OSO") are currently parties to a lease agreement dated January 1, 2004, for the second story leasehold spaces at 2222 East Cliff Drive, which has a term expiring December 31, 2028; and,

**WHEREAS**, the District and OSO desired to continue their business relationship after the termination of the 2004 lease and entered into a lease extension agreement ("2029 Lease"), which is set to commence on January 1, 2029, and continue for a 15-year term expiring December 31, 2043; and,

**WHEREAS**, the District and OSO now desire to terminate the lease agreement dated January 1, 2004, and amend and restate the 2029 lease extension agreement, and enter into a new Amended and Restated Lease to become the operative lease agreement between the parties and govern all rights, covenants, commitments, and obligations relating to OSO's tenancy at the building, commencing as soon as authorized by law.

**WHEREAS**, under terms of the Amended and Restated Lease, District will assume control of, and serve as landlord for, all second story suites (200, 204, 208, 212, 216, 220, 222 and 234) totaling approximately 3,715 square feet ("SF") and all ancillary spaces; and,

**WHEREAS**, pursuant to terms of the Amended and Restated Lease, the District desires to lease to OSO, Suites 222 and 234 on the second story of 2222 East Cliff Drive, and auxiliary space on the third story of the building, for continued operation of OSO's public education foundation focusing on marine biology, ecology and navigation; and,

**WHEREAS**, the District is authorized to exercise powers pursuant to the Port District Law of the State of California, being Sections 6200 et seq. of the Harbors and Navigation Code ("H&N") of the State of California, and all laws amendatory thereof or supplemental thereto, including the power to enter into franchises and leases for periods of more than ten years if authorized by Ordinance in accordance with H&N Code Section 6270; and,

**WHEREAS**, the District and OSO have negotiated and reached agreement on terms and conditions of the Amended and Restated Lease, and the Commission desires to authorize the execution of the Amended and Restated Lease, by and between the District and OSO.

**NOW, THEREFORE, BE IT ORDAINED**, by the Santa Cruz Port District Commission as follows:

**Section 1.** The Commission hereby specifically agrees to the recitals, terms, conditions, provisions, and responsibilities contained in the Amended and Restated Lease, and authorizes execution of the Amended and Restated Lease.

**Section 2.** The Commission authorizes the Chairman of the Commission to execute the Amended and Restated Lease, and the Port Director, as witness, to execute attesting to the Amended and Restated Lease.

**Section 3.** This Ordinance shall take effect after thirty (30) days from its adoption.

**THE FOREGOING ORDINANCE** of the Santa Cruz Port District Commission was duly and regularly introduced, passed and adopted at a regular meeting of the Santa Cruz Port District on the 26<sup>th</sup> day of April 2022, by the following vote.

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Reed Geisreiter, Chair  
Santa Cruz Port District Commission

AMENDED AND RESTATED LEASE AGREEMENT BETWEEN  
SANTA CRUZ PORT DISTRICT,  
AS LANDLORD  
AND  
O'NEILL SEA ODYSSEY  
AS TENANT  
IN SANTA CRUZ HARBOR  
AT 2222 EAST CLIFF DRIVE, SUITES 222 AND 234, SANTA CRUZ  
COMMENCING ON JUNE 1, 2022

## TABLE OF CONTENTS

Recitals.....	1
1. Lease of Premises.....	2
2. Tenant Improvements.....	2
3. Term.....	2
4. Title to Improvements.....	2
5. Rent.....	2
(a) Fixed Minimum Rent or "Base Rent".....	2
(b) Adjustments to Base Rent.....	3
(c) Market Rent.....	3
(d) Market Rent Review.....	3
(e) Lease Year.....	4
(f) Payment of Fixed Minimum Rent or Base Rent.....	4
(g) Delinquent Payment.....	5
(h) Security Deposit.....	5
6. Use.....	5
(a) Permitted Use as Non-Profit/Tax Exempt Status.....	5
(b) Outdoor/Public Areas.....	5
(c) Condition of Premises.....	6
(d) Provision of Services.....	6
(e) Continuous Use.....	6
(f) Refuse Disposal.....	6
(g) Hazardous Materials.....	6
(h) Effect on Navigable Waters.....	8
(i) Non-permitted Uses.....	8
(j) Compliance with Laws.....	8
7. Ownership of Improvements.....	8
(a) Title.....	8
(b) Liens.....	9
8. Construction of Improvements.....	9
(a) No Landlord Improvements.....	9
(b) Tenant Improvements.....	9
(c) Americans With Disabilities Act.....	10
(d) CASp Inspection.....	10

9.	Taxes and Assessments .....	10
	(a) Payable by Tenant .....	10
	(b) Substitute Taxes .....	10
10.	Insurance .....	11
	(a) Landlord's Insurance .....	11
	(b) Tenant's Insurance .....	11
	(c) Waiver of Subrogation .....	12
	(d) Submittal of Policies .....	12
	(e) Review of Coverage .....	12
	(f) Changes in Coverage .....	13
	(g) Landlord's Remedies .....	13
11.	Indemnification .....	13
	(a) Tenant's Hold Harmless .....	13
	(b) Tenant's Waiver of Claims .....	13
	(c) Landlord's Hold Harmless .....	14
12.	Maintenance and Repairs .....	14
	(a) Tenant's Obligations .....	14
	(b) Outside Areas .....	14
	(c) Landlord's Obligations .....	15
	(d) Landlord's Right to Repair .....	15
13.	Utilities .....	15
14.	Assignment, Subletting and Licensing .....	16
	(a) Landlord's Consent Required .....	16
	(b) Permitted Assignments, Subleases and Licenses .....	16
	(c) Encumbrances .....	17
	(d) Corporation or Partnership .....	17
15.	Damage or Destruction .....	17
	(a) Partial Damage-Insured .....	17
	(b) Partial Damage-Under or Uninsured .....	17
	(c) Total Destruction .....	18
	(d) Damage Near End of Term .....	18
	(e) Abatement of Rent .....	18
	(f) Waiver .....	18
	(g) Tenant's Property .....	19
	(h) Notice of Damage .....	19
	(i) Replacement Cost .....	19
16.	Eminent Domain .....	19
	(a) Termination .....	19
	(b) Partial Taking Renders Economically Unfeasible .....	19

(c)	Partial Taking with Business Continued .....	19
(d)	Repairs .....	19
(e)	Compensation .....	19
17.	Tenant Default.....	20
18.	Remedies .....	20
(a)	Repossession.....	20
(b)	No Repossession .....	21
(c)	Right to Cure .....	21
19.	Attorneys' Fees .....	21
20.	Removal of Property.....	22
21.	Subordination .....	22
(a)	Subordination of Lease .....	22
(b)	Execution of Documents .....	22
22.	Landlord's Right to Reenter.....	22
(a)	Peaceable Surrender .....	22
(b)	Waiver of Redemption and Stipulated Damages.....	23
23.	Reservations to Landlord .....	23
24.	Building/Premises Closure .....	23
25.	Force Majeure .....	23
26.	Notices.....	24
27.	No Commission .....	24
28.	Waiver.....	24
29.	Holding Over.....	24
30.	Parking.....	24
31.	Non-Discrimination .....	25
32.	Entry by Landlord.....	25



33.	Estoppel Certificates; Financial Statements.....	25
	(a) Estoppel Certificates .....	25
34.	General .....	26
	(a) Entire Agreement .....	26
	(b) Covenants and Conditions .....	26
	(c) Binding on Successors .....	26
	(d) Joint and Several Liability .....	26
	(e) Gender.....	26
	(f) Captions .....	26
	(g) Governing Law .....	26
	(h) Time of Essence.....	26
	(i) Partial Invalidity .....	26
	(j) Contract Interpretation .....	26
	(k) Relationship.....	27
	(l) Corporate Authority .....	27
	(m) No Recordation .....	27
	(n) Calendar Days.....	27
	(o) Counterparts.....	27
35.	State of California Harbors and Navigation Code .....	27

List of Exhibits

- |             |                  |
|-------------|------------------|
| Exhibit "A" | Building Diagram |
| Exhibit "B" | Premises Diagram |

**SANTA CRUZ PORT DISTRICT  
AMENDED AND RESTATED LEASE AGREEMENT**

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Lease") is made and entered into as of \_\_\_\_\_, 2022, by and between the SANTA CRUZ PORT DISTRICT, a municipal corporation and political subdivision of the State of California, 135 5th Avenue, Santa Cruz, California, 95062, hereafter referred to as "Landlord," and O'Neill Sea Odyssey, a California nonprofit corporation, hereafter referred to as "Tenant." Landlord and Tenant are hereinafter referred to individually as "Party" or collectively as the "Parties."

RECITALS

A. Landlord is the owner of real property and improvements of the building located at 2222 East Cliff Drive (the "Building"), on the east side of Santa Cruz Harbor in the City and County of Santa Cruz, State of California. The Building is more particularly shown and described in Exhibit A, attached hereto and incorporated herein.

B. Tenant is currently doing business as O'Neill Sea Odyssey ("OSO"), a non-profit corporation (tax-exempt under IRS section 501(c)(3)) operating a public education foundation focusing on marine biology, ecology and navigation.

C. Tenant had previously entered into a lease for the second story consisting of approximately 3,715 square feet (SF) dated January 1, 2004 ("2004 Lease") with Landlord. The term of the 2004 Lease was to expire at midnight on December 31, 2028. In connection with the 2004 Lease, the Parties also entered into a Lease Extension Agreement pursuant to which Tenant's tenancy at the Building would be extended from January 1, 2029 through December 31, 2043 and certain rights and obligations of the Parties would be reallocated among and between them (the "2029 Lease").

D. Landlord and Tenant desire to: (i) continue their business relationship and Tenant's tenancy at the Building, (ii) terminate and replace the 2004 Lease upon the commencement of this Lease, and (iii) amend and restate the 2029 Lease as set forth herein, such that this Lease shall upon its commencement supersede the 2004 Lease and the 2029 Lease, and become the operative Lease Agreement between the parties and govern all rights, covenants, commitments and obligations relating to Tenant's tenancy at the Building as of June 1, 2022 ("Commencement Date").

E. Effective upon the Commencement Date, Landlord will assume control of, and Tenant shall relinquish to Landlord control of all second story suites (200, 204, 208, 212, 216, 220, 222 and 234) totaling approximately 3,715 square feet ("SF").

Tenant desires to continue to operate OSO under the new terms and conditions of this Lease. Under this Lease, Tenant will lease from Landlord only the following premises consisting of two suites and auxiliary space for operation of OSO during the Lease term:

- 1) Suite 222, which is approximately 1,207 SF;
- 2) Suite 234, which is approximately 432 SF; and
- 3) Auxiliary space on the third floor, which is approximately 132 SF.

The leased area comprises a total of 1,639 SF of office space and a 132 SF auxiliary space, which is collectively referred to as the "Premises" and is shown in Exhibit B.

Landlord grants to Tenant the right to sublease Suite 234, only, but subject to the provisions in Section 14 and the terms and conditions of this Lease.

F. The parties acknowledge that the 2004 Lease is terminated, and the 2029 Lease is superseded as of the Commencement Date of this Lease and that neither party has any rights or claims under the 2004 Lease as of its termination or under the 2029 Lease, which is superseded.

G. Landlord desires to lease the Premises to Tenant for the operation of OSO in accordance with all terms and conditions of this Lease.

### AGREEMENT TERMS

NOW, THEREFORE, in furtherance of the foregoing Recitals, which are incorporated herein, and in consideration of the mutual covenants contained herein, Landlord and Tenant hereby agree as follows:

1. Lease of Premises.

(a) Commencing on June 1, 2022, Landlord hereby agrees to lease the Premises to Tenant, and Tenant agrees to lease the Premises from Landlord, for the designated term, upon the other terms and conditions contained herein.

2. Tenant Improvements. Tenant shall purchase at its expense, and install or construct on the Premises, at its sole cost and expense, any equipment, furnishings, and improvements required for the operation of OSO to properly conduct the business ("Tenant Improvements"). All proposed improvements must be pre-approved, in writing by Landlord, properly permitted by the City of Santa Cruz and any and all other regulatory agencies with permitting jurisdiction prior to construction or installation, and in compliance with all applicable laws. Notwithstanding the foregoing, all of Tenant's then-current Tenant Improvements are deemed approved by Landlord. Any new Tenant Improvements desired after the Commencement Date will be subject to this provision.

3. Term. The term of this Lease commences as of June 1, 2022, and shall continue hereunder until midnight on December 31, 2043, unless sooner terminated as provided herein. The term of this Lease is hereinafter referred to as the "Lease Term" or "Term."

4. Title to Improvements. Free and clear title to any and all improvements and fixtures purchased or constructed by Tenant and installed upon the Premises shall upon such termination vest in Landlord without additional cost or expense to Landlord, and Tenant shall execute such additional documents as Landlord may reasonably require effectuating such transfer of title.

5. Rent.

(a) Fixed Minimum Rent or "Base Rent". Tenant shall pay to Landlord each month a fixed amount of rent ("Fixed Minimum Rent" or "Base Rent") as follows:

(i) Beginning on June 1, 2022 through December 31, 2028, Tenant shall pay to Landlord each month a Base Rent for: 1) Suite 222, which shall be equal to One Thousand Five Hundred Twenty Three Dollars (\$1,523.00) per month, and 2) Suite 234, which shall be equal to One Thousand One Hundred Ninety Two and Thirty Two Cents (\$1,192.32) based on its 432 square feet assessed at the rate of \$2.76 per square feet. There will be no charge for the use of the auxiliary space. The Base Rents for Suite 222 and Suite 234 are subject to periodic adjustment as described in Section 5(b); and

(ii) Beginning on January 1, 2029 through December 31, 2043, Tenant shall pay to Landlord each month Base Rent for the Premises which shall initially be based on Market Rent less a 50% public service discount, which shall be subject to periodic adjustment as described in Section 5(b). Market Rent shall be established by Section 5(c) - Market Rent. Tenant must meet all required use provisions (Section 6.a. Use) to receive the public service discount and avoid being in default of this Lease (Section 17, Tenant Default). If Tenant is in default of Section 6.a. Use provisions, commencing on the first of the month following default, Tenant shall pay to Landlord Fixed Minimum Rent equal to 100% of Market Rent until Tenant vacates space either voluntarily or through default proceedings.

(b) Adjustments to Base Rent. On April 1, 2023, and each year thereafter on April 1 for the term of this Lease, the Base Rent in effect for the month immediately preceding the adjustment date shall be adjusted in accordance with the increase in the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-Hayward Metropolitan Area, (All Items) or successor index for the preceding calendar year. In no event shall the Base Rent be decreased.

(c) Market Rent. "Market Rent" shall mean the fair market monthly rent for the Premises. Market Rent shall be established no sooner than July 1, 2028.

No earlier than July 1, 2028, but no later than December 1, 2028, Landlord shall determine the Market Rent for the Premises in its sole and absolute discretion and provide Tenant with written notice of the Market Rent. Landlord may elect to set the Market Rent for the Premises for the 2029 year by determining the average monthly rent per square foot of the second story suites at the Building (200, 204, 208, 212, 216, 220 but excluding 222 and 234), during the 2028 year (i.e., totaling the price per square foot for suites 200, 204, 208, 212, 216, and 220, and dividing by 6). The average monthly rental rate per square foot for the applicable suites will then be multiplied by 1,639 SF for the Premises to determine the Market Rent. This Market Rent, less 50% public service discount as described in 6(c) Use, below, if applicable, shall be the Base Rent under this Lease commencing January 1, 2029, and shall be binding. Tenant shall keep full and complete records of its sublease agreements for the applicable suites, if any, for a period of ten years.

If Tenant disputes the Market Rent set by Landlord, Tenant may request a Market Rent Review in writing to Landlord within ten (10) days of Landlord's notice of the Market Rent and in accordance with the process set forth herein.

(d) Market Rent Review.

(i) In the event that Tenant disputes the initial Market Rent set by Landlord, then within 10 days after a request for Market Rent Review, both Parties shall act in good faith to mutually

agree to appoint an appraiser with at least five (5) years commercial appraisal experience in the seven (7) years immediately preceding the appraisal, within a radius of twenty-five (25) miles from the Premises, to appraise and set the applicable Market Rent which shall result in a fair market value for Market Rent. The Party requesting a Market Rent Review shall bear the sole costs associated with the appraisal.

(ii) If the Parties are unable to mutually agree on the appointment of a single appraiser, each party may at their own cost, appoint their own appraiser who shall be a Member of the Appraisal Institute (MAI) or equivalent organization, and meet the qualifications stated in this paragraph, such that the two appraisers must determine the Market Rent. Market Rent shall then be set by accepting the average of the then fair market rent as established by each Party's respective appraiser.

(iii) The Parties may also have the option of mutually selecting a third appraiser, who meets the qualifications stated in this paragraph. Each of the Parties shall bear one-half (1/2) of the cost of appointing the third appraiser and of paying the third appraiser's fee. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for either Party.

(iv) In the event of three (3) appraisals, the fair market rent values shall be added together and their total divided by three; the resulting quotient shall be the amount of Market Rent for the Premises. If any appraisal is more than 25% above or below the middle appraisal, it shall not be considered in determining the Market Rent. If only one appraisal is disregarded, then the other two appraisals shall be added together and their total divided by two and the resulting quotient shall be the applicable Market Rent. If both the high and low appraisals are disregarded, then the middle appraisal shall establish Market Rent.

(v) The 50% public service discount shall not be considered by the appointed appraiser(s) in determining Market Rent.

(vi) In the event a Party initiates a Market Rent Review, Base Rent during the Market Rent review period shall be based on the Market Rent as initially determined by Landlord, and less if applicable, a 50% public service discount as described in 6(c) Use, below, and shall be binding until such time that Market Rent is determined and retroactively applied. Any payment reflecting necessary adjustments to either Tenant or to Landlord shall be made within sixty (60) days of notice of the final Market Rent's determination.

(e) Lease Year. The term "lease year" means the period during the lease term commencing on April 1st of each year and ending at midnight on March 30th of the next succeeding year. The term "lease month" means the period from the 1st day of each calendar month during the lease term through the last day of the calendar month.

(f) Payment of Fixed Minimum Rent or Base Rent. The Fixed Minimum Rent shall be payable monthly in advance, without notice, offset, or abatement, by the first day of each calendar month of the Lease Term. All rent and other sums payable by Tenant hereunder shall be paid to Landlord in currency of the United States of America (or by personal check unless Landlord otherwise notified Tenant) at Landlord's address set forth in Paragraph 23 hereof, or at such other place as Landlord may from time to time designate in writing.

(g) Delinquent Payment. Rent payments received on or after the 21st day of the month shall be deemed Delinquent Payments. A delinquency fee in the then current amount as set by the Landlord's Board of Port Commissioners shall be applied to any delinquent payment. In addition, interest in the then current amount as set by the Landlord's Board of Port Commissioners shall be applied on the last day of each month to the unpaid balance until paid in full.

(h) Security Deposit. Tenant will, no later than five (5) business days prior to the Commencement Date of this Lease, deposit with Landlord a sum equivalent to one month's Base Rent for the Premises at the time of executing this Lease in the amount of \$1,523.00, which shall continue to be held by Landlord as security for the faithful performance by Tenant of all of its obligations hereunder. If Tenant fails to pay rent or any other sums due hereunder, or otherwise defaults with respect to any provision of this Lease, Landlord may use, apply, or retain all or any portion of the Deposit for the payment of any rent or other sum in default, or to compensate Landlord for the payment of any other sum which Landlord may become obligated to spend by reason of Tenant's default, or to compensate Landlord for any expenditures, loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of the Deposit, Tenant shall within ten (10) days after written demand therefor, deposit with Landlord an amount in cash sufficient to restore the Deposit to the full amount hereinabove stated. Landlord shall not be required to keep the Deposit separate from its general funds. The Deposit, less any portion thereof which Landlord is entitled to retain, shall be returned, without payment of interest, to Tenant within thirty (30) days after the later of expiration of the term hereof or the date on which Tenant vacates the Premises.

6. Use.

(a) Permitted Use as Non-Profit/Tax Exempt Status. Tenant shall use the Premises solely for the business of conducting therein a non-profit, tax-exempt (IRS section 501(c)(3) or its successor statute) public education foundation focusing on marine biology, ecology and navigation for the purpose of providing marine education services for the general public and office space necessary for administration of the public education foundation. Other than non-exclusive use of the public second story deck area, Tenant shall not use, or permit to be used by others under Tenant's control, areas not included in the Premises for any purpose.

(b) Outdoor/Public Areas. Landlord is the owner of the public right-of-way and outside areas surrounding and adjacent to the Premises described herein. The second story deck area and first story patio/sidewalk areas adjacent to the Building are not included in the Premises leased. Tenant does not hold any ownership or vested property interest in these public areas by virtue of this Lease. Tenant's use of any exterior areas for outdoor seating, classes, special events, storage, merchandise displays, or any other purpose is subject to review and approval by the California Coastal Commission at Tenant's sole expense. Landlord acknowledges Tenant's right to non-exclusive use of the second story public deck for OSO classes. Landlord retains the priority and the right to use the second story deck for special events, though such use by Landlord is not intended to interfere with OSO classes. Use of ground floor patio/sidewalk areas adjacent to the Building may be available by special permit as reviewed and issued by Landlord at Landlord's sole discretion and subject to all applicable fees and conditions. Termination or restriction of use of the public areas shall not be the basis for: any liability against the Landlord, or for any reduction of rental payments due under the Lease.



(c) Condition of Premises. Tenant acknowledges that it recognizes the uniqueness of the Premises and adjacent outdoor area, and accepts them in their current and disclosed "AS IS, IN ITS CURRENT CONDITION, WITH ALL FAULTS" condition existing on the Effective Date of this Agreement, subject to all applicable zoning, city, county, or state laws, ordinances and regulations affecting the use of the Premises and adjacent outdoor area. Tenant acknowledges that it has satisfied itself, by its own independent investigation, that the Premises and adjacent outdoor area are suitable for its intended use and neither Landlord nor its agents or representatives have made any representation or warranty as to the present or future suitability of the Premises and/or outdoor area for the conduct of Tenant's program, operation, or business.

(d) Provision of Services. Tenant shall maintain the necessary personnel, facilities, and equipment, including the use of a suitably sized vessel, at all times during the Lease Term to conduct a public education foundation on the Premises.

(e) Continuous Use. Tenant shall continuously and uninterruptedly during the Lease Term, during all normal business hours, and on such days as a majority of the other businesses in the Santa Cruz Small Craft Harbor are open for business, occupy and use the entire Premises for the purpose of operating a non-profit, tax exempt (IRS section 501(c)(3) or successor statute) public education foundation providing on marine education services for the general public on the Premises. Tenant shall at all times employ its best business judgment, efforts, and abilities to so operate the foundation conducted by Tenant on the Premises in a manner calculated to service adequately the public demand for the goods and services included within the business permitted herein.

(f) Refuse Disposal. Tenant shall be entitled to use refuse facilities provided in the concession parking lot for the disposal of dry refuse generated from Tenant's operations on the Premises, which facilities shall be situated at the location designated from time to time by Landlord. Tenant shall collect, sort and recycle refuse materials in accordance with the City of Santa Cruz Solid Waste and Recycling requirements.

(g) Hazardous Materials.

(i) Tenant warrants and agrees that no goods, merchandise, or materials shall be kept, stored, or sold in such a manner as to create any unusual hazard on the Premises; and no offensive or dangerous trade, business, or occupation shall be conducted thereon, and nothing shall be done on the Premises which will cause an increase in the rate of or cause a suspension or cancellation of the insurance upon the Premises or upon adjacent properties or improvements thereon.

(ii) No machinery or apparatus shall be used or operated on the Premises which will in any way injure the Premises, or adjacent properties or improvements thereon.

(iii) Tenant, at its sole cost and expense, shall comply with all Laws (as defined herein) affecting the Premises relating to the storage, placement, use and disposal of Hazardous Materials by Tenant, its agents, employees, invitees, or contractors. Tenant shall be solely responsible for and shall defend, indemnify, and hold Landlord, its officers, directors, employees and its agents (collectively, the "Landlord Indemnified Parties") harmless from and against any and all claims, judgments, losses, orders, demands, causes of action, directives from environmental regulatory agencies, costs and liabilities, including without limitation attorneys' fees and costs, arising out of or in

connection with the storage, placement, use or disposal of Hazardous Materials on or about the Premises by Tenant, its officers, directors, agents, employees, invitees, or contractors.

(iv) If the presence of Hazardous Materials introduced to the Premises by Tenant, its officers, directors, agents, employees, invitees or contractors results in contamination or deterioration of any improvements, water, soil, or other environmental media, then Tenant, at its sole cost and expense, shall promptly take any and all action necessary to investigate and clean up such contamination and restore the Premises and to the condition existing prior to the introduction of any Hazardous Materials.

(v) The term "Laws" shall mean any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipal, county, state, federal or other government agency or authority having jurisdiction over the parties to this Lease or the Premises, or both, in effect either at the date this Lease is fully executed or any time during the Term of this Lease.

(vi) As used herein, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States government. The term "Hazardous Materials" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos; (vii) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317); (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601), and any amendments or successor statutes thereto.

(vii) The obligations of Tenant under subparagraphs 6(e)(i) through 6(e)(vii) shall survive the expiration of the Lease Term.

(viii) Tenant shall indemnify the Landlord Indemnified Parties from any damages suffered by any of the Landlord Indemnified Parties, including, without limitation, cleanup costs, as a result of the generation, use, storage, transport or release of Hazardous Materials by Tenant in, on or about the Premises or the Property. Prior to bringing or allowing any Hazardous Materials to be brought onto the Premise, Tenant shall notify Landlord as to the identity of said materials and the safeguards to be used in connection therewith. Landlord shall be entitled, in its sole discretion, to refuse to allow Hazardous Materials to be brought onto the Premises. Landlord's consent

to the introduction of any hazardous material onto the Premises (i) shall not release Tenant from its duty to indemnify the Landlord Indemnified Parties for any damages resulting from such materials, (ii) shall not be deemed to waive Landlord's right to disapprove of any subsequent introductions of hazardous materials onto the Premises whether of the same or of a different nature than the material to which Landlord consented, and (iii) may be revoked at any time, in Landlord's sole discretion, whereupon Tenant shall remove such materials from the Premises within five (5) days of receipt of Landlord's demand for removal. In all events, if any hazardous materials become located upon the Premises for any reason other than as consented to by Landlord in accordance with the foregoing procedure, Tenant shall immediately notify Landlord as to the same.

(h) Effect on Navigable Waters. Under federal law, no construction, installation, dredging, filling, or other activity which would have an effect on navigation may be conducted in or adjoining navigable waters without a permit therefore first being issued by the Secretary of the Army. The Port Director in his/her sole discretion determines whether any proposed facility of Tenant may be construed to have an effect on navigation. In the event the Port Director so determines, Tenant shall prepare at its expense a permit application for submittal by Landlord in Landlord's name to the Corps of Engineers, United States Army. The permit application shall be prepared in strict conformity with regulations published by the United States Army.

(i) Non-permitted Uses. Tenant shall not permit the Premises to be used for any purpose not described in Paragraph 6(a), or for any unlawful purpose; and Tenant shall not perform, permit, or suffer any act of omission or commission upon or about the Premises which would result in a nuisance or a violation of the laws and ordinances of the United States, State of California, or City of Santa Cruz, as the same may be now or hereafter in force and effect. Without limiting the generality of the foregoing, Tenant specifically agrees not to cause or permit generation of unreasonable levels of noise from any activity on the Premises which might disturb live-a-board slip licensees or residential neighbors of the Port District from 10 p.m. until 6:00 a.m. each day during the Lease Term.

(j) Compliance with Laws. Tenant shall abide by all applicable Laws, rules, codes, regulations, resolutions, ordinances and statutes of Landlord, the City of Santa Cruz, County of Santa Cruz, California Coastal Commission, State of California, or other governmental body where applicable, respecting the use, operation, maintenance, repair or improvement of the Premises and equipment therein, and shall pay for any and all licenses or permits required in connection with the use, operation, maintenance, repair, or improvement of the Premises. Landlord shall have no responsibility for obtaining any such licenses or permits, and shall have no liability to Tenant (nor shall Tenant have any right to terminate the Lease or receive abatement of rent or other charges) if Tenant, for any reason, is unable to obtain any such permits. Tenant acknowledges that Landlord has made no warranties or representations to Tenant regarding the suitability of the Premises for Tenant's intended use, and Tenant waives all claims against the Landlord Indemnified Parties regarding the suitability of the Premises for Tenant's intended uses.

## 7. Ownership of Improvements.

(a) Title. All structures, buildings, improvements, additions, and fixtures now existing or hereafter constructed, erected, or installed in or upon the Premises, and all alterations and additions thereto, shall be deemed a part of the Premises and title shall be vested in Landlord, and upon

expiration or sooner termination of the Lease Term shall remain upon and be surrendered with the Premises as part thereof.

(b) Liens. Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Tenant. Tenant shall indemnify and hold Landlord harmless against liability, loss, damage, cost, and all other expenses (including but without limitation, attorneys' fees) arising out of claims of lien for work performed or materials or supplies furnished at the request of Tenant or persons claiming under Tenant.

8. Construction of Improvements.

(a) No Landlord Improvements. Landlord shall not be obligated to install or construct any improvements, additions, or alterations (collectively "improvements") on the Premises during the Lease Term.

(b) Tenant Improvements. All improvements, additions, or alterations Tenant may desire in the future shall be done in accordance with the provisions of this Paragraph 8(b). Tenant shall not construct any improvements to or modify the Premises in any way without the prior written consent of Landlord which shall not be unreasonably withheld. Any improvements to the Premises which are permitted by Landlord shall be installed or constructed by Tenant at Tenant's sole cost and expense; provided that, before commencing the installation or construction of any improvements on the Premises Tenant shall submit to Landlord, for Landlord's approval, final plans, specifications, and a site plan prior to applying for any permits for such improvements. Upon obtaining Landlord's approval, Tenant shall not amend or otherwise change such plans, specifications, or site plan without first obtaining Landlord's approval of such amendment or change. Tenant shall be solely responsible for obtaining all other governmental permits or approvals required for the installation or construction of any such improvements to the Premises, including, but not limited to, Coastal Commission approval, and approval of the City or County of Santa Cruz, and Landlord shall have no liability whatsoever for Tenant's inability or failure to obtain any such permits or approvals, and shall provide same to Landlord prior to commencing any work.

Tenant shall give at least fifteen (15) days' advance notice to Landlord before actually commencing any improvement work on the Premises so that Landlord can post a notice of non-responsibility, if Landlord so chooses. Tenant shall call Landlord to request inspections at regular intervals as determined by Landlord, but in no event less than biweekly. Upon completion of any such improvements, Tenant shall deliver to Landlord a complete set of "as-built" plans respecting such improvements. Tenant shall use licensed and insured contractors. Contractor's insurance shall at a minimum meet the requirements applicable to Tenant in Section 10, including Landlord, its officials, officers, directors, employees and volunteers as additional insureds, and a waiver of subrogation in Landlord's favor. Any contract between Tenant and any contractor relating to any improvement work is subject to Landlord's prior approval and shall contain release, defense, and indemnity provisions in Landlord's favor to the fullest extent permitted by law.

Notwithstanding the foregoing and consistent with Section 2 herein, all of Tenant's then-current Tenant Improvements as of the Commencement Date are deemed approved by Landlord. Any new Tenant Improvements desired after the Commencement Date will be subject to this Section 8.

(c) Americans With Disabilities Act. Throughout the term of this Lease, Tenant acknowledges and expressly accepts full responsibility and shall incur all costs and expenses for compliance with the requirements of the Americans with Disabilities Act (ADA) and any other local, state, or federal law or regulation regarding the accessibility of the Premises by disabled individuals. Tenant agrees to release, indemnify, defend, and hold Landlord (and its officers, directors, employees, and agents) harmless for any claim, loss, expense, or liability arising from Tenant's failure to fully comply with all such laws or regulations.

(d) CASp Inspection. Landlord states that the Premises have not been inspected by a Certified Access Specialist (CASp). Accordingly, this notice is provided by Landlord pursuant to California Civil Code Section 1938:

“A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or Landlord may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the Tenant or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of the construction-related accessibility standards within the premises.”

Unless otherwise expressly stated in this Lease and subject to the terms of this Lease:

(a) Tenant may elect at any time to perform a CASp inspection of the Premises at Tenant's expense; (b) any repairs or modifications necessary to correct violations of applicable construction-related accessibility standards within or about Premises are the responsibility of Tenant; and (c) any construction-related accessibility improvements by Tenant or alterations of or improvements to the Premises are the responsibility of the Tenant.

## 9. Taxes and Assessments.

(a) Payable by Tenant. Tenant shall pay directly to the taxing authority during each year or partial year during the Term hereof, all real and personal property taxes, general and special assessments, use and possessory taxes, environmental protection charges, and other charges of every kind or description whatsoever, foreseen or unforeseen, levied on or assessed against the Premises, improvements or personal property therein, the leasehold estate or any sublease hold estate permitted by Landlord. Tenant shall pay each installment of such taxes and assessments prior to the date such installment becomes delinquent. The taxes and assessments to be paid by Tenant hereunder shall be prorated at the end of the Lease Term, in order that Tenant will pay only the proportionate part of said taxes and assessments attributable to the period of the Lease Term. Tenant shall pay all supplemental or escape assessment levied or assessed against the Premises.

(b) Substitute Taxes. If at any time during the Lease Term, under the laws of the United States of America, the State of California, or any political subdivision thereof in which the Premises are located, a tax on rent or other charge by whatever name called, is levied, assessed, or

imposed against Landlord, or against the rent payable hereunder to Landlord, as a substitute in whole or in part for any of the taxes described in Paragraph 9(a), Tenant, to the extent such substitute tax or other charge relieves Tenant from the payment of taxes provided for herein, shall pay such tax or other charge in the manner provided in this Paragraph 9.

10. Insurance.

(a) Landlord's Insurance. Landlord shall procure and maintain in full force and effect at all times during the Term of this Lease, fire, and extended coverage insurance satisfactory to Landlord covering the Premises and all improvements therein in an amount not less than eighty percent (80%) of the actual replacement cost thereof. The insurance provided for in this Paragraph 10(a) shall, in Landlord's sole and absolute discretion, provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils ("special form"), and loss of rents covering Base Rent for a period of up to twelve (12) months, and shall contain an inflation endorsement. Insurance proceeds thereunder shall be payable to Landlord. Landlord is not responsible for any damage to Tenant's property and shall have no obligation to insure against loss by Tenant to Tenant's leasehold improvements, fixtures, furniture, or other personal property in or about the Premises occurring from any cause whatsoever and Tenant shall have no interest in the proceeds of any insurance carried by Landlord. Landlord shall be entitled to carry any such insurance in the form of a blanket policy covering property in addition to the Premises. Landlord may, at Landlord's sole discretion, bill Tenant for the cost of the above described insurance in an amount proportional to the square footage of the Premises as calculated from Landlord's inventory of insured spaces and the premiums charged by Landlord's insurer for all of the square footage of buildings covered by such insurance policy. The Tenant's share of such insurance premiums shall be Additional Rent and shall be payable within fifteen (15) days of receipt of an invoice for such Additional Rent. Landlord, in its sole discretion, may allow Tenant to pay such Additional Rent in 12 equal monthly installments or may require Tenant to pay such Additional Rent in one installment.

(b) Tenant's Insurance. During the Term of the Lease, Tenant shall maintain, at its sole cost and expense, the following insurance policies:

(i) Property Insurance covering risks of loss normally insured under a "special form" policy, covering Tenant's leasehold improvements, fixtures, equipment, furniture, and other personal property in or about the Premises. Landlord shall be a loss payee as its interests shall appear.

(ii) Commercial General Liability Insurance protecting Landlord and Tenant against liability for bodily injury and property damage, including contractual liability coverage and products and completed operations liability, as well as "personal and advertising injury" liability occasioned by any occurrence in, on, about, or related to the Premises in an amount not less than Two Million Dollars (\$2,000,000) each occurrence and annual aggregate. Such policy shall also include liquor liability coverage. Tenant shall cause Landlord, its employees, officials, officers, directors, agents and volunteers to be named as additional insureds under such policy with respect to liability arising out of work or operations performed by or on behalf of the Tenant including materials, parts, or equipment furnished in connection with such work or operations.



(iii) Workers' Compensation and Employer's Liability Insurance as required by applicable law against liability arising on account of injuries or death to workers or employees on the Premises or any improvement of Tenant. Such workers' compensation insurance shall be in amounts at least equal to the maximum liability of Tenant, its agents, and contractors under the Workers' Compensation Insurance and Safety Act of the State of California and the Federal Longshore and Harbor Workers' Compensation Act, as applicable. Tenant shall also maintain Employer's Liability insurance with limits no less than One Million Dollars (\$1,000,000). Such insurance shall include a waiver of subrogation in favor of Landlord.

(iv) If Tenant commits, permits, or causes the conduct of any activity or the bringing or operation of any equipment on or about the Premises creating unusual hazards, Tenant shall promptly, upon notice from Landlord, procure and maintain in force during such activity or operation insurance sufficient to cover the risks represented thereby. Landlord's demand for unusual hazard insurance shall not constitute a waiver of Landlord's right to demand the removal, cessation or abatement of such activity or operation.

(v) Tenant shall procure, at Tenant's own cost and expense other insurance in amounts from time to time reasonably required by Landlord against other insurable risks if at the time they are commonly insured against for premises similarly situated and containing comparable improvements including, but not limited to, Builder's Risk Insurance during construction of any improvements.

(vi) All policies shall be placed with insurers admitted or eligible to do business in the State of California and rated A VIII or better by A.M. Best. All policies shall include endorsements stating that Landlord shall have at least thirty (30) days prior written notice of policy cancellation, or ten (10) days' notice in the event of cancellation for non-payment of premium. Tenant shall furnish Landlord with Certificates of Insurance showing evidence of the required insurance upon execution of this Lease and thereafter upon renewal or replacement of policies.

(c) Waiver of Subrogation. Tenant and Landlord each hereby waives any and all rights of recovery against the other, and against the officers, employees, agents and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against under any property insurance policy in force at the time of such loss or damage to the extent of the insurance proceeds actually paid in connection therewith. Tenant and Landlord shall, upon obtaining any of the policies of insurance required or desired hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of rights of recovery is contained in this Lease, and shall each use their best efforts to cause the insurer for each such policy to waive in writing any rights of subrogation it may have against the other party.

(d) Submittal of Policies. Tenant agrees to deposit with Landlord, at Landlord's request, a copy of each such policy or policies required hereunder and to keep such insurance in effect and the policy or policies therefore on deposit with Landlord during the entire Term of this Lease.

(e) Review of Coverage. Landlord shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of Landlord, the insurance provisions in this Lease do not provide adequate protection for Landlord and for members of the public using the Premises, Landlord may require Tenant to obtain (or may obtain at Tenant's

expense) insurance sufficient in coverage, form and amount to provide adequate protection. Landlord's requirements shall be reasonable, but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required.

(f) Changes in Coverage. Landlord shall give Tenant written notice of changes in the insurance requirement and Tenant shall deposit copies of acceptable insurance policies or Certificates of Insurance with Landlord incorporating such changes within sixty (60) days following receipt of such notice.

(i) The procuring of such required policy or policies of insurance shall not be construed to limit Tenant's liability hereunder or to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, Tenant shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Lease or with use or occupancy of the Premises.

(g) Landlord's Remedies. In case of failure on the part of Tenant to procure or to maintain in effect any insurance which Tenant is required to carry as provided in this Paragraph 10, Landlord may, but is not required to, at its discretion, and in addition to any other remedies it may have upon failure of Tenant to procure or to maintain in effect any insurance which Tenant is required to carry as provided in this Paragraph 10, procure or renew such insurance and pay any and all premiums therefore and all monies so paid by Landlord shall be repaid by Tenant to Landlord upon demand.

#### 11. Indemnification.

(a) Tenant's Hold Harmless. To the fullest extent permitted by law and except as expressly stated otherwise herein, Tenant hereby indemnifies Landlord, its employees, elected officials, officers, attorney, agents and volunteers (collectively, the "Landlord Indemnified Parties") against and holds them harmless from any and all claims, damage, cost, liability, or expense, including but not limited to attorneys' fees and costs of suit, resulting from or arising out of Tenant's use of the Premises, Tenant's default in the performance of any obligation of Tenant under this Lease, any act or failure to act of Tenant or any employees, agents, contractors, customers, or other invitees of Tenant occurring in or about the Premises, or construction of any improvements by Tenant in the Premises. Such indemnification specifically includes without limitation any damage to property or injury or death to any person arising from the use of the Premises by Tenant or from the failure of Tenant to keep the Premises in good condition, order, and repair. Tenant expressly agrees to exercise due care in the handling of fuel or any other flammable materials in, on, or around the Premises. Tenant shall maintain on the Premises adequate firefighting equipment, which shall remain under the use, control, maintenance, and repair of Tenant. The provisions of this Section 11(a) shall not apply to claims, damage, cost, liability, or expense arising from or relating to Landlord or Landlord Indemnified Parties' gross negligence or willful misconduct.

(b) Tenant's Waiver of Claims. Tenant hereby waives all claims against Landlord Indemnified Parties for damage to any property, goods, wares, or merchandise of Tenant stored in, upon, or about the Premises, and for injury to persons in, upon, or about the Premises from any cause whatsoever arising at any time, except as may be caused by the gross negligence or willful misconduct of Landlord. Landlord shall not be liable to Tenant for any damage caused by any person, whether a customer, guest, or invitee of Tenant, except when caused by Landlord's personnel, in, upon, or about

the Premises. Tenant expressly waives any claims against Landlord for damage to Tenant's business on the Premises or loss of goodwill or any other damage to Tenant arising from complete or partial closure of the Santa Cruz Harbor at any time and from time to time, whether such closure shall result from inclement weather, excess deposits of sand in the harbor, natural disaster or emergency or any other reason whatsoever. Landlord shall have no obligation or responsibility to prevent any such closures of the Santa Cruz Harbor; provided that, in the event any such closure shall be due to insufficient funding of Landlord, Landlord shall make a good faith effort to keep the Santa Cruz Harbor open during the portion of the year the public makes greatest use of harbor facilities.

(c) Landlord's Hold Harmless. Landlord hereby indemnifies and holds Tenant harmless from and against any and all damage to property or injury or death to any person and occurring in, on or about the "Public Areas" as shown and described on Exhibit "A" hereto, but only in proportion to and to the extent caused by Landlord's gross negligence or willful misconduct.

12. Maintenance and Repairs.

(a) Tenant's Obligations. Subject to Paragraph 15 below relating to damage and destruction, and subject to Landlord's maintenance responsibilities set forth in Paragraph 12(c) below, throughout the Term of this Lease Tenant shall, at Tenant's sole cost and expense, maintain, repair, and replace when reasonably necessary, the interior of the Premises and every part thereof, including the interior walls, floor coverings, ceiling, doors, door jambs, door hardware, glass in any windows, and all heating, ventilation and air conditioning systems, plumbing, fire extinguishers, alarm system, electrical outlets and electrical system, any appliances, fixtures, machinery and equipment located in or on the Premises and utilized in the conduct of Tenant's business in good condition, order and repair, and keep the Premises in a clean and safe condition, all in accordance with all applicable laws, rules, ordinances, orders and regulations of (1) municipal, county, state, federal, and other governmental agencies and bodies having or claiming jurisdiction of the Premises and all their respective departments, bureaus, and officials; and (2) all insurance companies insuring all or any part of the Premises or improvements or both; provided, however, that Tenant's obligation to maintain, repair and replace the above-referenced items shall only apply insofar as such items service the Premises exclusively and in the event such items service the Building at large, such maintenance, repair and replacement is the responsibility of Landlord. For purposes of this paragraph, the obligation to repair includes the obligation to replace as and when reasonably necessary. Without limiting the foregoing, Tenant at Tenant's sole cost shall maintain in good and safe condition, order, and repair, and replace as and when necessary, all improvements made by Tenant to the Premises, including the rooftop solar panels which are vested in, and the responsibility of, Tenant. Tenant shall pay the cost of repairs for any damage (normal wear and tear excluded) to the Premises or the Building caused by Tenant, Tenant's employees, agents, and invitees. If Tenant fails to commence making necessary repairs and replacements or otherwise maintain the Premises within a reasonable time after a written demand by Landlord, or should Tenant commence, but fail to complete, any maintenance, repairs or replacements within a reasonable time after written demand by Landlord, Landlord shall have the right to maintain, or make such repairs or replacements without liability to Tenant for any loss or damage that may occur to Tenant's business, and Tenant shall pay for all actual costs incurred by Landlord in making such repairs or replacements plus an administrative overhead fee of ten percent (10%).

(b) Outside Areas. Tenant acknowledges that the cleanliness and neat and attractive appearance of the interior and exterior of the Building and all other areas of the Premises are

a material concern of Landlord. Accordingly, Tenant shall continuously exercise diligence throughout the Lease Term in keeping the Premises and its non-exclusive use of the second story deck area and other outside areas within an approximate twenty-five foot radius of the Premises, in a clean, sanitary and attractive condition. Tenant shall arrange for regular and prompt disposal of garbage generated by Tenant's operations on the Premises, and shall not permit garbage or refuse to accumulate in or around the Premises. Tenant shall not cause or permit odors that Landlord in its reasonable discretion determines are offensive to emanate from the Premises and/or outside areas.

(c) Landlord's Obligations. Except as stated otherwise in this Paragraph 12, and subject to the provisions of Paragraph 15 below relating to damage and destruction, Landlord shall maintain in good condition, order and repair and replace if and when necessary:

- (i) the structural portions of the exterior walls of the Building;
- (ii) the exterior surface of such walls and roof to the mid-way plane between the interior and exterior surfaces of such walls and roof, including exterior paint and texturing and the roof membrane, but excluding any plumbing, electrical or mechanical systems solely serving the Premises, and excluding repair or replacement of window breakage; and
- (iii) the structural portions of the floor of the Building, including any plywood subfloor; and
- (iv) the elevator and stairs; and
- (v) the second story exterior deck and other public areas.

Landlord shall have no obligation to maintain or repair under this Paragraph 12(c) until a reasonable amount of time after receipt by Landlord of notice from Tenant of the need therefore, specifying the nature of the maintenance or repair needed. The parties agree that no more than thirty (30) days to begin maintenance or repair or replacement is a reasonable amount of time under this provision. Tenant hereby waives any benefits of any applicable existing or future law, including the provisions of California Civil Code Sections 1932(1), 1941 and 1942, that allows a tenant to make repairs at its landlord's expense.

(d) Landlord's Right to Repair. Landlord reserves the right, at any time and from time to time, without liability to Tenant, and without constituting an eviction, constructive or otherwise, or entitling Tenant to any abatement of rent or consequential or loss of business damages, or to terminate this Lease or otherwise releasing Tenant from any of Tenant's obligations under this Lease: (i) to make alterations, additions, repairs, and improvements to all or any part of the Building, the fixtures and equipment therein belonging to Landlord, and for those portions of the Building for which Landlord is obligated to maintain and repair under this Lease.

13. Utilities. Tenant shall pay promptly as the same become due and payable all bills and costs for water, gas, electricity, telephone, cable, internet, refuse, sewer service charges, and any other utilities or services supplied to the Premises via separate meter or as apportioned by Landlord. Tenant shall also pay for all costs and connection charges for services and/or utilities it desires expanded or added to those presently available for Tenant's use. If additional garbage containers are required, Tenant shall arrange for bins and service from Santa Cruz Municipal Utilities at Tenant's sole cost and

expense. Tenant shall use energy-saving fixtures wherever practicable, and shall cooperate in any conservation efforts undertaken by Landlord to reduce costs associated with utilities provided to Tenant at Landlord's expense. Landlord shall not be liable to Tenant for any interruption or failure of any utility or other services to the Premises.

14. Assignment, Subletting and Licensing.

(a) Landlord's Consent Required. Tenant shall not assign, sublease, mortgage, pledge, hypothecate, encumber, license, or transfer the Premises or any part thereof, or this Lease or any rights or obligations hereunder, or grant any permit to any person(s) to use the Premises for any purpose not expressly stated within this Lease without Landlord's written consent, which is subject to Landlord's sole and absolute discretion.

(b) Permitted Assignments, Subleases and Licenses. No assignment, sublease, or other transfer of the portion of the Premises under this Lease, which is used for the public marine education foundation operation, identified as Suite 222, shall be allowed.

Tenant may, however, sublease or assign its interest in a portion of the Premises under this Lease identified as Suite 234, provided it first obtains Landlord's written consent in accordance with this Paragraph 14, and the sublessee/assignee is engaged in operating a marine-related non-profit organization (tax-exempt under IRS section 501(c)(3)) . Tenant must first give Landlord written notice ("Tenant's notice of intention") of the intention to sublet or assign and demonstrate to Landlord's reasonable satisfaction that the proposed transferee, subtenant or licensee is financially creditworthy, has sufficient experience in operating a marine-related non-profit organization, and will operate a business of the type and quality that Landlord determines is consistent with the permitted uses under this Lease and with the mix of businesses in the harbor and in a matter that supports the good reputation and image of Port District businesses as determined by Landlord. No assignment, sublease or license respecting all or any portion of the Premises shall operate to release Tenant or any guarantor of its obligations hereunder, from liability for full performance of Tenant's obligations hereunder subsequent to the date of any assignment or sublease under this Lease. Notwithstanding the foregoing, Landlord consents to Tenant's current subtenant, Surfrider Foundation, as a sublessee as of the Commencement Date, subject to the terms and conditions of this Lease.

(1) Sublease Assignments and Subleases. No sublessee, licensee or assignee may sublease or assign any interest in the Lease without first obtaining Landlord's written consent thereto, which is subject to Landlord's sole and absolute discretion and subject to the terms and conditions set forth in Paragraph 14. Tenant agrees to provide Landlord with all terms and conditions of any agreement between Tenant and its sublessee, assignee, or other transferee. Any proposed sublease or assignment or instrument of transfer must adequately incorporate this Lease therein, and subordinate all terms contained in any proposed sublease or assignment to the provisions contained in this Lease. A true and correct copy of this Lease shall be attached to any sublease or assignment as an exhibit. Further, any sublease or assignment for which consent is granted by the Landlord under the terms of Paragraph 14, shall automatically terminate upon the termination of this Lease for any reason whatsoever without limitation, unless, at the option and upon written demand of the Landlord, subtenant or assignee agrees to attorn to Landlord for the remainder of the term of the sublease or assignment, such attornment to be upon all of the terms and conditions of this Lease. The voluntary, involuntary or other surrender of this Lease by Tenant, or a mutual cancellation by Landlord

and Tenant, shall not work a merger, and any such surrender or cancellation shall, at the option of Landlord, either terminate all or any existing subleases or operate as an assignment to Landlord of any or all of such subleases at Landlord's option.

(2) Sublease Rents or License Payments. If Tenant shall enter into an assignment, sublease or license ("Transfer") hereunder:

(i) Tenant shall pay to Landlord fifty percent (50%) of the monthly rent or consideration payable by a subtenant or assignee to Tenant for the Transfer, which is in excess on a per square foot basis, of Tenant's Base Rent payable to Landlord (hereinafter, the "Excess Transfer Amount"). This Excess Transfer Amount shall be due and payable monthly to Landlord commencing with the Transfer date and in accordance with Section 5 (f) of this Lease and shall be subject to delinquent fees in accordance with Section 5 (g).

(c) Encumbrances. Neither Tenant nor any Transferee shall allow any encumbrance of all or any portion of the Premises.

(d) Corporation or Partnership. The assignment, pledge for security purposes, or other transfer during the Lease Term of any class of voting stock or other controlling interest in said corporation (whether in a single transaction or a series of transfers) which in the aggregate exceeds fifty percent (50%) of such class of stock or other controlling interest shall be deemed to be an assignment within the meaning of this Lease. If Tenant becomes a partnership, and Landlord consents thereto, the assignment, pledge, for security purposes, or other transfer during the Lease term of any interest in the partnership of a general or limited partner thereof, shall be deemed an assignment within the meaning of this Lease.

15. Damage or Destruction.

(a) Partial Damage-Insured. Subject to the provisions of Paragraphs 15(b) and 15(c), if the Premises or any improvements therein are damaged, such damage involves damage to the Building to the extent of less than eighty percent (80%) of the then replacement value thereof (excluding excavations and foundations of the Building), such damage was caused by an act or casualty covered under an insurance policy provided for in Paragraph 10, and the proceeds of such insurance received by Landlord are sufficient to repair the damage (or in the event any lender shall require such insurance proceeds to be applied to pay any sums owed under its loan), Landlord shall at Landlord's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. In no event shall Landlord have any obligation for repair or restoration beyond the extent of insurance proceeds received by Landlord for such repair or restoration, or for any of Tenant's property.

(b) Partial Damage-Under or Uninsured. Subject to the provisions of Paragraphs 15(a) and 15(d), if at any time during the term hereof the Premises or any improvements are damaged, such damage involves damage to the Building to the extent of less than eighty percent (80%) of the then replacement value thereof (excluding excavations and foundations of the Building), and the insurance proceeds received by Landlord are not sufficient to repair such damage, or such damage was caused by an act or casualty not covered under an insurance policy, Landlord may at Landlord's



option either (a) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (b) give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to cancel and terminate this Lease as of the date of the occurrence of such damage. In the event Landlord elects to give such notice of Landlord's intention to cancel and terminate this Lease, Tenant shall have the right, within ten (10) days after receipt of such notice, to agree in writing on a basis satisfactory to Landlord to pay for the entire cost of repairing such damage less only the amount of insurance proceeds, if any, received by Landlord, in which event this Lease shall continue in full force and effect, and Landlord shall proceed to make such repairs as soon as reasonably possible. If Tenant does not give such notice within such ten (10) day period, this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

(c) Total Destruction. If at any time during the term hereof either the Premises or the improvements contained therein are damaged from fire or other casualty, whether or not covered by the insurance provided for in Paragraph 10, and such damage involves damage to the Building to the extent of eighty percent (80%) or more of the replacement value thereof (excluding excavations and foundations of the Building), including any total destruction required by any authorized public authority, this Lease shall at the option of Landlord terminate as of the date of such total destruction. Landlord shall exercise its right to terminate this Lease by delivery of notice to Tenant within thirty (30) days after the date that Tenant notifies Landlord of the occurrence of such damage. In the event Landlord does not elect to terminate this Lease, Landlord shall at Landlord's expense repair such damage as soon as reasonably possible, and this Lease shall continue in full force and effect. In no event shall Landlord have any obligation for repair or restoration beyond the extent of insurance proceeds received by Landlord for such repair or restoration, or for any of Tenant's property.

(d) Damage Near End of Term. If the Premises or the improvements therein are destroyed or damaged in whole or part during the last year of the term of this Lease, Landlord may at Landlord's option cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of Landlord's election to do so within thirty (30) days after the date of occurrence of such damage.

(e) Abatement of Rent. Except as stated to the contrary contained elsewhere in this Lease, if the Premises are partially damaged and Landlord repairs or restores the Premises pursuant to the provisions of this Paragraph 15, the Base Rent payable hereunder for the period commencing on the occurrence of such damage and ending upon completion of such repair or restoration shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired during the period of repair; provided that, nothing herein shall be construed to preclude Landlord from being entitled to collect the full amount of any rental loss insurance proceeds if such rental loss insurance is then carried with respect to the Premises. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration.

(f) Waiver. Tenant waives the provisions of California Civil Code Sections 1932(2) and 1933(4), and any similar or successor statutes relating to termination of leases when the thing leased is substantially or entirely destroyed, and agrees that such event shall be governed by the terms of this Lease.

(g) Tenant's Property. Landlord's obligation to rebuild or restore shall not include restoration of Tenant's equipment, merchandise, or any improvements, alterations or additions made by Tenant to the Premises.

(h) Notice of Damage. Tenant shall notify Landlord within five days after the occurrence thereof of any damage to all or any portion of the Premises. In no event shall Landlord have any obligation to repair or restore the Premises pursuant to this Paragraph 15 until a reasonable period of time after Landlord's receipt of notice from Tenant of the nature and scope of any damage to the Premises, and a reasonable period of time to collect insurance proceeds arising from such damage (unless such damage is clearly not covered by insurance then in effect covering the Premises).

(i) Replacement Cost. The determination in good faith by Landlord of the estimated cost of repair of any damage, or of the replacement cost, shall be conclusive for purposes of this Paragraph 15.

16. Eminent Domain.

(a) Termination. In the event the whole or any part of the Premises is condemned in the lawful exercise of the power of eminent domain by any public entity, then this Lease shall terminate as to the part condemned on the date possession of that part is taken.

(b) Partial Taking Renders Economically Unfeasible. If only a part of the Premises is condemned, but such taking makes it economically unfeasible for Tenant to use the remainder of the Premises for the purposes contemplated by this Lease, then Tenant may, at its option, terminate this Lease as of the date possession of the condemned part is taken by giving written notice to Landlord of its intention within thirty (30) days following the date said possession is taken.

(c) Partial Taking with Business Continued. If only part of the Premises is condemned and this Lease is not terminated as set forth above, then this Lease shall, as to the condemned portion of the Premises, terminate as of the date possession of such portion is taken. The Base Rent shall thereupon be reduced in the same proportion that the area of the Premises taken bears to the initial total area of the Premises. The Base Rent, as so reduced, shall continue to be subject to adjustment in accordance with Paragraph 5 hereof.

(d) Repairs. Tenant shall, at its sole cost and expense and in a prompt and expeditious manner, make all necessary repairs or alterations to the remainder of the Premises so as to make them reasonably suitable for Tenant's continued occupancy for those uses and purposes contemplated by this Lease.

(e) Compensation. All compensation awarded or paid upon the total or partial taking of the fee title to the Premises or part of the Premises, or for the taking of all or any portion of the Premises, shall belong to Landlord. The Building and other improvements made by Landlord on the Premises at Landlord's expense shall belong to Landlord. Landlord shall not be entitled to any compensation paid to Tenant for costs incurred by Tenant in removing its furniture, equipment, and trade fixtures from the condemned Premises. Nor shall Landlord be entitled to any compensation paid to Tenant in the proceedings or action for such taking with respect to removal or relocation costs, or anticipated or lost profits (excluding the value of this Lease to Tenant) or damages to any personal

property or detriment to the business of Tenant, or any special damages to Tenant (excluding the value of this Lease to Tenant).

17. Tenant Default. Tenant shall be deemed in default under this Lease upon occurrence of any of the following:

(a) Tenant fails to pay a monetary sum when due under this Lease (provided that Tenant shall not be deemed in default if Tenant pays such sum within 10 days after notice from Landlord that such sum is overdue; and provided further that, Tenant shall not be entitled to any such 10-day grace period or notice and shall be deemed in default immediately upon failure to so pay when due if Landlord has already delivered two notices of overdue payments within the immediately preceding 12 month period;

(b) Tenant fails to perform or is in breach of any of its other obligations under this Lease; provided that, if such failure is of the nature that it may be cured, Tenant shall not be deemed in default if Tenant cures such failure within 20 business days, or in the event the cure cannot be reasonably completed within 20 business days begins substantial efforts to cure within 20 business days, after written notice from Landlord of such failure;

(c) Tenant's interest in the Premises or the Lease, or any part thereof, is assigned or transferred without the prior written consent of Landlord, either voluntarily or by operation of law (except as expressly permitted by other provisions of this Lease), including, without limitation, the filing of an action by or against Tenant, or by any member of Tenant if Tenant is a partnership or joint venture, under any insolvency or bankruptcy laws, or if Tenant makes a general assignment for the benefit of its creditors, or;

(d) Tenant vacates, abandons, or surrenders the Premises during the lease term.

(e) Tenant fails to comply with or obtain any necessary permit or license. Tenant shall not be deemed in default if Tenant cures such failure within 20 days after notice from Landlord of such failure

(f) In the event of a default by Tenant under this Lease, Landlord may pursue such remedies as it may have for such default under law or in equity, including but not limited to the remedies set forth below.

This paragraph shall remain in full force and effect upon any assignment, sublease or transfer any interest in the Premises by Tenant as provided in Section 14 above.

18. Remedies. In the event of any breach or default by Tenant, Landlord may, at Landlord's option, exercise any and all rights available to a landlord under the laws of the State of California (including, but not limited to, those rights and remedies set forth in California Civil Code Sections 1951.2, 1951.4, and 1951.8), including, without limitation, the right to do any of the following:

(a) Repossession. Landlord may repossess the Premises and remove all persons and property therefrom. If Landlord repossesses the Premises because of a breach of this Lease, this Lease shall terminate and Landlord may recover from Tenant:

(i) the worth at the time of award of the unpaid rent which had been earned at the time of termination including interest at ten percent (10%) per annum or the maximum allowed by law whichever is less;

(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 including interest at ten percent (10%) per annum or the maximum allowed by law whichever is less;

(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 for the same period that Tenant proves could be reasonably avoided, computed by discounting such amount by the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%); 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.

(b) No Repossession. If Landlord does not repossess the Premises, then this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession and Landlord may enforce all of its rights and remedies under this Lease, including the right to recover the rent and other sums due from Tenant hereunder. For the purposes of this Paragraph 18, the following do not constitute a termination of Tenant's right to possession:

(1) Acts of maintenance or preservation by Landlord or efforts by Landlord to relet the Premises; or

(2) The appointment of a receiver by Landlord to protect Landlord's interest under this Lease.

(c) Right to Cure. Landlord may cure Tenant's default at Tenant's expense. If Landlord pays any sum or incurs any expense in curing Tenant's default, including attorneys' fees and costs, Tenant shall reimburse Landlord upon demand for the amount of such payment or expense with interest at an interest rate of 10% per annum or the maximum lawful rate that Landlord may charge to Tenant under applicable laws, whichever is less, from the date of Landlord's payment to the date of Tenant's reimbursement, and an administrative overhead fee of ten percent (10%).

19. Attorneys' Fees. If any action at law or in equity shall be brought to recover any rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants, agreements, or conditions of this Lease, or for the recovery of the possession of the Premises, the prevailing party shall be entitled to recover from the other party, as a part of the prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered. "Prevailing party" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other party after the other party's breach or default, if such action is settled or dismissed upon the payment by the other party of

the sums allegedly due or performance of the covenants allegedly breached or the plaintiff obtains substantially the relief sought by it in the action.

20. Removal of Property. Tenant hereby irrevocably appoints Landlord as agent and attorney in fact of Tenant, to enter upon the Premises, in the event of a default by Tenant hereunder, and to remove any and all furniture and personal property whatsoever situated upon the Premises, and to place such property in storage for the account of and at the expense of Tenant. In the event that Tenant shall not pay the cost of storing any such property after the property has been stored for a period of 90 days or more, Landlord may sell any or all of such property, at public or private sale, in such manner and at such times and places as Landlord in its sole discretion may deem proper, without notice to Tenant or any demand upon Tenant for the payment of any part of such charge or the removal of any such property, and shall apply the proceeds of such sale first to the costs and expenses of such sale, including reasonable attorneys' fees actually incurred; second, to the payment of the costs of or charges for storing any such property; third, to the payment of any other sums of money which may then or thereafter be due to Landlord from Tenant under any of the terms hereof; and fourth, the balance, if any, to Tenant then.

21. Subordination.

(a) Subordination of Lease. This Lease, at Landlord's option, shall be subordinate to any mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon all or any portion of the Premises and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee or trustee shall elect to have this Lease prior to the lien of its mortgage or deed of trust, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage or deed of trust, whether this Lease is dated prior or subsequent to the date of said mortgage or deed of trust or the date of recording thereof.

(b) Execution of Documents. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage or deed of trust, as the case may be, and failing to do so within ten (10) days after written demand, does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney in fact and in Tenant's name, place and stead, to do so.

22. Landlord's Right to Reenter.

(a) Peaceable Surrender. Tenant agrees to yield and peaceably deliver possession of the Premises to Landlord on the date of termination of this Lease, regardless of the reason for such termination. Upon giving written notice of termination to Tenant, Landlord shall have the right to reenter and take possession of the Premises on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the Lease and reentry of any Premises by Landlord shall in no way alter or diminish any obligation of Tenant under the Lease terms and shall not constitute an acceptance or surrender.

(b) Waiver of Redemption and Stipulated Damages. Tenant waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Premises for any reason or in the event Landlord reenters and takes possession of the Premises in a lawful manner.

23. Reservations to Landlord. The Premises are accepted by Tenant subject to any and all existing easements and encumbrances. Landlord reserves the right to install, lay, construct, maintain, repair, and operate such sanitary sewers, drains, stormwater sewer, pipelines, manholes, and connections; water and gas conduits; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, and along any part of the Premises, and to enter the Premises for any and all such purposes. Landlord also reserves the right to grant franchises, easements, rights of way, and permits in, over, upon, through, across, and along any and all portions of the Premises. No right reserved by Landlord in this clause shall be so exercised as to interfere unreasonably with Tenant's operations hereunder.

Landlord agrees that rights granted to third parties by reason of this clause shall contain provisions that the surface of the land shall be restored as early as practicable to its original condition upon the completion of any construction. Landlord further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Premises by Tenant, the monthly Base Rent may be reduced on a temporary basis in proportion to the temporary interference with Tenant's use of the Premises, based on the Landlord's sole and absolute discretion.

24. Building/Premises Closure. Tenant acknowledges and understands that for public health, welfare and safety reasons, the Building and/or Premises may be subject to closure (either full or partial) due to conditions and/or events, including, but not limited to, ocean (including, but not limited to, high surf and tsunami), waterfront and/or weather related conditions, as well as Force Majeure events (as defined in Section 25 - Force Majeure) (collectively "Closure Conditions"). Tenant enters into this Lease with full knowledge of the existing conditions of the Premises and its exposure to Closure Conditions, and with the understanding that at any point during the Term, Landlord may close the Building and/or Premises to public and tenant access and use (including, but not limited to Tenant's access and/or use) due to Closure Conditions, without any liability to Tenant by virtue of such closure and/or related actions. During any such period of closure where Tenant is completely unable to access and use the Premises, Tenant shall not be in default to Landlord for failure to continuously operate pursuant to Section 6.e. Use.

25. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, abnormal adverse weather conditions, acts of God, pandemic, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations or controls, enemy or hostile government action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of and not caused by the fault or negligence of the party obligated to perform, shall excuse the performance by such party for a period equal to that resulting from such prevention, delay or stoppage. However, nothing contained in this Section shall excuse the prompt payment of rent or other charges by Tenant as required by this Lease. Tenant's obligations to make payment for rental and other charges pursuant to the terms of this Lease shall be excused or reduced only as elsewhere expressly and specifically provided in this Lease.



26. Notices. All notices, statements, demands, requests, approvals or consents given hereunder by either party to the other party shall be in writing and shall be sufficiently given and served upon the other party if served personally or if sent by first class mail of the United States Postal Service, and addressed to the parties as follows:

Landlord:  
SANTA CRUZ PORT DISTRICT  
Attention: Port Director  
135 5TH Avenue  
Santa Cruz, CA 95062

Tenant:  
O'NEILL SEA ODYSSEY  
Attention: Executive Director  
2222 East Cliff Drive, Suite 222  
Santa Cruz, CA 95062

or to such other address as any party may have furnished to the others as a place for the service of notice. Notices sent by mail shall be deemed served on the date posted as indicated on the envelope.

27. No Commission. Landlord and Tenant each agree that Landlord and Tenant, respectively, have not had any dealings with any realtor, broker, or agent in connection with the execution of this Lease. Tenant shall pay the commission or compensation payable to any agent or broker employed by Tenant in connection with the execution of this Lease.

28. Waiver. The waiver by Landlord or Tenant of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. Landlord's acceptance of partial payments of rent or any other sum due hereunder shall not be deemed a waiver of its right to recover the full amount of such payment and shall not be deemed an accord and satisfaction whether or not the amount due is disputed by the parties.

29. Holding Over. Any holding over after the expiration of the Term with the consent of Landlord shall be construed to be a tenancy from month to month on the same terms and conditions specified herein so far as applicable other than Base Rent which shall be increased to 150% of the current Base Rent.

30. Parking. Tenant acknowledges that all parking areas and all other common areas within the Santa Cruz Small Craft Harbor shall remain under the operation and control of Landlord. Tenant possesses no legal interests with regard to the parking areas. The manner in which such areas and facilities are operated and maintained shall be at the sole discretion of Landlord, and the use of such areas and facilities shall be subject to such rules and regulations as Landlord shall make from time to time. Landlord shall have the right to regulate access and parking and to install parking meters and/or parking pay stations in such parking areas. Tenant shall be responsible for compliance with all parking rules and regulations as may be adopted and implemented by Landlord from time to time, including, without limitation, systems of validation, shuttle transportation or any other programs which may be deemed necessary or appropriate by Landlord to control, regulate or assist parking.

31. Non-Discrimination. Tenant agrees in the conduct of Tenant's business not to discriminate, harass, or retaliate against any person or class of persons regardless of race, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, religion, disability (mental and physical), medical condition, sex, gender (including gender identity and gender expression), physical characteristics, marital status, age, sexual orientation, genetic information (including family health history and genetic test results), organizational affiliation, and military or veteran status, or any other consideration made unlawful by local, State or Federal law. Tenant shall make its accommodations and services available to all persons on equal and reasonable terms.

32. Entry by Landlord. Landlord and its agents shall be entitled to enter into and upon the Premises at all reasonable times, upon reasonable notice (except in the case of an emergency, in which event no notice shall be required), during regular business hours for purposes of inspecting or making repairs, alterations or additions to all or any portion thereof, or any other part of the Building, including the erection and maintenance of such scaffolding, canopies, fences and props as may be required, or for the purpose of posting notices of non-responsibility for alterations, additions, or repairs, and during the 180 day period prior to the expiration of this Lease, to place upon the Premises any usual or ordinary "for rent" signs and exhibit the Premises to prospective tenants at reasonable hours, all without any abatement of rent and without liability to Tenant for any injury or inconvenience to or interference with Tenant's business, quiet enjoyment of the Premises, or any other loss occasioned thereby.

33. Estoppel Certificates; Financial Statements.

(a) Estoppel Certificates. Within fifteen (15) days after request therefor by Landlord, Holder, or any prospective mortgagee or owner, Tenant agrees as directed in such reasonable request to execute an Estoppel Certificate in recordable form, binding upon Tenant, certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that this Lease as modified is in full force and effect); (ii) the dates on which rent Fixed Minimum Rent, Sublease Rent, and any Additional Rent have been paid; (iii) that Tenant is in the possession of the Premises if that is the case; (iv) that Landlord is not in default under this Lease, or, if Tenant believes Landlord is in default, the nature thereof in detail; (v) that Tenant has no offsets or defenses to the performance of its obligations under this Lease (or if Tenant believes there are any offsets or defenses, a full and complete explanation thereof); (vi) that Tenant has accepted the Premises and the condition thereof and of all improvements thereto and has no claims against Landlord or any other party with respect thereto; (vii) that if an assignment of rents or leases has been served upon the Tenant by a Holder, Tenant will acknowledge receipt thereof and agree to be bound by the provisions thereof, (viii) that Tenant will give to the Holder copies of all notices required or permitted to be given by Tenant to Landlord; and (ix) to any other information reasonably requested. Tenant's failure to deliver such certificate within such time will be conclusive upon Tenant: (A) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (B) that there are no uncured defaults in Landlord's performance, and (C) that not more than one month's rent has been paid in advance. Without limiting the foregoing, if Tenant fails to deliver any such certificate within such fifteen (15) day period, Landlord may deliver to Tenant an additional request for such certificate and the failure of Tenant to deliver such certificate within five days after delivery of such additional request shall be an Event of Default.

34. General.

(a) Entire Agreement. This Lease, together with all Exhibits attached hereto which are incorporated herein by this reference, contains all of the terms, covenants, and conditions agreed to by Landlord and Tenant relating to the Premises and the subject matter hereof, and supersedes all promises and agreements, written or oral, by either party to the other relating in any way to the Premises which are not expressly set forth herein. Tenant is not relying on any representations or warranties made by Landlord, and acknowledges that Landlord has not made any representations or warranties to Tenant, except as may expressly be set forth herein. This Lease cannot and shall not be amended orally or in any manner other than by an agreement in writing signed by both Landlord and Tenant or their respective successors in interest.

(b) Covenants and Conditions. Each term and each provision of this Lease performable by Tenant shall be construed to be both a covenant and a condition, all of which conditions shall be for the sole benefit of Landlord.

(c) Binding on Successors. The covenants and conditions hereof, subject to the provisions as to subletting and assignment, shall apply to and bind the heirs, successors, executors, administrators, subtenants, and assigns to the parties.

(d) Joint and Several Liability. All persons who have signed this Lease shall be jointly and severally liable hereunder.

(e) Gender. When the context of this Lease requires, the masculine gender includes the feminine, a corporation, or a partnership, and the singular number includes the plural.

(f) Captions. The captions of the numbered and lettered paragraphs of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

(g) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California and venue shall be Santa Cruz County.

(h) Time of Essence. Time is of the essence as to all of the provisions of this Lease with respect to which time of performance is a factor.

(i) Partial Invalidity. If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

(j) Contract Interpretation. Each party acknowledges that it has reviewed this Lease and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease.

(k) Relationship. Tenant shall not be an agent of Landlord for any purpose, and nothing in this Lease shall be deemed to create a partnership relationship between Tenant and Landlord.

(l) Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that s/he is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the board of directors of said corporation or in accordance with the bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of a resolution of the board of directors of said corporation authorizing or ratifying the execution of this Lease.

(m) No Recordation. Tenant shall not record either this Lease or a short form memorandum of this Lease.

(n) Calendar Days. All references herein to "days" shall mean calendar days unless otherwise stated.

(o) Counterparts. This Lease may be executed on one or more copies and each counterpart will be considered an original and binding to the party executing it. A scanned, electronic, facsimile or other copy of a party's signature shall be treated the same as an original.

35. State of California Harbors and Navigation Code. This Lease is adopted in accordance with California Harbors and Navigation Code Section 6270, which requires leases for periods of more than 10 years to be authorized by ordinance. Landlord held a public hearing on April 26, 2022, to approve Ordinance 22-01 authorizing this Lease.

The Parties execute this Lease as of the date first written above.

TENANT

LANDLORD

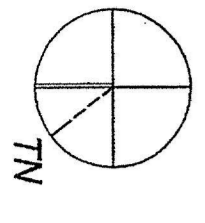
By: Tracey Weiss

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

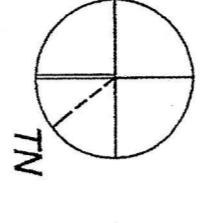
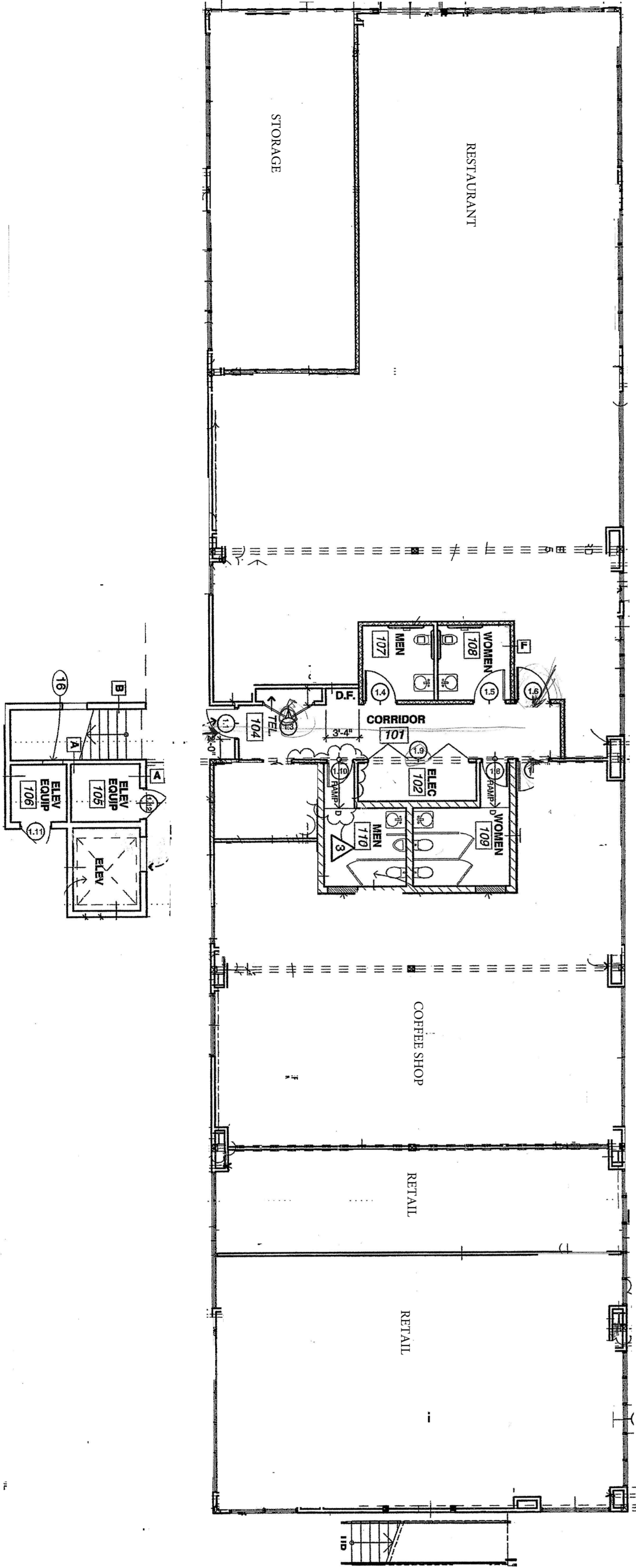
Name: Tracey Weiss  
Title: Executive Director

HOLLAND MACLAURIE  
PORT DIRECTOR

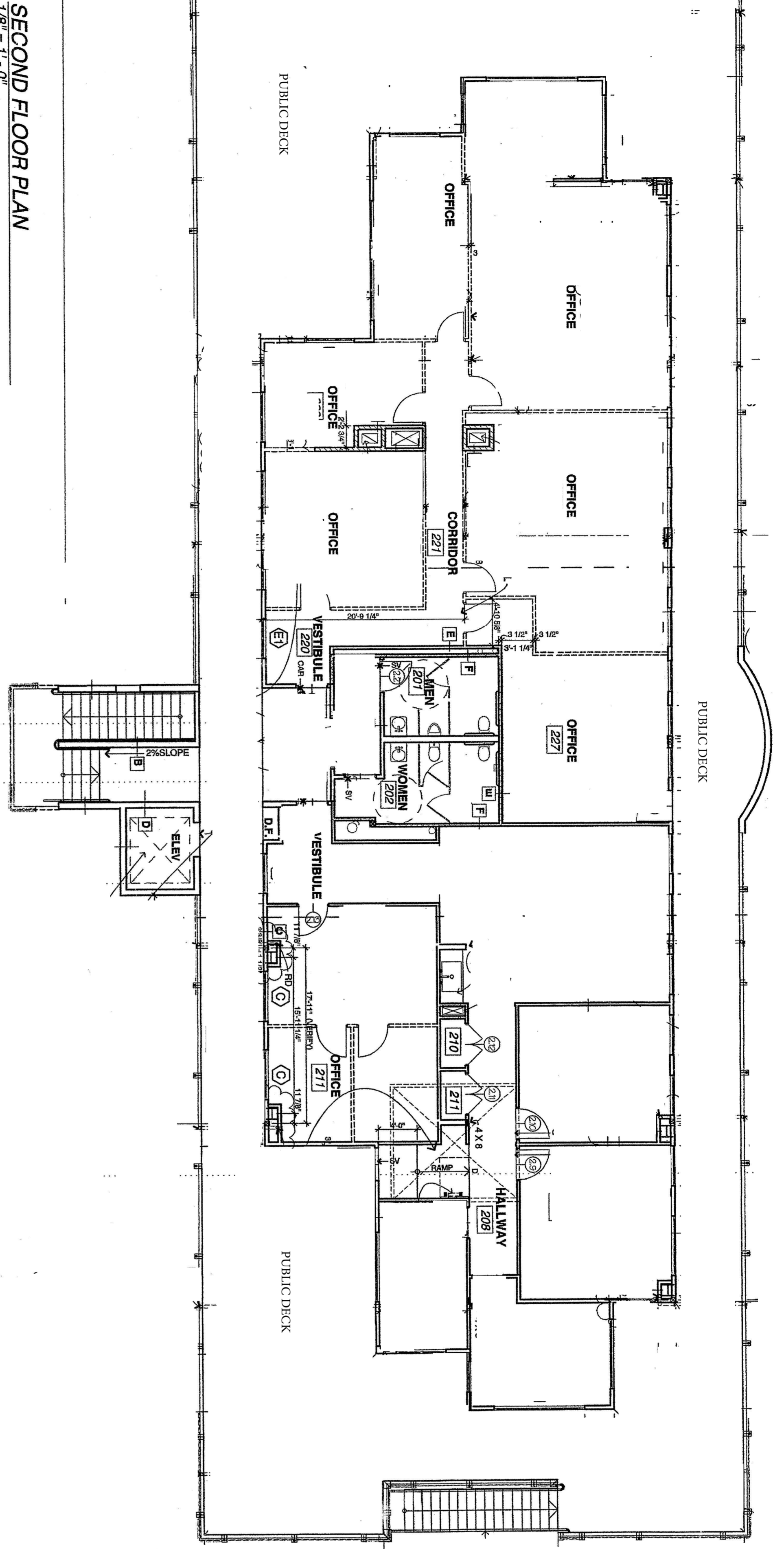
**Exhibit "A"**  
**Building Diagram**



FIRST FLOOR PLAN  
1/8" = 1'-0"



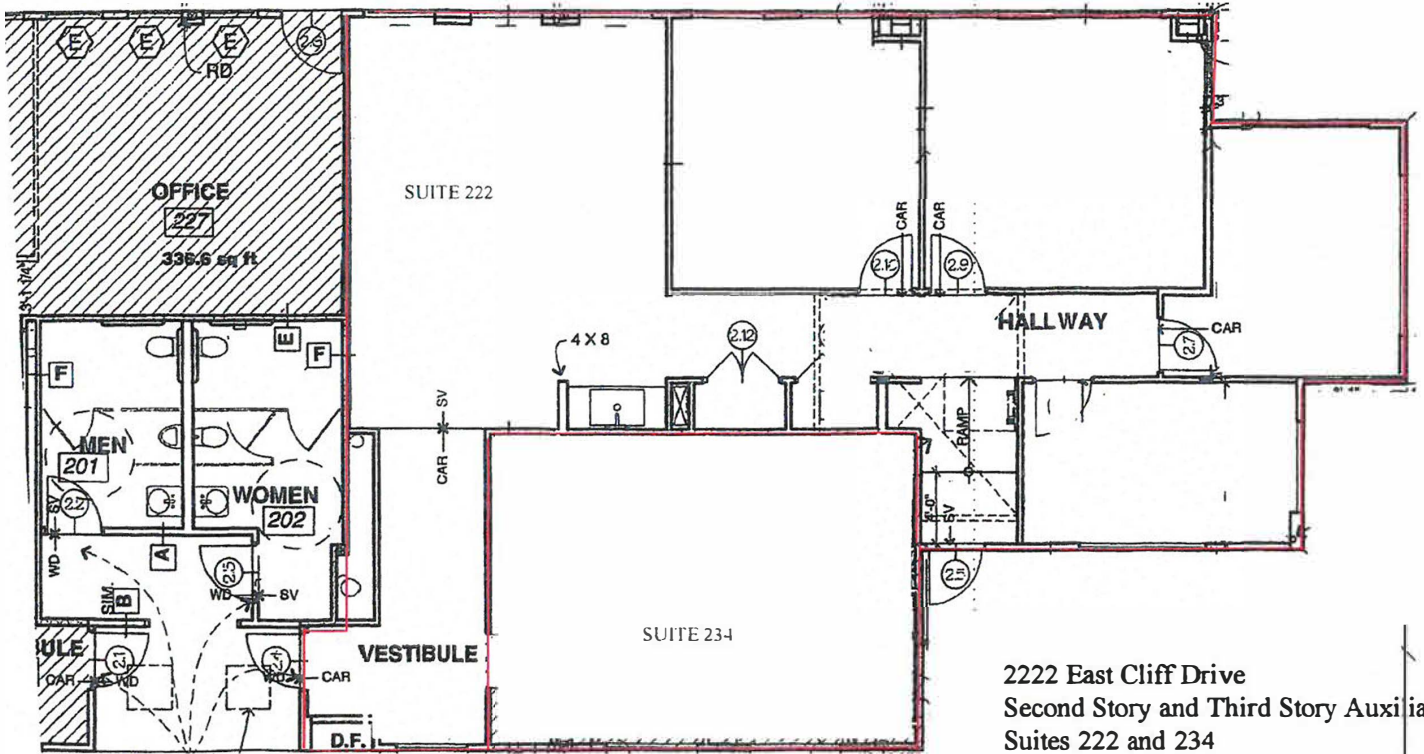
SECOND FLOOR PLAN  
1/8" = 1'-0"



**Exhibit 'B'**  
**Premises Diagram**



EXHIBIT B - PREMISES DIAGRAM AND MAP



2222 East Cliff Drive  
Second Story and Third Story Auxiliary Space  
Suites 222 and 234

## ASSIGNMENT AND ASSUMPTION OF SUBLEASES

THIS ASSIGNMENT AND ASSUMPTION OF SUBLEASES (“**Assignment**”) effective as of June 1, 2022, is by and between O’Neill Sea Odyssey (“**Assignor**” or “**OSO**”), and Santa Cruz Port District (“**Assignee**” or “**SCPD**”).

### RECITALS

A. Assignor, OSO, as Sublandlord, subleases certain real property located at 2222 East Cliff Drive (the “**Subleased Premises**”), to various subtenants, more particularly described and listed below. The Subleased Premises are subject to the subleases attached hereto as **Exhibit A** through **Exhibit F** (the “**Subleases**”), as described below and made a part of this Assignment:

	<u>Suite No.</u>	<u>Name of Sublessee/Subtenant</u>	<u>Base Rent</u>	<u>Security Deposit</u>	<u>Share of Operating Expenses</u>	<u>Expiration Date</u>
<b>Exhibit A</b>	200	Chris Buich-State Farm	\$2,886.35	\$1,975	17%	7/31/2026
<b>Exhibit B</b>	204	Laurel Andres	\$856.80	\$735	6%	7/31/2023
<b>Exhibit C</b>	208	Donald Markle	\$779.53	\$660.00	4%	12/31/2022
<b>Exhibit D</b>	212	Martha Macambridge	\$1,163.00	\$1,163.00	7%	month-to-month
<b>Exhibit E</b>	216	Mary Morgan	\$2,332.25	\$2,213.38	13%	3/31/2023
<b>Exhibit F</b>	220	Estriatus Law	\$1,553.57	\$1,380.47	9%	3/14/2023

B. The Subleases are subject to the terms and provisions of that certain Master Lease (as defined in the Sublease) between OSO and SCPD, entered into between the parties on January 1, 2004 (the “**2004 Lease**”).

C. For good and valuable consideration, OSO agrees to assign and transfer to SCPD all of OSO’s interests, as sublandlord, under the Subleases, and SCPD agrees to acquire from OSO all of OSO’s interests, as sublandlord, under the Subleases and to assume all of OSO’s obligations as sublandlord under the Subleases accruing from and after the effective date hereof.

D. Contemporaneously with this Assignment, the Parties have agreed to terminate and replace the 2004 Lease and enter into a new Amended and Restated Lease, which shall become effective on the same date as this Assignment. The Amended and Restated Lease shall be the new Master Lease applicable to the Subleases.

NOW, THEREFORE, it is hereby agreed as follows:

1. As of the effective date hereof, OSO does hereby assign, transfer, and convey to SCPD all of OSO's right, title, claim and interest in, to and under: (a) the Subleases; (b) any and all rights with respect to the Subleased Premises encumbered by the Subleases; and (c) any and all security deposits retained by the OSO as sublandlord under the Subleases as specified herein, and under any guarantees of the obligations of the subtenants under the Subleases. SCPD hereby accepts the foregoing assignment, transfer, and conveyance of OSO's interest as sublandlord under the Subleases, and hereby assumes all of the obligations of OSO as sublandlord under the Subleases first accruing from and after the effective date hereof.

2. OSO does hereby assign all rent received by OSO under the Subleases, including any and all additional payments for Sublessees' proportionate share of taxes, insurance costs, and common area charges, as of the effective date hereof and thereafter, which shall be the sole property of SCPD.

3. OSO shall indemnify, defend, and hold SCPD harmless from and against any and all claims, damages, losses, liabilities, actions, causes of action, costs, and expenses (including, without limitation, attorneys' fees and costs of suit) arising out of or in any way connected with a breach or default of sublandlord under any of the Subleases which shall accrue or occur prior to the effective date hereof, or arising out of or in any way connected to OSO's duties or obligations related to the Subleased Premises prior to the effective date hereof. SCPD shall indemnify, defend, and hold OSO harmless from and against any and all claims, damages, losses, liabilities, actions, causes of action, costs, and expenses (including, without limitation, attorneys' fees and costs of suit) arising out of or in any way connected with a breach or default of sublandlord under any of the Subleases which shall accrue after the effective date hereof or otherwise relating to SCPD's duties or obligations related to the Subleased Premises after the effective date hereof.

4. OSO hereby represents and warrants to SCPD that OSO is the sole sublandlord under the Subleases and has not encumbered, pledged, assigned, or transferred its interest in the Subleases in any manner; OSO's interest in the Subleases is not subject to the interest of any third-party.

5. OSO further represents and warrants that, to its actual knowledge and belief, (i) the Subleases are in full force and effect as of the effective date this Assignment hereof, (ii) OSO has fulfilled all of its obligations as set forth in the Subleases and (iii) OSO is not in default under any of the Subleases.

6. As a condition to the validity of this assignment, OSO agrees to provide originally executed estoppel certificates from each of the Sublessees (or on behalf of the Sublessees if OSO is unable to obtain an estoppel certificate from any of the Sublessees) prior to the effective date of this Assignment to SCPD certifying that there are no breaches by OSO and each of the Sublessees

have no claims or offsets against OSO, and which contain financial information that is consistent with this Assignment.

7. OSO shall give written notice to confirm the provisions of this Assignment to any other persons having rights or obligations under the Subleases, and each party shall execute and deliver to the other such notices as the other may reasonably request. OSO shall provide each of the Sublessees written notice of this Assignment within a reasonable time at least 5 business days prior to the effective date of this Assignment, and shall include in the notice in compliance with California Civil Code section 1950.7(d)(1): (a) notice of the following address at which rental payments to SCPD shall be directed effective June 1, 2022: Santa Cruz Port District, 135 5<sup>th</sup> Avenue, Santa Cruz, California, 95062; (b) notice that the Sublessee's security deposit has been transferred to SCPD, including the specific security deposit amount transferred to SCPD; and (c) notice of the Amended and Restated Lease effective June 1, 2022 between the Parties, and that the Amended and Restated Lease replaces the prior 2004 Lease as the new Master Lease applicable to the Sublessees. OSO shall copy SCPD in the notice to the Sublessees.

8. Miscellaneous Provisions:

a. Complete Assignment. This Assignment, along with any attachments, and the Amended and Restated Lease is the full and complete integration of the Parties' agreement with respect to the matters addressed herein, and that this Assignment supersedes any previous written or oral agreements between the Parties with respect to the matters addressed herein. Unless otherwise stated, to the extent there is any conflict between this Assignment and any other agreement (written or oral), the terms of this Assignment shall control.

b. Waiver. Waiver by any party of any portion of this Assignment shall not constitute a waiver of the same or any other portion hereof.

c. Governing Law. This Assignment shall be governed by and interpreted in accordance with California law.

d. Severability. The unenforceability, invalidity or illegality of any provision(s) of this Assignment shall not render the other provisions unenforceable, invalid or illegal.

e. Interpretation. Each party acknowledges that it has reviewed this Assignment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Assignment.

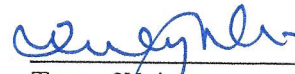
f. Counterparts. The Parties may execute this Assignment in two or more counterparts, which shall, in the aggregate, be deemed an original but all of which, together, shall constitute one and the same instrument. A scanned, electronic, facsimile or other copy of a party's signature shall be accepted and valid as an original.

g. Warranty of Authority. The signatories to this Assignment warrant and represent that each is authorized to execute this Assignment and that their respective signatures serve to legally obligate their respective representatives, agents, successors and assigns to comply with the provisions of this Assignment.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the dates indicated below.

**ASSIGNOR:  
O'NEILL SEA ODYSSEY**

Date: 04.13.22

By:   
Tracy Weiss  
Executive Director

**ASSIGNEE:  
SANTA CRUZ PORT DISTRICT**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Holland MacLaurie  
Port Director

EXHIBIT "A"

SUBLEASE SUITE 200: CHRIS BUICH-STATE FARM

## LEASE AGREEMENT O'NEILL SEA ODYSSEY BUILDING

**THIS LEASE AGREEMENT** (the "Lease") is entered into this 22nd day of April 2010, in the County of Santa Cruz, State of California, by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Chris Buich, an individual dba State Farm Insurance Agency ("Tenant").

For and in consideration of the rents and covenants set forth below, Landlord hereby leases and Tenant takes the Premises described below on the following terms and conditions, including any exhibits and addenda which are attached.

1. **BASIC LEASE PROVISIONS.** The following basic lease provisions are part of this Lease, but are qualified and subject to further definition and clarification in the paragraphs which follow.

1.1. Tenant: Chris Buich, an individual dba State Farm Insurance Agency.

1.2. Premises: 2222 East Cliff Drive, Suite 200, Santa Cruz, California..

1.3. Dimensions: The Premises comprise approximately 616 square feet.

1.4. Use of Premises: Business office.

1.5. Lease Term: Sixty (60) months, commencing August 1, 2010, with an option to renew the lease.

1.6. Base Rent: Year 1: \$1,975/mo, Year 2: \$2,050/mo, Year 3: \$2,125/mo, Year 4: \$2,200/mo and Year 5: \$2,275/mo.

1.7. Late charges: 6% of unpaid amount, 6 days after due date.

1.8. Security deposit: \$ 1,975.

1.9. Common Area maintenance charges, insurance and taxes: payable monthly as additional rent.

1.10. Anticipated commencement date: August 1, 2010.

2. **PREMISES.** Landlord hereby leases, demises, and rents to Tenant, and Tenant hereby leases and takes from Landlord, the interior space only, as described in Section 1.2 above. The Premises shall have dimensions measuring from the center of any partition wall and to the outside of any exterior wall for a total approximate area as set forth in Section 1.3.



The Premises are a part of a multi-tenant office building (the "Building"), commonly known as O'Neill Sea Odyssey Building, 2222 East Cliff Drive, Santa Cruz, California. Use and occupancy by Tenant of the Premises shall include the use in common with others of the Common Areas and facilities. Landlord does not warrant, represent or agree that the building or the Common Area will remain exactly as constructed or as presently existing.

3. **MASTER LEASE.** Landlord's interest in the Premises is Lessee under a Master Lease Agreement with the Santa Cruz Port District, a political subdivision, pursuant to a Master Lease Agreement (the "Master Lease"). This lease is subject to all terms and conditions of the Master Lease. In the event any conflict arises between any terms and conditions of this Lease and the Master Lease, the terms and conditions of the Master Lease shall prevail. Tenant acknowledges having previously received a copy of the Master Lease.

4. **LEASE TERM.** Unless sooner terminated as provided in this Lease, the term of this Lease shall be for a period of thirty-six (36) months. The Lease shall commence (the "Commencement Date") when Landlord delivers possession of the Premises to Tenant which Landlord anticipates will be on or about August 1, 2004. If tenant is in compliance with all terms and conditions of this lease and wishes to extend the expiration of this lease, Tenant shall give landlord a letter (within 120 days from the end of the original expiration date of the lease and within 120 days from the end of the first option period) stating that Tenant wishes to extend the lease for each additional thirty-six month terms under the same terms and conditions. The Base Rent will be adjusted on the renewal date and each renewal date to reflect any increases in the cost of living in accordance with the Index using as the base month published closest to the 120-day option period notification date. Should Tenant hold over and continue in possession after expiration of the term of this Lease or any extension thereof, Tenant's continued occupation shall be considered a month-to-month tenancy subject to all the terms and conditions of this lease.

5. **DELAY AND DELIVERY OF POSSESSION.** If Landlord is unable to deliver possession of all or part of the Premises to Tenant on the date originally anticipated as a result of circumstances beyond Landlord's control, no rent shall accrue or become due under this Lease for the portion not delivered until actual physical possession is delivered and tendered to Tenant. Should Landlord be unable to deliver possession of all of the Premises to Tenant within 180 days after the anticipated Commencement Date specified in Paragraph 1.10 above, Tenant may terminate this Lease by giving Landlord written notice of Tenant's election to do so, and in such event this Lease shall become null and void, and Landlord shall forthwith refund to Tenant any consideration given to Landlord pursuant to execution of this Lease.

6. **ACCEPTANCE OF PREMISES.** After Landlord delivers possession of the Premises to Tenant and Tenant takes occupancy of the Premises, Tenant shall have no legal or equitable remedy based upon a claim that Landlord failed to deliver possession in accordance with the terms of this Lease or based on a claim that the size, location, lay-out, dimensions, or construction of the Building, or service areas, sidewalks, and adjacent parking were not completed or furnished in accordance with the terms of this Lease.

7. **BASE RENT.** Tenant shall pay the Landlord for the use and occupancy of the Premises Base Rent as set forth in Section 1.6, payable in advance on the first day of each month of the lease

term.

**8. TAXES, INSURANCE AND COMMON AREA CHARGES.** In addition to the Base Rent required under the terms of this Lease, Tenant shall pay to Landlord as additional rent, without deduction, set off or abatement, the following additional charges, the nonpayment of which shall be subject to all provisions of this Lease and of law as to default in the payment of rent:

a. Tenant's proportionate share of all direct costs and expenses of every kind and nature paid or incurred by Landlord in operating and maintaining the Common Areas, including a reasonable fee for managing and administering the common area;

b. Tenant's proportionate share of all real estate taxes, governmental fees, and assessments of every kind and nature levied against or in connection with the land, building, or improvements of which the premises are a part; and,

c. Tenant's proportionate share of the cost of all insurance obtained by Landlord in connection with the Building of which the premises are a part, not otherwise covered under common area expenses, including without limitation, all premiums for fire, extended coverage and public liability.

Tenant's proportionate share of the foregoing charges shall be 17%. Tenant's share of the foregoing charges shall be paid in monthly installments on the first day of each month in an amount to be estimated from time to time by Landlord. On or before each February 1, Landlord shall furnish to Tenant a statement of the actual amount of Tenant's proportionate share of such expenses for the preceding calendar year. Within 30 days after delivery of such statement, Tenant shall pay to Landlord or Landlord shall remit to Tenant, as the case may be, the difference between the estimated amounts paid by Tenant and the actual amounts of such charges for the preceding calendar year. For purposes of calculating the actual charges for any partial year, the total charges shall be prorated based twelve 30-day months.

**9. LATE CHARGES AND DISHONORED CHECKS.** If any rent payment otherwise due is not received by Landlord by the sixth (6th) day of the month such payment is due, in addition to the provisions for default in Paragraph 30 below, there shall be added thereto, as additional rent, an amount equal to six per cent (6%) of the amount due. No notice or demand shall be required for said additional rent to become due and payable. In the event that any check or other instrument tendered by Tenant is dishonored, in addition to late charges as specified above, Tenant shall pay an additional fee of \$20.00 to reimburse Landlord for administrative costs incurred in connection with such dishonored instrument.

**10. COMMON AREAS.** Landlord grants to Tenant and Tenant's patients and invitees the nonexclusive right to use, in common with all others to whom Landlord has or may hereafter grant rights to use the same, the Common Areas located within the Building. The term "Common Areas" as used in this Lease, shall include without limitation the parking areas, roadways, access roads, pedestrian sidewalks, pedestrian malls, hallways, stairs, elevators, common bathrooms, corridors, loading docks, delivery areas, ramps, landscaped areas, retaining walls, and all other areas or improvements which may be provided by Landlord for the common use of the tenants of the Building. The Common Areas shall at all times be subject to the

exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the Common Areas and all facilities situated thereon. Landlord shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other facilities herein referred to; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Landlord's counsel, be necessary to prevent a dedication thereof or the accrual of any rights by any person or the public thereof; to close temporarily all or any portion of the parking areas or facilities; and to do and perform such other and further acts in and to said areas and improvements as, in the use of good business judgment, Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees, and patients. Landlord shall operate, manage, equip, light, repair and maintain said Common Areas owned by Landlord for their intended purposes in such manner as Landlord shall at Landlord's sole discretion determine and Landlord may from time to time change the size, location, nature and use of said Common Areas and may make installations therein and move and remove the same.

**11. USE OF PREMISES.** The Premises shall be used for the sole purpose of operating a business offices, and for such purposes as may be reasonably incidental thereto, and none other. Tenant further agrees:

A. To comply with all requirements of any state or Federal statute, or local ordinance or regulation, applicable to Tenant or its use of the Premises, and to save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to do so.

B. To give to Landlord prompt written notice of any accident, fire or damage occurring on, or to, the Premises and the Common Areas of the Building.

C. To make such arrangements as Landlord may reasonably require from time to time for the storage and disposal of all garbage and refuse.

D. To keep the Premises in good condition and repair, and clean, orderly, sanitary, and free from objectionable odors, litter and debris, and from insects, vermin, and other pests.

E. To comply with any and all reasonable rules and regulations of Landlord in connection with the Premises or the Building which are now or hereafter in effect.

F. To install such fire extinguishers and other safety equipment as Landlord may require and to comply with the recommendations of Landlord's insurance carriers and their rate-making bodies.

G. To refrain from doing each and every one of the following:

(1) Using the Premises in any manner which, in Landlord's opinion, is, or may be, harmful to the Building or disturbing to other tenants in the Building;

(2) Using the Premises in any manner which would make void or voidable any policy of

fire or extended coverage insurance covering any of the Building buildings, and if by reason of any use by Tenant of the Premises or the keeping by Tenant of any item or material in the Premises, the hazard insurance premiums on policies maintained by Landlord shall be increased over normal rates for retail stores in the Building, the amount of the increase in the premium shall be paid to Landlord by Tenant on demand;

(3) Causing or permitting any noxious, disturbing or offensive odors, fumes or gases, or any smoke, dust, steam or vapors, or any loud or disturbing noise or vibrations to originate in or be emitted from the Premises;

(4) Committing or suffering to be committed by any person any waste upon the Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the Building, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Building;

12. **UTILITIES.** Tenant shall pay all utility costs incurred in connection with Tenant's occupation and use of the Premises, including, without limitation, water, gas, electricity, sewer, garbage removal, and other utility services, and all utility taxes levied in connection with utilities used on the Premises. Landlord shall not be responsible nor liable in any way whatsoever for the quality, impairment, interruption, or stoppage of utilities, or for interference with or stoppage of any service with or without notice to Tenant. Tenant's proportionate share of all utilities not separately metered shall be same percentage set forth for taxes, insurance, and common area charges.

13. **NO JOINT VENTURE.** It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture or agency relationship between Landlord and Tenant or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party. Neither the method of computation of any rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord or Tenant, and Tenant shall take or suffer no action which might lead a third person to believe otherwise. It is both a fact and it is understood between the parties that Landlord shall not be liable for any debts incurred by Tenant in the conduct of Tenant's business.

15. **MAINTENANCE AND REPAIR.** From and after the time Tenant obtains possession of the Premises, Landlord shall have no obligation to make any repairs, improvements, or alterations whatsoever to the interior of the Premises, except to the extent necessitated by the negligence or misconduct of Landlord. Landlord shall maintain in good and substantial repair during the Lease term, the exterior of the building in which the Premises are located (including the roof and exterior walls, but not glass, plate glass, or doors) and paved parking and other Common Areas, except to the extent that the damage thereto is caused by negligence or misconduct of Tenant, in which event Tenant shall be responsible therefore. As provided above, Tenant shall at Tenant's own cost and expense, keep and maintain all interior portions of the Premises in good order and repair and in as safe and clean a condition as they were when received by Tenant, reasonable use and wear excepted. Said obligations shall include maintenance of exterior entrances, all partitions, doors, door jambs, door closers, door hardware, fixtures, equipment and appurtenances thereof, and plumbing, electrical, lighting, and heating

systems which protrude into the Premises and all other portions of the building in which the Premises are situated except as provided in the following paragraph. Tenant shall at Tenant's sole cost and expense repair and replace the glass in any display window on the Premises that becomes broken, regardless of cause. If Tenant refuses or neglects to repair items properly required under this paragraph as soon as reasonably possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or the Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs, plus 10% for Landlord's overhead and supervision.

**16. ALTERATIONS.** Tenant shall not have the right to make any alterations, improvements or additions to the Premises without first obtaining the Landlord's written consent. Tenant shall present to Landlord plans and specifications for such work at the time consent is sought. Tenant shall not cause or permit any lien to be placed on or accrue upon the Premises or any part thereof by reason of anything done or omitted to be done upon said Premises by or with the permission of Tenant. All alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Tenant or any other person shall be the property of Landlord, and upon termination of this Lease shall remain upon and be surrendered with the Premises as a part thereof; or, alternatively, Landlord may, at its option, upon the expiration of the Lease, require that Tenant at Tenant's expense to remove all such alterations, improvements and additions, and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. Any floor covering affixed to the floor of the Premises shall be and become the property of Landlord.

**17. TENANT IMPROVEMENTS.** Landlord shall deliver the Premises to Tenant with all perimeter walls taped and textured, with basic electrical service and lighting fixtures to the minimum standards required by code, and with Landlord's basic floor coverings. Painting, electrical, lighting, or floor covering upgrades, or other tenant improvements or upgrades, shall be completed by Tenant at Tenant's sole cost and expense, subject to the provisions of the preceding Paragraph 16.

**18. INSTALLATION AND REMOVAL OF TRADE FIXTURES.** Tenant at Tenant's sole cost and expense may install in the Premises such fixtures and equipment not permanently affixed to the realty as Tenant deems advisable, and may remove the same from the Premises at any time during the term of this Lease; provided, however, that no injury shall be done to the structural strength of the building when said fixtures or equipment are removed, and the building shall be restored to substantially its original condition. Any trade fixtures not removed from said Premises by Tenant prior to the expiration or sooner termination of this Lease shall be deemed abandoned by Tenant and shall become the property of Landlord. Landlord shall not be liable for trespass, conversion or negligence by reason of its acts or acts of anyone claiming under it or by reason of the negligence of any person with respect to acquisition and/or disposition of such property.

**19. INSPECTION AND ACCESS TO PREMISES.** Landlord expressly reserves the following rights: (a) to enter the Premises at reasonable times to examine or to make such

repairs, additions or alterations as it may deem necessary for the safety, improvement or preservation thereof, or of the building in which the Premises are located, or of the Building, but Landlord assumes no obligation to make repairs to said Premises or said building or the Building other than as expressly stated in this Lease; (b) should Tenant fail to exercise, or not be entitled to exercise, the option to renew as provided below, Landlord shall have the right to enter the Premises and display a notice or sign "for rent" at any time within three (3) months prior to the expiration of this Lease, and to maintain the same as placed; (c) during or after the time Tenant should abandon or vacate the Premises or otherwise default hereunder, to enter and decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy; and (d) to install upon the roof and exterior walls of the Premises such signs, displays, antenna and other objects or structures as Landlord shall deem necessary or appropriate for the promotion, operation, expansion, maintenance or repair of the Building. The exercise of any reserved right by Landlord shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises and shall never render Landlord liable in any manner to Tenant or to any other person. Tenant shall permit Landlord and its agents to erect, use, maintain and repair conduits, plumbing, vents, wires and equipment into, under, and through the Premises. All such work and installations shall be done so as not to unnecessarily interfere with Tenant's use of the Premises.

20. **SIGNS.** Except as otherwise set forth in this Lease, Tenant shall have the right, subject to the requirements of the County of Santa Cruz, to provide and install a storefront sign in accordance with the Building sign program. Except as thus provided, Tenant shall not place or suffer to be placed or maintained on any exterior door, roof, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises, without first obtaining Landlord's written approval and consent. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times and to remove the same at the end of the Term if requested by Landlord to do so. Upon removal thereof, Tenant agrees to repair any damage to the Premises caused by such installation.

## 21. **DESTRUCTION OF PREMISES.**

A. If the Premises shall be partially or totally destroyed by fire or other casualty covered under a full standard extended risk insurance policy so as to become partially or totally untenable, the same shall be repaired or rebuilt as speedily as practical under the circumstances at the expense of Landlord, unless Landlord elects not to repair or rebuild as provided in Subparagraph "B" of this clause; and, during the period required for restoration, a just and proportionate part of Base Rent shall be abated until the Premises are repaired or rebuilt.

B. If the Premises are (i) rendered substantially untenable by reason of such occurrence; or (ii) damaged or destroyed during the last three (3) years of the Term; or (iii) damaged or destroyed as a result of a risk which is not insurable under full standard extended risk insurance; or (iv) if the building of which the Premises are a part is damaged (whether or not the Premises are damaged) to the extent of fifty percent (50%) or more of its then monetary value; or (v) if the other buildings or Common Areas which then comprise the Building are damaged to such an extent that the Building cannot, in the sole judgment of the Landlord, be operated economically as an integral unit, then and in any such events Landlord may at its option terminate this Lease as

of the date of the occurrence, by notice in writing to the Tenant. Unless Landlord gives such notice, this Lease will remain in full force and effect and Landlord shall repair such damage at its expense as expeditiously as possible under the circumstances.

C. If Landlord should elect or be obligated to repair or rebuild because of any damage or destruction, Landlord's obligation shall be limited to the basic building and any other work of improvements which may have been originally performed or installed at Landlord's expense. If the cost of performing Landlord's obligation would exceed the actual proceeds of insurance paid or payable to Landlord on account of such casualty, Landlord may at its option terminate this Lease. Tenant shall replace all work and improvements originally installed or performed by Tenant at its expense.

D. If the Premises are rendered substantially untenable by reason of such occurrence, Tenant may at its option terminate this Lease as of the date of the occurrence, by notice in writing to Landlord.

## 22. CONDEMNATION.

A. If title to all of the Premises is taken for any public or quasi-public use by eminent domain or by private purchase in lieu thereof, or if in Landlord's judgment title to so much of the Premises is so taken that a reasonable amount of reconstruction thereof will not result in the Premises being a practical improvement and reasonably suitable for use for the purpose for which the Premises are leased, then, in either event, this Lease shall terminate on the date that title vests in the condemning authority. This Lease shall not, however, terminate under this provision unless more than ten percent (10%) of the floor area of the Premises is so taken.

B. If title to (i) twenty percent (20%) or more of the ground floor area of the buildings in the Building or (ii) fifty percent (50%) or more of the parking area required to be maintained by Landlord is so taken, and if Landlord within one (1) year after such taking does not substitute for the (I can't delete this line)parking area so taken a sufficient number of parking spaces in a location reasonable accessible to the Premises to increase the parking areas remaining to at least seventy percent (70%) of the parking provided prior to the taking, then, either Landlord or Tenant shall have the option to terminate this Lease by notice in writing given to the other within thirty (30) days after taking or within thirty (30) days after the expiration of the one (1) year period, as the case may be. Notwithstanding anything to the contrary contained herein, if a taking of a portion of the parking area results in a violation of or noncompliance with governmental requirements for parking, then Landlord may elect to terminate this Lease by giving the notice described herein.

C. If this Lease is terminated under this Section, all rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no claim for the value of its leasehold estate or for the value of the unexpired Term of Lease, or for any other matter whether the same be of a direct or consequential nature.

D. If there is a partial taking of the Premises or the Building and this Lease is not thereby terminated under the provisions of this Article, then this Lease shall remain in full force and effect, and the Landlord shall, within a reasonable time thereafter, repair and restore the



remaining portion of the Premises to the extent necessary to render the same reasonably suitable for the purposes for which the Premises were leased, and shall repair or reconstruct the remaining portion of the Building to the extent necessary to make the same a complete architectural unit; provided that such work shall not exceed the scope of the work required to be done by Landlord in originally constructing such buildings and the cost thereof shall not exceed the proceeds of the condemnation award paid to Landlord.

E. All compensation awarded or paid upon a total or partial taking of the Premises or the Building shall belong to and be the property of the Landlord without any participation by Tenant. Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, damage to, and cost of removal of trade fixtures, furniture and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

F. After any partial taking of the Premises which does not result in a termination of this Lease, Base Rent for the remainder of the Term shall be reduced by the same percentage as the ground floor area of the space taken bears to the ground floor area of the entire Premises prior to such taking.

**23. LIABILITY AND INDEMNITY.** Landlord shall not be liable to Tenant for any damage arising from unforeseeable acts or negligence of other tenants or occupants of the Building. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by (i) any act, omission or negligence of Tenant or any subtenant of Tenant, or their respect contractors, licensees, invitees, agents, servants or employees, wheresoever the same may occur, or (ii) any use of the Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Premises, or any part thereof, and any service delivery facilities of any other portions of the Building used by Tenant, excluding such claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by, Landlord's active negligence or willful misconduct.

**24. LIABILITY INSURANCE.** Tenant shall, at Tenant's expense, obtain and keep in full force during the term of this Lease or any extensions thereof, a policy of comprehensive general liability insurance including contractual liability coverage, insuring Tenant and Landlord, against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than One Million Dollars (\$1,000,000.00) for combined single limit bodily injury and property damage coverage. The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to procure and maintain same, and at the expense of Tenant. Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein, or certificates evidencing the existence and amounts of such insurance, with loss payable clauses satisfactory to Landlord. No policy shall be cancelable, or subject to reduction of coverage without thirty (30) days' notice to Landlord at the address indicated below. All such policies shall be written as primary policies,

not contributing with and not in excess of coverage which Landlord may carry, shall name any lender of Landlord of which Tenant has knowledge as an additional insured, and shall be written by a company or companies rated A+, AAA, or better in "Best's Insurance Guide".

**25. WAIVER OF SUBROGATION.** Each of the parties hereto waives any and all rights of recovery against the other or against any other tenant or occupant of the subject Premises or against the officers, employees, agents, representatives, patients and business visitors of such other party or of such other tenant or occupant of the subject Premises for loss of or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other policy of insurance carried by such waiving party in lieu thereof, to the extent such loss or damage is insured against by such policy. Such waiver shall not be binding on either party unless the same is permitted by each party's insurance carrier without the payment of additional premium.

**26. ASSIGNMENT AND SUBLETTING.** Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's employees) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. If Tenant desires to make such an assignment, encumbrance, sublease or permit another person or entity to occupy or use part or all of the Premises, Tenant shall notify Landlord in writing by certified mail of such intent setting forth in detail all particulars of the proposed transaction, including adequate credit, financial, personal and business information on any person or entity involved in the proposed transaction. After the expiration of thirty (30) days from receipt of all items of information specified above, Tenant shall be entitled to proceed with the proposed assignment, encumbrance, sublease or additional occupancy, unless Landlord in the reasonable exercise of Landlord's judgment disapproves of the proposed assignee, sublessee, or occupant, on one or more of the following grounds:

A. that the proposed use of the Premises conflicts or is incompatible with existing uses of the Building;

B. that the proposed assignee, sublessee, or occupant's financial or credit ability or reputation is unsatisfactory;

C. that the business or personal reputation of the proposed assignee, sublessee, or occupant is unsatisfactory;

D. that the quality of previous or proposed business operations of the proposed assignee, sublessee, or occupant is unsatisfactory;

E. that the business experience of the proposed assignee, sublessee, or occupant is unsatisfactory;

F. that other factors or circumstances exist which Landlord reasonably believes would render occupancy of all or part of the Premises by the proposed assignee, sublessee, or occupant detrimental to the Building or to other businesses situated in the vicinity.

If Tenant is a corporation, an unincorporated association, or a partnership, any transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership in the aggregate in excess of 25% shall be deemed an assignment within the meaning of this section.

Tenant shall reimburse Landlord for attorneys' fees reasonably paid or incurred by Landlord in connection with any proposed assignment, encumbrance, sublease, or occupancy pursuant to this section.

In the event of any assignment, encumbrance, sublease, or occupancy pursuant to this section, the provisions of this section shall apply to any further proposals to assign, sublease, encumber or allow any other person or entity to use all or part of the Premises.

Landlord may collect rent from any assignee, subtenant or occupant of all or any part of the Premises, and may apply the net amount collected to the rent required under the terms of this Lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this section, or the acceptance of the assignee, subtenant, or occupant as tenant, or a release of Tenant from the further performance by Tenant of the covenants on the part of Tenant herein contained. Tenant shall in no event be relieved of any liability or responsibility by reason of any assignment, sublease, encumbrance or change in occupancy.

**27. LENDERS AND SUCCESSORS TO LANDLORD.** Tenant agrees that this Lease shall be subordinate to any mortgages, trust deed, or other security of which Tenant is given written notice, now or hereafter encumbering the land and buildings of which the Premises are a part or upon any buildings hereafter placed upon the land of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, any such mortgage, deed of trust, or other security instrument shall contain a provision to the effect that so long as Tenant is not in default under this Lease or any renewal thereof, no foreclosure of the mortgage, deed of trust, or other security instrument, or any other proceeding in respect thereof, shall divest, impair, modify, abrogate, or otherwise adversely affect any interests or rights whatsoever of Tenant under this Lease. This shall be self-operative and no further instrument of subordination shall be required, provided, however, the Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver any document or instrument that may be required by a lender to effectuate any subordination. If Tenant without reasonable cause fails to execute and deliver any such document or instrument, Landlord will have the right to take such action as Landlord may be permitted otherwise to exercise under this Lease including the right to terminate this Lease.

Within thirty (30) days after receipt of a written request therefore by Landlord, Tenant agrees to execute and deliver in recordable form an estoppel certificate to any mortgagee or proposed mortgagee or purchaser to the Landlord certifying (if such be the case) that this Lease is unmodified and in full force and effect (and if there has been modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by the Tenant; and stating the date to which rentals and other charges are paid. Such certificate shall also include such other information as may be reasonably required. The failure by the Tenant to deliver any such certifi-

cate within thirty (30) days shall be conclusive upon the Tenant that this Lease is in full force and effect and has not been modified except as may be represented by Landlord. Notices of any default by Landlord shall be given by Tenant to any mortgagee of whom Tenant has been notified in writing, and said mortgagee shall have the right but not the obligation to cure said default.

Tenant shall attorn and be bound to any of Landlord's successors under all the terms, covenants and conditions of this Lease for the balance of the Lease Term.

**28. SURRENDER OF PREMISES.** Upon the expiration of the Lease Term, Tenant shall surrender the Premises to Landlord in as good order and condition as at the Commencement of Lease Term (except for ordinary wear and tear) together with all additions, alterations and improvements which may have been made in or to the Premises. Landlord may, at its option, require the Tenant at the Tenant's expense to remove all such alterations, improvements and additions and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. In the event Tenant continues to occupy the Premises after the expiration of the Lease Term, without being given or being entitled to renewal or a new lease, such occupancy shall be considered a tenancy from month-to-month at a monthly rental equal to the rent payment due for the last month of the Lease Term including but not limited to Base Rent, as adjusted in accordance with Paragraph 8 above, Taxes, Insurance, Advertising and Marketing Expense, and all other rents due and payable by Tenant to Landlord. This provision shall not give Tenant any right to continue occupancy following the expiration of this Lease except with the written consent of Landlord. Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any succeeding occupant of the Premises for such delay.

**29. INSOLVENCY OF TENANT.** Tenant agrees that in the event all or substantially all of the Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of thirty (30) days, or should Tenant make an assignment for the benefit of creditors or be adjudicated a bankrupt, or should Tenant institute any proceedings under the bankruptcy act or under any amendment thereof which may hereafter be enacted, or under any other act relating to the subject of bankruptcy wherein Tenant seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition, arrangement or reorganization, or should any involuntary proceeding be filed against Tenant under any such bankruptcy laws and Tenant consent thereto or acquiesce therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset in any of such proceedings, and, in any such event and in addition to any and all rights and remedies of Landlord hereunder or by law provided, it shall be lawful for Landlord to declare the term hereof ended and to reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or hereunder.

**30. ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein provided shall be deemed to be other than on account of the earliest rent due and payable hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other proper remedy.

**31. DEFAULT AND REMEDIES.** The occurrence of any of the following shall constitute a default under this Lease:

A. Tenant's failure to pay rent or to make any other payment required to be made by Tenant hereunder when due, which failure continues for ten (10) days after written notice thereof.

B. Abandonment or vacation of the Premises by Tenant, for any purpose except remodeling or restoration for a time period approved by Landlord.

C. Tenant's failure to cause to be released any mechanic's or materialmen's liens filed against the Premises within ten (10) days after the date the same shall have been filed.

D. Tenant's failure to observe or perform any other provision of this Lease to be observed or performed by Tenant, other than those described in Subparagraphs A, B, and C above, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such failure cannot reasonably be cured within such thirty-day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

E. The insolvency of Tenant or the execution by Tenant of an assignment for the benefit of creditors; the filing for reorganization or arrangement under any law relating to bankruptcy or insolvency; or, the appointment of a receiver or trustee to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease.

In the event of any default by Tenant hereunder, then, in addition to any other remedies available to Landlord at law or in equity, Landlord may at its option terminate this Lease and recover damages from Tenant, including (a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; (b) 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; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

Alternatively, in the event of such default, Landlord may elect not to terminate the Lease and Landlord may enforce rights and remedies under the Lease, including the right to recover rent as it becomes due. In the event Landlord terminates the Lease, Landlord shall have the right to reenter and take possession of the Premises, to remove all persons and property therefrom, which property may be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant, and to relet the Premises, or any part thereof, for the account of Tenant, for such term and upon such conditions and at such rent as Landlord at its sole discretion may deem proper. To the fullest extent permitted by law, the proceeds of any reletting shall be applied as follows: first, to pay Landlord all costs and expenses of such reletting (including without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and

property therefrom, securing new tenants, and if Landlord shall maintain and operate the Premises, the cost thereof); second, to pay any indebtedness of Tenant to Landlord other than rent; third, to the rent due and unpaid hereunder; fourth, the residue, if any, shall be held by Landlord and applied in payment of any other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of such revenue.

Nothing in this paragraph shall be deemed to affect Landlord's right to indemnification for liabilities arising prior to termination of this Lease for personal injury or property damage under the indemnification clause or clauses contained in this Lease.

No reentry or reletting of the Premises shall be construed as an election by Landlord to terminate either Tenant's right to possession or this Lease unless a written notice of such intention is given by Landlord to Tenant and notwithstanding any such reletting without such termination, Landlord may at any time thereafter elect to terminate Tenant's right to possession in this Lease.

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any set-off or abatement of rent. If Tenant shall fail to pay any sum of money, other than rent, required to be paid hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue beyond any applicable grace period set forth above, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make on Tenant's behalf any such payment or perform any such other act to be made or performed by Tenant as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs, together with interest thereon at the maximum legal rate permitted by the laws of California, to the date the default is cured, shall be payable to Landlord on demand, and Tenant covenants to pay any such sum. Landlord shall have, in addition to any other right or remedy of Landlord, the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rent.

All remedies given to Landlord in this Lease shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter at law or in equity.

**32. TENANT'S PROPERTY.** Tenant agrees to insure the contents of the Premises against fire, theft, vandalism, and such other hazards as are readily insurable under a normal "fire and extended coverage" policy, and to provide Landlord with a copy of such policy or any policies, and any modifications or replacements thereto, within thirty (30) days of execution of this Lease. Tenant shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon, or about the Premises by Tenant. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any damage to property of Tenant or of others located on the Premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks from any part of the Premises, or the Common Areas, or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by any other

cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the Premises, occupants of adjacent property, of the Common Area, or the public, or caused by operations and construction of any private, public or quasi-public work. Landlord shall not be liable for any latent defect in the Premises or in the building of which they form a part. All property of Tenant kept or stored on the Premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold Landlord harmless from any claims arising out of such damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Landlord, and through no fault of Tenant.

33. **WAIVER.** The failure of Landlord to insist in any one or more instances upon a strict performance of any of the covenants or agreements in this Lease or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant, agreement, or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

34. **LEGAL EXPENSES.** Tenant shall pay to Landlord all amounts for reasonable attorneys' fees incurred by Landlord in connection with any breach or default under this Lease or incurred in order to enforce the terms or provisions hereof. Such amount shall be payable upon demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any of its rights or remedies in or under this Lease, the prevailing party shall be entitled to recover from the other party, all costs incurred by said prevailing party in said action, including reasonable attorneys' fees to be fixed by the court therein.

35. **NOTICES.** Any notice, demand, request or other document or instrument which may be or is required to be given under this Lease shall be given only in writing and shall be deemed delivered if sent by United States certified, postage prepaid mail, return receipt requested, or by a national overnight delivery service, and shall be addressed (i) if to Landlord, to 2222 East Cliff Drive, #1B, Santa Cruz, California, 95062; and (ii) if to Tenant, at the address set forth in Section 1.2 above. Notices shall be effective upon deposit with reputable overnight delivery services or in the United States mails in accordance with the above provisions. Each party may designate such other address as shall also be given by such written notice. Other modes of delivery may also be utilized, provided such other delivery service can provide a proof of delivery.

36. **TIME OF ESSENCE.** Time is of the essence of this Lease. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that the failure to timely perform any of the obligations hereof by either party shall constitute a breach of and a default under this Lease by the party so failing to perform.

37. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and to the Premises, and supersedes all prior and contemporaneous leases, agreements, representations, and understandings of the parties. No supplement, modification, or amendment shall be binding unless executed in writing

by all of the parties. Landlord makes no guarantee, warranty, representation, agreement, or statement concerning the use, occupancy, or suitability of the Leased Premises for Tenant's intended use, or the adequacy or fitness of the Premises for such use. Tenant warrants and represents, for the express benefit of Landlord, that (a) Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Leased Premises for Tenant's intended use; (b) that Tenant assumes all risk with respect thereto; (c) that no oral or written inducements, express or implied, have been made to Tenant to execute this Lease; (d) that in entering into this Lease, Tenant did not rely upon any statement, fact, promise, or representation not specifically set forth herein in writing; and (e) that for purposes of this provision, the foregoing references to Landlord shall include Landlord's agents and employees, if any.

**38. PARTIAL INVALIDITY.** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

**39. SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant, unless the assignment to such assignee has been approved by Landlord as provided above.

**40. CONSTRUCTION OF DOCUMENT.** This Lease has been the subject of negotiation by all parties hereto, and consequently this Lease shall not be construed in favor of or against any party by reason of that party having prepared this Lease or any part hereof.

**41. NO OFFER.** The submission of this Lease by Landlord to Tenant does not constitute a reservation of or an option for the Premises, and this Lease becomes effective as a lease only upon the execution hereof by Landlord and Tenant, and delivery of the executed Lease by Tenant to Landlord, together with one month's rent and the security deposit required by this Lease.

**42. HAZARDOUS AND TOXIC SUBSTANCES.** Tenant shall not use, generate, store or dispose, or give consent to anyone else to use, generate, store or dispose, any hazardous, toxic, or radioactive materials [hereinafter referred to collectively as "Hazardous Materials"]. As herein used, Hazardous Materials shall include, without limitation, those materials identified in Sections 66680 through 66685 of Title 22 of the California Administrative Code Division 4, Chapter 30, as amended from time to time, and those substances defined as "hazardous substances," "hazardous materials," "hazardous waste", or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601 *et seq.*, the Hazardous Materials Transportation Act, 49 USC, Section 1801 *et seq.*, and any other governmental statutes, laws, ordinances, rules, and regulations now or hereafter in effect. Tenant shall indemnify, defend and hold Landlord from and against any and all claims, damages, costs and liabilities, including all foreseeable and unforeseeable consequential



damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant, including, without limitation, the cost of any required or necessary repair, clean up, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant. Neither the written consent by Landlord to the use, generation, storage or disposal of Hazardous Materials nor the strict compliance by Tenant with all statutes, laws, ordinances, rules and regulations pertaining to Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification pursuant to this paragraph. Tenant's obligation pursuant to the foregoing indemnity shall survive the termination of this Lease.

43. **BROKERS' COMMISSIONS.** Tenant represents and warrants that Tenant has not employed any real estate agent or finder and that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant agrees to indemnify, defend, protect and hold Landlord harmless from any and all liabilities, claims, demands, or causes of action arising from any such claim, including attorneys' fees.

44. **JURY WAIVER.** Landlord and Tenant hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.


IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed by their duly authorized representative as of the day and year first written below.

**LANDLORD:**  
O'Neill Sea Odyssey  
By:



DATED: April 21, 2010

**TENANT:**  
Chris Buich, an individual dba State Farm  
Insurance Agency  
By:

Page 17 of 18 

## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("Amendment"), dated for reference purposes only as August 5, 2013, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Chris Buich, an individual dba State Farm Insurance Agency ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 22, 2010 ("Lease"), for certain Premises consisting of 616± square feet and commonly known as 2222 East Cliff Drive, Suite 200, Santa Cruz, California . The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1.6. Base Rent: Year 1: \$1,975/mo Year 2: \$2,050/mo; Year 3: \$2,125/mo, Year 4, August 1: \$2,200/mo and September 1-March 1: \$2,125/mo, April 1: \$2,725/mo and May 1-July 1: \$2,200/mo; Year 5: August 1- March 1: \$2,200/mo, April 1: \$2,875/mo and May 1 - July 1: \$2,275/mo.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year first above written.

**LANDLORD:**

O'Neill Sea Odyssey

By:



DATED: August 5, 2013

**TENANT:**

Chris Buich dba State Farm Insurance Agency

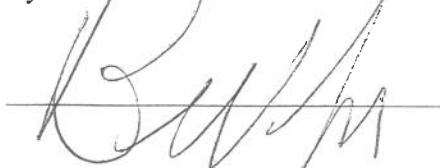
By:



DATED: 8/5, 2013

**SANTA CRUZ PORT DISTRICT**

By:



DATED: 8/27, 20103

### O'Neill Sea Odyssey Building Rental Income by State Farm

	<u>Month</u>	<u>Amount</u>	
<b>State Farm</b>			
	August	2,125.00	<i>2125 year 3 rate</i>
	September	2,125.00	
	October	2,125.00	
	November	2,125.00	
	December	2,125.00	
	January	2,125.00	
	February	2,125.00	
	March	2,125.00	
	April	2,125.00	
	May	2,125.00	
	June	2,125.00	
	July	<u>2,125.00</u>	
<b>Total State Farm</b>		<u><u>25,500.00</u></u>	
<b>TOTAL</b>	<b>Aug 2012 - Jul 2013</b>	<u><u>25,500.00</u></u>	<i>75 monthly increase</i>
	August	2,200.00	<i>2200 year 4 rate</i>
	September	2,125.00	
	October	2,125.00	
	November	2,125.00	
	December	2,125.00	
	January	2,125.00	
	February	2,125.00	
	March	2,125.00	
	April	<u>2,725.00</u>	<i>7 months 525 deferred payment</i>
	May	2,200.00	
	June	2,200.00	
	July	<u>2,200.00</u>	
<b>Total State Farm</b>		<u><u>26,400.00</u></u>	
<b>TOTAL</b>	<b>Aug 2013 - Jul 2014</b>	<u><u>26,400.00</u></u>	<i>75 monthly increase</i>
	August	2,200.00	<i>2275 year 5 rate</i>
	September	2,200.00	
	October	2,200.00	
	November	2,200.00	
	December	2,200.00	
	January	2,200.00	
	February	2,200.00	
	March	2,200.00	
	April	<u>2,875.00</u>	<i>8 months 600 deferred payment</i>
	May	2,275.00	
	June	2,275.00	
	July	<u>2,275.00</u>	
<b>Total State Farm</b>		<u><u>27,300.00</u></u>	
<b>TOTAL</b>	<b>Aug 2014 - Jul 2015</b>	<u><u>27,300.00</u></u>	

Current lease terms	
August	2,200.00
September	2,200.00
October	2,200.00
November	2,200.00
December	2,200.00
January	2,200.00
February	2,200.00
March	2,200.00
April	2,200.00
May	2,200.00
June	2,200.00
July	<u>2,200.00</u>
<b>Total State Farm</b>	<u><u>26,400.00</u></u>
<b>TOTAL</b>	<b>Aug 2013 - Jul 2014</b>
	<u><u>26,400.00</u></u>
August	2,275.00
September	2,275.00
October	2,275.00
November	2,275.00
December	2,275.00
January	2,275.00
February	2,275.00
March	2,275.00
April	2,275.00
May	2,275.00
June	2,275.00
July	<u>2,275.00</u>
<b>Total State Farm</b>	<u><u>27,300.00</u></u>
<b>TOTAL</b>	<b>Aug 2014 - Jul 2015</b>
	<u><u>27,300.00</u></u>

## SECOND AMENDMENT TO LEASE

This Second Amendment to Lease ("Amendment"), dated for reference purposes only as December 16, 2014, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Chris Buich, an individual dba State Farm Insurance Agency ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 22, 2010 ("Lease"), for certain Premises consisting of 616± square feet and commonly known as 2222 East Cliff Drive, Suite 200, Santa Cruz, California. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1.6. Beginning July 31, 2015, base rent will be: Year 1: \$2,350/mo Year 2: \$2,450/mo; Year 3: \$2,550/mo, Year 4: \$2,650/mo and Year 5: \$2,750/mo.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey  
By:



DATED: December 16, 2014

**TENANT:**  
Chris Buich dba State Farm Insurance Agency  
By:



DATED: 12/16, 2014

**SANTA CRUZ PORT DISTRICT**  
By:



DATED: 1/28/15, 2014

### THIRD AMENDMENT TO LEASE

This Third Amendment to Lease ("Amendment"), dated for reference purposes only as May 26, 2020, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Chris Buich, an individual dba State Farm Insurance Agency ("Tenant").

#### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 22, 2010 ("Lease"), for certain Premises consisting of 616± square feet and commonly known as 2222 East Cliff Drive, Suite 200, Santa Cruz, California. Landlord and Tenant entered into the Second Amendment to Lease ("Second Amendment") on December 16, 2014. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in this Third Amendment to Lease ("Third Amendment").

#### AMENDMENT PROVISIONS

1.6. Beginning August 1, 2020 and extended through July 31, 2021, base rent will be: \$2,829.75.15/mo.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as of the date and year first above written.

**LANDLORD:**

O'Neill Sea Odyssey, Rachel Kippen,  
Executive Director  
By:

DATED: May 26, 2020

**TENANT:**

Chris Buich dba State Farm Insurance Agency  
By:

DATED: 5/26, 2020

Chris Buich

**SANTA CRUZ PORT DISTRICT**

Marian Olin, Port Director

By:

DATED: 6/24, 2020

Marian Olin

## FOURTH AMENDMENT TO LEASE

This Fourth Amendment to Lease ("Amendment"), dated for reference purposes only as February 18, 2021, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Chris Buich, an individual dba State Farm Insurance Agency ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 22, 2010 ("Lease"), for certain Premises consisting of 616± square feet and commonly known as 2222 East Cliff Drive, Suite 200, Santa Cruz, California. Landlord and Tenant entered into the Second Amendment to Lease ("Second Amendment") on December 16, 2014. Landlord and Tenant entered into the Third Amendment to Lease ("Third Amendment") on April 14<sup>th</sup>, 2020. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in this Fourth Amendment to Lease ("Fourth Amendment").

### AMENDMENT PROVISIONS

1.6. Beginning August 1, 2021, base rent will be: Year 1: \$ 2,886.35/mo; Year 2: 2,986.35/mo; Year 3: \$3,086.35/mo; Year 4: \$3,186.35/mo; and Year 5: \$3,286.35/mo.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the date and year first above written.

**LANDLORD:**

O'Neill Sea Odyssey, Rachel Kippen,  
Executive Director

By:



DATED: February 18, 2021

**TENANT:**

Chris Buich dba State Farm Insurance Agency

By:



DATED: 2/23, 2021

**SANTA CRUZ PORT DISTRICT**

By:



Marian Olin, Port Director

DATED: 4/28, 2021

DATED: 4/21, 2010

Ce B.P

**SANTA CRUZ PORT DISTRICT:**

By:

DATED: 4/28, 2010

[Signature]

H:\ewn\oneill\sea odyssey\docs\lease agreement 031004wpd.wpd

EXHIBIT "B"

SUBLEASE SUITE 204: LAUREL ANDRES



# LEASE AGREEMENT O'NEILL SEA ODYSSEY BUILDING

**THIS LEASE AGREEMENT** (the "Lease") is entered into this 15th day of April, 2004, in the County of Santa Cruz, State of California, by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Laurel Andres ("Tenant").

For and in consideration of the rents and covenants set forth below, Landlord hereby leases and Tenant takes the Premises described below on the following terms and conditions, including any exhibits and addenda which are attached.

1. **BASIC LEASE PROVISIONS.** The following basic lease provisions are part of this Lease, but are qualified and subject to further definition and clarification in the paragraphs which follow.

1.1. Tenant: Laurel Andres.

1.2. Premises: 2222 East Cliff Drive, Unit 6B, Santa Cruz, California..

1.3. Dimensions: The Premises comprise approximately ~~735~~ square feet. 

1.4. Use of Premises: Business office.

1.5. Lease Term: Thirty-six (36) months, commencing August 1, 2004.

1.6. Base Rent: \$ 735.00 per month.

1.7. Late charges: 6% of unpaid amount, 6 days after due date.

1.8. Security deposit: \$ 735.00.

1.9. Common Area maintenance charges, insurance and taxes: payable monthly as additional rent.

1.10. Anticipated commencement date: August 1, 2004.

2. **PREMISES.** Landlord hereby leases, demises, and rents to Tenant, and Tenant hereby leases and takes from Landlord, the interior space only, as described in Section 1.2 above. The Premises shall have dimensions measuring from the center of any partition wall and to the outside of any exterior wall for a total approximate area as set forth in Section 1.3.

The Premises are a part of a multi-tenant office building (the "Building"), commonly known as O'Neill Sea Odyssey Building, 2222 East Cliff Drive, Santa Cruz, California. Use and

occupancy by Tenant of the Premises shall include the use in common with others of the Common Areas and facilities. Landlord does not warrant, represent or agree that the building or the Common Area will remain exactly as constructed or as presently existing.

3. **MASTER LEASE.** Landlord's interest in the Premises is Lessee under a Master Lease Agreement with the Santa Cruz Port District, a political subdivision, pursuant to a Master Lease Agreement (the "Master Lease"). This lease is subject to all terms and conditions of the Master Lease. In the event any conflict arises between any terms and conditions of this Lease and the Master Lease, the terms and conditions of the Master Lease shall prevail. Tenant acknowledges having previously received a copy of the Master Lease. (Note: should we give them a copy of our lease with the Port District?)

4. **LEASE TERM.** Unless sooner terminated as provided in this Lease, the term of this Lease shall be for a period of thirty-six (36) months. The Lease shall commence (the "Commencement Date") when Landlord delivers possession of the Premises to Tenant which Landlord anticipates will be on or about August 1, 2004. Should Tenant hold over and continue in possession after expiration of the term of this Lease or any extension thereof, Tenant's continued occupation shall be considered a month-to-month tenancy subject to all the terms and conditions of this lease.

5. **DELAY AND DELIVERY OF POSSESSION.** If Landlord is unable to deliver possession of all or part of the Premises to Tenant on the date originally anticipated as a result of circumstances beyond Landlord's control, no rent shall accrue or become due under this Lease for the portion not delivered until actual physical possession is delivered and tendered to Tenant. Should Landlord be unable to deliver possession of all of the Premises to Tenant within 180 days after the anticipated Commencement Date specified in Paragraph 1.10 above, Tenant may terminate this Lease by giving Landlord written notice of Tenant's election to do so, and in such event this Lease shall become null and void, and Landlord shall forthwith refund to Tenant any consideration given to Landlord pursuant to execution of this Lease.

6. **ACCEPTANCE OF PREMISES.** After Landlord delivers possession of the Premises to Tenant and Tenant takes occupancy of the Premises, Tenant shall have no legal or equitable remedy based upon a claim that Landlord failed to deliver possession in accordance with the terms of this Lease or based on a claim that the size, location, lay-out, dimensions, or construction of the Building, or service areas, sidewalks, and adjacent parking were not completed or furnished in accordance with the terms of this Lease.

7. **BASE RENT.** Tenant shall pay the Landlord for the use and occupancy of the Premises Base Rent as set forth in Section 1.6, payable in advance on the first day of each month of the lease term.

8. **TAXES, INSURANCE AND COMMON AREA CHARGES.** In addition to the Base Rent required under the terms of this Lease, Tenant shall pay to Landlord as additional rent, without deduction, set off or abatement, the following additional charges, the nonpayment of which shall be subject to all provisions of this Lease and of law as to default in the payment of rent:

a. Tenant's proportionate share of all direct costs and expenses of every kind and nature paid or incurred by Landlord in operating and maintaining the Common Areas, including a

reasonable fee for managing and administering the common area;

b. Tenant's proportionate share of all real estate taxes, governmental fees, and assessments of every kind and nature levied against or in connection with the land, building, or improvements of which the premises are a part; and,

c. Tenant's proportionate share of the cost of all insurance obtained by Landlord in connection with the Building of which the premises are a part, not otherwise covered under common area expenses, including without limitation, all premiums for fire, extended coverage and public liability.

Tenant's proportionate share of the foregoing charges shall be 6%. Tenant's share of the foregoing charges shall be paid in monthly installments on the first day of each month in an amount to be estimated from time to time by Landlord. On or before each February 1, Landlord shall furnish to Tenant a statement of the actual amount of Tenant's proportionate share of such expenses for the preceding calendar year. Within 30 days after delivery of such statement, Tenant shall pay to Landlord or Landlord shall remit to Tenant, as the case may be, the difference between the estimated amounts paid by Tenant and the actual amounts of such charges for the preceding calendar year. For purposes of calculating the actual charges for any partial year, the total charges shall be prorated based twelve 30-day months.

**9. LATE CHARGES AND DISHONORED CHECKS.** If any rent payment otherwise due is not received by Landlord by the sixth (6th) day of the month such payment is due, in addition to the provisions for default in Paragraph 30 below, there shall be added thereto, as additional rent, an amount equal to six per cent (6%) of the amount due. No notice or demand shall be required for said additional rent to become due and payable. In the event that any check or other instrument tendered by Tenant is dishonored, in addition to late charges as specified above, Tenant shall pay an additional fee of \$20.00 to reimburse Landlord for administrative costs incurred in connection with such dishonored instrument.

**10. COMMON AREAS.** Landlord grants to Tenant and Tenant's patients and invitees the nonexclusive right to use, in common with all others to whom Landlord has or may hereafter grant rights to use the same, the Common Areas located within the Building. The term "Common Areas" as used in this Lease, shall include without limitation the parking areas, roadways, access roads, pedestrian sidewalks, pedestrian malls, hallways, stairs, elevators, common bathrooms, corridors, loading docks, delivery areas, ramps, landscaped areas, retaining walls, and all other areas or improvements which may be provided by Landlord for the common use of the tenants of the Building. The Common Areas shall at all times be subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the Common Areas and all facilities situated thereon. Landlord shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other facilities herein referred to; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Landlord's counsel, be necessary to prevent a dedication thereof or the accrual of any rights by any person or the public thereof; to close temporarily all or any portion

of the parking areas or facilities; and to do and perform such other and further acts in and to said areas and improvements as, in the use of good business judgment, Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees, and patients. Landlord shall operate, manage, equip, light, repair and maintain said Common Areas owned by Landlord for their intended purposes in such manner as Landlord shall at Landlord's sole discretion determine and Landlord may from time to time change the size, location, nature and use of said Common Areas and may make installations therein and move and remove the same.

11. **USE OF PREMISES.** The Premises shall be used for the sole purpose of operating a business offices, and for such purposes as may be reasonably incidental thereto, and none other. Tenant further agrees:

A. To comply with all requirements of any state or Federal statute, or local ordinance or regulation, applicable to Tenant or its use of the Premises, and to save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to do so.

B. To give to Landlord prompt written notice of any accident, fire or damage occurring on, or to, the Premises and the Common Areas of the Building.

C. To make such arrangements as Landlord may reasonably require from time to time for the storage and disposal of all garbage and refuse.

D. To keep the Premises in good condition and repair, and clean, orderly, sanitary, and free from objectionable odors, litter and debris, and from insects, vermin, and other pests.

E. To comply with any and all reasonable rules and regulations of Landlord in connection with the Premises or the Building which are now or hereafter in effect.

F. To install such fire extinguishers and other safety equipment as Landlord may require and to comply with the recommendations of Landlord's insurance carriers and their rate-making bodies.

G. To refrain from doing each and every one of the following:

(1) Using the Premises in any manner which, in Landlord's opinion, is, or may be, harmful to the Building or disturbing to other tenants in the Building;

(2) Using the Premises in any manner which would make void or voidable any policy of fire or extended coverage insurance covering any of the Building buildings, and if by reason of any use by Tenant of the Premises or the keeping by Tenant of any item or material in the Premises, the hazard insurance premiums on policies maintained by Landlord shall be increased over normal rates for retail stores in the Building, the amount of the increase in the premium shall be paid to Landlord by Tenant on demand;

(3) Causing or permitting any noxious, disturbing or offensive odors, fumes or gases, or any smoke, dust, steam or vapors, or any loud or disturbing noise or vibrations to originate in or be emitted from the Premises;

(4) Committing or suffering to be committed by any person any waste upon the Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the Building, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Building;

12. **UTILITIES.** Tenant shall pay all utility costs incurred in connection with Tenant's occupation and use of the Premises, including, without limitation, water, gas, electricity, sewer, garbage removal, and other utility services, and all utility taxes levied in connection with utilities used on the Premises. Landlord shall not be responsible nor liable in any way whatsoever for the quality, impairment, interruption, or stoppage of utilities, or for interference with or stoppage of any service with or without notice to Tenant. Tenant's proportionate share of all utilities not separately metered shall be same percentage set forth for taxes, insurance, and common area charges.

13. **NO JOINT VENTURE.** It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture or agency relationship between Landlord and Tenant or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party. Neither the method of computation of any rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord or Tenant, and Tenant shall take or suffer no action which might lead a third person to believe otherwise. It is both a fact and it is understood between the parties that Landlord shall not be liable for any debts incurred by Tenant in the conduct of Tenant's business.

15. **MAINTENANCE AND REPAIR.** From and after the time Tenant obtains possession of the Premises, Landlord shall have no obligation to make any repairs, improvements, or alterations whatsoever to the interior of the Premises, except to the extent necessitated by the negligence or misconduct of Landlord. Landlord shall maintain in good and substantial repair during the Lease term, the exterior of the building in which the Premises are located (including the roof and exterior walls, but not glass, plate glass, or doors) and paved parking and other Common Areas, except to the extent that the damage thereto is caused by negligence or misconduct of Tenant, in which event Tenant shall be responsible therefore. As provided above, Tenant shall at Tenant's own cost and expense, keep and maintain all interior portions of the Premises in good order and repair and in as safe and clean a condition as they were when received by Tenant, reasonable use and wear excepted. Said obligations shall include maintenance of exterior entrances, all partitions, doors, door jambs, door closers, door hardware, fixtures, equipment and appurtenances thereof, and plumbing, electrical, lighting, and heating systems which protrude into the Premises and all other portions of the building in which the Premises are situated except as provided in the following paragraph. Tenant shall at Tenant's sole cost and expense repair and replace the glass in any display window on the Premises that becomes broken, regardless of cause. If Tenant refuses or neglects to repair items properly required under this paragraph as soon as reasonably possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or the Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs, plus 10% for Landlord's overhead and supervision.

16. **ALTERATIONS.** Tenant shall not have the right to make any alterations, improvements or additions to the Premises without first obtaining the Landlord's written consent. Tenant shall present to Landlord plans and specifications for such work at the time consent is sought. Tenant shall not cause or permit any lien to be placed on or accrue upon the Premises or any part thereof by reason of anything done or omitted to be done upon said Premises by or with the permission of Tenant. All alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Tenant or any other person shall be the property of Landlord, and upon termination of this Lease shall remain upon and be surrendered with the Premises as a part thereof; or, alternatively, Landlord may, at its option, upon the expiration of the Lease, require that Tenant at Tenant's expense to remove all such alterations, improvements and additions, and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. Any floor covering affixed to the floor of the Premises shall be and become the property of Landlord.

17. **TENANT IMPROVEMENTS.** Landlord shall deliver the Premises to Tenant with all perimeter walls taped and textured, with basic electrical service and lighting fixtures to the minimum standards required by code, and with Landlord's basic floor coverings. Painting, electrical, lighting, or floor covering upgrades, or other tenant improvements or upgrades, shall be completed by Tenant at Tenant's sole cost and expense, subject to the provisions of the preceding Paragraph 16.

18. **INSTALLATION AND REMOVAL OF TRADE FIXTURES.** Tenant at Tenant's sole cost and expense may install in the Premises such fixtures and equipment not permanently affixed to the realty as Tenant deems advisable, and may remove the same from the Premises at any time during the term of this Lease; provided, however, that no injury shall be done to the structural strength of the building when said fixtures or equipment are removed, and the building shall be restored to substantially its original condition. Any trade fixtures not removed from said Premises by Tenant prior to the expiration or sooner termination of this Lease shall be deemed abandoned by Tenant and shall become the property of Landlord. Landlord shall not be liable for trespass, conversion or negligence by reason of its acts or acts of anyone claiming under it or by reason of the negligence of any person with respect to acquisition and/or disposition of such property.

19. **INSPECTION AND ACCESS TO PREMISES.** Landlord expressly reserves the following rights: (a) to enter the Premises at reasonable times to examine or to make such repairs, additions or alterations as it may deem necessary for the safety, improvement or preservation thereof, or of the building in which the Premises are located, or of the Building, but Landlord assumes no obligation to make repairs to said Premises or said building or the Building other than as expressly stated in this Lease; (b) should Tenant fail to exercise, or not be entitled to exercise, the option to renew as provided below, Landlord shall have the right to enter the Premises and display a notice or sign "for rent" at any time within three (3) months prior to the expiration of this Lease, and to maintain the same as placed; (c) during or after the time Tenant should abandon or vacate the Premises or otherwise default hereunder, to enter and decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy; and (d) to install upon

the roof and exterior walls of the Premises such signs, displays, antenna and other objects or structures as Landlord shall deem necessary or appropriate for the promotion, operation, expansion, maintenance or repair of the Building. The exercise of any reserved right by Landlord shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises and shall never render Landlord liable in any manner to Tenant or to any other person. Tenant shall permit Landlord and its agents to erect, use, maintain and repair conduits, plumbing, vents, wires and equipment into, under, and through the Premises. All such work and installations shall be done so as not to unnecessarily interfere with Tenant's use of the Premises.

20. **SIGNS.** Except as otherwise set forth in this Lease, Tenant shall have the right, subject to the requirements of the County of Santa Cruz, to provide and install a storefront sign in accordance with the Building sign program. Except as thus provided, Tenant shall not place or suffer to be placed or maintained on any exterior door, roof, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises, without first obtaining Landlord's written approval and consent. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times and to remove the same at the end of the Term if requested by Landlord to do so. Upon removal thereof, Tenant agrees to repair any damage to the Premises caused by such installation.

#### 21. **DESTRUCTION OF PREMISES.**

A. If the Premises shall be partially or totally destroyed by fire or other casualty covered under a full standard extended risk insurance policy so as to become partially or totally untenable, the same shall be repaired or rebuilt as speedily as practical under the circumstances at the expense of Landlord, unless Landlord elects not to repair or rebuild as provided in Subparagraph "B" of this clause; and, during the period required for restoration, a just and proportionate part of Base Rent shall be abated until the Premises are repaired or rebuilt.

B. If the Premises are (i) rendered substantially untenable by reason of such occurrence; or (ii) damaged or destroyed during the last three (3) years of the Term; or (iii) damaged or destroyed as a result of a risk which is not insurable under full standard extended risk insurance; or (iv) if the building of which the Premises are a part is damaged (whether or not the Premises are damaged) to the extent of fifty percent (50%) or more of its then monetary value; or (v) if the other buildings or Common Areas which then comprise the Building are damaged to such an extent that the Building cannot, in the sole judgment of the Landlord, be operated economically as an integral unit, then and in any such events Landlord may at its option terminate this Lease as of the date of the occurrence, by notice in writing to the Tenant. Unless Landlord gives such notice, this Lease will remain in full force and effect and Landlord shall repair such damage at its expense as expeditiously as possible under the circumstances.

C. If Landlord should elect or be obligated to repair or rebuild because of any damage or destruction, Landlord's obligation shall be limited to the basic building and any other work of improvements which may have been originally performed or installed at Landlord's expense. If the cost of performing Landlord's obligation would exceed the actual proceeds of insurance paid or payable to Landlord on account of such casualty, Landlord may at its option terminate this

Lease. Tenant shall replace all work and improvements originally installed or performed by Tenant at its expense.

D. If the Premises are rendered substantially untenable by reason of such occurrence, Tenant may at its option terminate this Lease as of the date of the occurrence, by notice in writing to Landlord.

## 22. CONDEMNATION.

A. If title to all of the Premises is taken for any public or quasi-public use by eminent domain or by private purchase in lieu thereof, or if in Landlord's judgment title to so much of the Premises is so taken that a reasonable amount of reconstruction thereof will not result in the Premises being a practical improvement and reasonably suitable for use for the purpose for which the Premises are leased, then, in either event, this Lease shall terminate on the date that title vests in the condemning authority. This Lease shall not, however, terminate under this provision unless more than ten percent (10%) of the floor area of the Premises is so taken.

B. If title to (i) twenty percent (20%) or more of the ground floor area of the buildings in the Building or (ii) fifty percent (50%) or more of the parking area required to be maintained by Landlord is so taken, and if Landlord within one (1) year after such taking does not substitute for the (I can't delete this line) parking area so taken a sufficient number of parking spaces in a location reasonable accessible to the Premises to increase the parking areas remaining to at least seventy percent (70%) of the parking provided prior to the taking, then, either Landlord or Tenant shall have the option to terminate this Lease by notice in writing given to the other within thirty (30) days after taking or within thirty (30) days after the expiration of the one (1) year period, as the case may be. Notwithstanding anything to the contrary contained herein, if a taking of a portion of the parking area results in a violation of or noncompliance with governmental requirements for parking, then Landlord may elect to terminate this Lease by giving the notice described herein.

C. If this Lease is terminated under this Section, all rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no claim for the value of its leasehold estate or for the value of the unexpired Term of Lease, or for any other matter whether the same be of a direct or consequential nature.

D. If there is a partial taking of the Premises or the Building and this Lease is not thereby terminated under the provisions of this Article, then this Lease shall remain in full force and effect, and the Landlord shall, within a reasonable time thereafter, repair and restore the remaining portion of the Premises to the extent necessary to render the same reasonably suitable for the purposes for which the Premises were leased, and shall repair or reconstruct the remaining portion of the Building to the extent necessary to make the same a complete architectural unit; provided that such work shall not exceed the scope of the work required to be done by Landlord in originally constructing such buildings and the cost thereof shall not exceed the proceeds of the condemnation award paid to Landlord.

E. All compensation awarded or paid upon a total or partial taking of the Premises or the Building shall belong to and be the property of the Landlord without any participation by Tenant.



Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, damage to, and cost of removal of trade fixtures, furniture and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

F. After any partial taking of the Premises which does not result in a termination of this Lease, Base Rent for the remainder of the Term shall be reduced by the same percentage as the ground floor area of the space taken bears to the ground floor area of the entire Premises prior to such taking.

**23. LIABILITY AND INDEMNITY.** Landlord shall not be liable to Tenant for any damage arising from unforeseeable acts or negligence of other tenants or occupants of the Building. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by (i) any act, omission or negligence of Tenant or any subtenant of Tenant, or their respect contractors, licensees, invitees, agents, servants or employees, wheresoever the same may occur, or (ii) any use of the Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Premises, or any part thereof, and any service delivery facilities of any other portions of the Building used by Tenant, excluding such claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by, Landlord's active negligence or willful misconduct.

**24. LIABILITY INSURANCE.** Tenant shall, at Tenant's expense, obtain and keep in full force during the term of this Lease or any extensions thereof, a policy of comprehensive general liability insurance including contractual liability coverage, insuring Tenant and Landlord, against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than One Million Dollars (\$1,000,000.00) for combined single limit bodily injury and property damage coverage. The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to procure and maintain same, and at the expense of Tenant. Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein, or certificates evidencing the existence and amounts of such insurance, with loss payable clauses satisfactory to Landlord. No policy shall be cancelable, or subject to reduction of coverage without thirty (30) days' notice to Landlord at the address indicated below. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry, shall name any lender of Landlord of which Tenant has knowledge as an additional insured, and shall be written by a company or companies rated A+, AAA, or better in "Best's Insurance Guide".

**25. WAIVER OF SUBROGATION.** Each of the parties hereto waives any and all rights of recovery against the other or against any other tenant or occupant of the subject Premises or against the officers, employees, agents, representatives, patients and business visitors of such other party or of such other tenant or occupant of the subject Premises for loss of or damage to such waiving party or its property or the property of others under its control, arising from any

cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other policy of insurance carried by such waiving party in lieu thereof, to the extent such loss or damage is insured against by such policy. Such waiver shall not be binding on either party unless the same is permitted by each party's insurance carrier without the payment of additional premium.

**26. ASSIGNMENT AND SUBLETTING.** Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's employees) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. If Tenant desires to make such an assignment, encumbrance, sublease or permit another person or entity to occupy or use part or all of the Premises, Tenant shall notify Landlord in writing by certified mail of such intent setting forth in detail all particulars of the proposed transaction, including adequate credit, financial, personal and business information on any person or entity involved in the proposed transaction. After the expiration of thirty (30) days from receipt of all items of information specified above, Tenant shall be entitled to proceed with the proposed assignment, encumbrance, sublease or additional occupancy, unless Landlord in the reasonable exercise of Landlord's judgment disapproves of the proposed assignee, sublessee, or occupant, on one or more of the following grounds:

- A. that the proposed use of the Premises conflicts or is incompatible with existing uses of the Building;
- B. that the proposed assignee, sublessee, or occupant's financial or credit ability or reputation is unsatisfactory;
- C. that the business or personal reputation of the proposed assignee, sublessee, or occupant is unsatisfactory;
- D. that the quality of previous or proposed business operations of the proposed assignee, sublessee, or occupant is unsatisfactory;
- E. that the business experience of the proposed assignee, sublessee, or occupant is unsatisfactory;
- F. that other factors or circumstances exist which Landlord reasonably believes would render occupancy of all or part of the Premises by the proposed assignee, sublessee, or occupant detrimental to the Building or to other businesses situated in the vicinity.

If Tenant is a corporation, an unincorporated association, or a partnership, any transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership in the aggregate in excess of 25% shall be deemed an assignment within the meaning of this section.

Tenant shall reimburse Landlord for attorneys' fees reasonably paid or incurred by Landlord in connection with any proposed assignment, encumbrance, sublease, or occupancy pursuant to this section.

In the event of any assignment, encumbrance, sublease, or occupancy pursuant to this section, the provisions of this section shall apply to any further proposals to assign, sublease, encumber or allow any other person or entity to use all or part of the Premises.

Landlord may collect rent from any assignee, subtenant or occupant of all or any part of the Premises, and may apply the net amount collected to the rent required under the terms of this Lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this section, or the acceptance of the assignee, subtenant, or occupant as tenant, or a release of Tenant from the further performance by Tenant of the covenants on the part of Tenant herein contained. Tenant shall in no event be relieved of any liability or responsibility by reason of any assignment, sublease, encumbrance or change in occupancy.

**27. LENDERS AND SUCCESSORS TO LANDLORD.** Tenant agrees that this Lease shall be subordinate to any mortgages, trust deed, or other security of which Tenant is given written notice, now or hereafter encumbering the land and buildings of which the Premises are a part or upon any buildings hereafter placed upon the land of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, any such mortgage, deed of trust, or other security instrument shall contain a provision to the effect that so long as Tenant is not in default under this Lease or any renewal thereof, no foreclosure of the mortgage, deed of trust, or other security instrument, or any other proceeding in respect thereof, shall divest, impair, modify, abrogate, or otherwise adversely affect any interests or rights whatsoever of Tenant under this Lease. This shall be self-operative and no further instrument of subordination shall be required, provided, however, the Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver any document or instrument that may be required by a lender to effectuate any subordination. If Tenant without reasonable cause fails to execute and deliver any such document or instrument, Landlord will have the right to take such action as Landlord may be permitted otherwise to exercise under this Lease including the right to terminate this Lease.

Within thirty (30) days after receipt of a written request therefore by Landlord, Tenant agrees to execute and deliver in recordable form an estoppel certificate to any mortgagee or proposed mortgagee or purchaser to the Landlord certifying (if such be the case) that this Lease is unmodified and in full force and effect (and if there has been modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by the Tenant; and stating the date to which rentals and other charges are paid. Such certificate shall also include such other information as may be reasonably required. The failure by the Tenant to deliver any such certificate within thirty (30) days shall be conclusive upon the Tenant that this Lease is in full force and effect and has not been modified except as may be represented by Landlord. Notices of any default by Landlord shall be given by Tenant to any mortgagee of whom Tenant has been notified in writing, and said mortgagee shall have the right but not the obligation to cure said default.

Tenant shall attorn and be bound to any of Landlord's successors under all the terms, covenants and conditions of this Lease for the balance of the Lease Term.

28. **SURRENDER OF PREMISES.** Upon the expiration of the Lease Term, Tenant shall surrender the Premises to Landlord in as good order and condition as at the Commencement of Lease Term (except for ordinary wear and tear) together with all additions, alterations and improvements which may have been made in or to the Premises. Landlord may, at its option, require the Tenant at the Tenant's expense to remove all such alterations, improvements and additions and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. In the event Tenant continues to occupy the Premises after the expiration of the Lease Term, without being given or being entitled to renewal or a new lease, such occupancy shall be considered a tenancy from month-to-month at a monthly rental equal to the rent payment due for the last month of the Lease Term including but not limited to Base Rent, as adjusted in accordance with Paragraph 8 above, Taxes, Insurance, Advertising and Marketing Expense, and all other rents due and payable by Tenant to Landlord. This provision shall not give Tenant any right to continue occupancy following the expiration of this Lease except with the written consent of Landlord. Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any succeeding occupant of the Premises for such delay.

29. **INSOLVENCY OF TENANT.** Tenant agrees that in the event all or substantially all of the Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of thirty (30) days, or should Tenant make an assignment for the benefit of creditors or be adjudicated a bankrupt, or should Tenant institute any proceedings under the bankruptcy act or under any amendment thereof which may hereafter be enacted, or under any other act relating to the subject of bankruptcy wherein Tenant seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition, arrangement or reorganization, or should any involuntary proceeding be filed against Tenant under any such bankruptcy laws and Tenant consent thereto or acquiesce therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset in any of such proceedings, and, in any such event and in addition to any and all rights and remedies of Landlord hereunder or by law provided, it shall be lawful for Landlord to declare the term hereof ended and to reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or hereunder.

30. **ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein provided shall be deemed to be other than on account of the earliest rent due and payable hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other proper remedy.

31. **DEFAULT AND REMEDIES.** The occurrence of any of the following shall constitute a default under this Lease:

A. Tenant's failure to pay rent or to make any other payment required to be made by Tenant hereunder when due, which failure continues for ten (10) days after written notice thereof.

B. Abandonment or vacation of the Premises by Tenant, for any purpose except remodeling or restoration for a time period approved by Landlord.

C. Tenant's failure to cause to be released any mechanic's or materialmen's liens filed against the Premises within ten (10) days after the date the same shall have been filed.

D. Tenant's failure to observe or perform any other provision of this Lease to be observed or performed by Tenant, other than those described in Subparagraphs A, B, and C above, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such failure cannot reasonably be cured within such thirty-day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

E. The insolvency of Tenant or the execution by Tenant of an assignment for the benefit of creditors; the filing for reorganization or arrangement under any law relating to bankruptcy or insolvency; or, the appointment of a receiver or trustee to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease.

In the event of any default by Tenant hereunder, then, in addition to any other remedies available to Landlord at law or in equity, Landlord may at its option terminate this Lease and recover damages from Tenant, including (a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; (b) 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; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

Alternatively, in the event of such default, Landlord may elect not to terminate the Lease and Landlord may enforce rights and remedies under the Lease, including the right to recover rent as it becomes due. In the event Landlord terminates the Lease, Landlord shall have the right to reenter and take possession of the Premises, to remove all persons and property therefrom, which property may be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant, and to relet the Premises, or any part thereof, for the account of Tenant, for such term and upon such conditions and at such rent as Landlord at its sole discretion may deem proper. To the fullest extent permitted by law, the proceeds of any reletting shall be applied as follows: first, to pay Landlord all costs and expenses of such reletting (including without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new tenants, and if Landlord shall maintain and operate the Premises, the cost thereof); second, to pay any indebtedness of Tenant to Landlord other than rent; third, to the rent due and unpaid hereunder; fourth, the residue, if any, shall be held by Landlord and applied in payment of any other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of such revenue.

Nothing in this paragraph shall be deemed to affect Landlord's right to indemnification for liabilities arising prior to termination of this Lease for personal injury or property damage under

the indemnification clause or clauses contained in this Lease.

No reentry or reletting of the Premises shall be construed as an election by Landlord to terminate either Tenant's right to possession or this Lease unless a written notice of such intention is given by Landlord to Tenant and notwithstanding any such reletting without such termination, Landlord may at any time thereafter elect to terminate Tenant's right to possession in this Lease.

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any set-off or abatement of rent. If Tenant shall fail to pay any sum of money, other than rent, required to be paid hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue beyond any applicable grace period set forth above, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make on Tenant's behalf any such payment or perform any such other act to be made or performed by Tenant as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs, together with interest thereon at the maximum legal rate permitted by the laws of California, to the date the default is cured, shall be payable to Landlord on demand, and Tenant covenants to pay any such sum. Landlord shall have, in addition to any other right or remedy of Landlord, the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rent.

All remedies given to Landlord in this Lease shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter at law or in equity.

**32. TENANT'S PROPERTY.** Tenant agrees to insure the contents of the Premises against fire, theft, vandalism, and such other hazards as are readily insurable under a normal "fire and extended coverage" policy, and to provide Landlord with a copy of such policy or any policies, and any modifications or replacements thereto, within thirty (30) days of execution of this Lease. Tenant shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon, or about the Premises by Tenant. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any damage to property of Tenant or of others located on the Premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks from any part of the Premises, or the Common Areas, or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the Premises, occupants of adjacent property, of the Common Area, or the public, or caused by operations and construction of any private, public or quasi-public work. Landlord shall not be liable for any latent defect in the Premises or in the building of which they form a part. All property of Tenant kept or stored on the Premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold Landlord harmless from any claims arising out of such damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Landlord, and through no fault of Tenant.

33. **WAIVER.** The failure of Landlord to insist in any one or more instances upon a strict performance of any of the covenants or agreements in this Lease or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant, agreement, or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

34. **LEGAL EXPENSES.** Tenant shall pay to Landlord all amounts for reasonable attorneys' fees incurred by Landlord in connection with any breach or default under this Lease or incurred in order to enforce the terms or provisions hereof. Such amount shall be payable upon demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any of its rights or remedies in or under this Lease, the prevailing party shall be entitled to recover from the other party, all costs incurred by said prevailing party in said action, including reasonable attorneys' fees to be fixed by the court therein.

35. **NOTICES.** Any notice, demand, request or other document or instrument which may be or is required to be given under this Lease shall be given only in writing and shall be deemed delivered if sent by United States certified, postage prepaid mail, return receipt requested, or by a national overnight delivery service, and shall be addressed (i) if to Landlord, to 2222 East Cliff Drive, #1B, Santa Cruz, California, 95062; and (ii) if to Tenant, at the address set forth in Section 1.2 above. Notices shall be effective upon deposit with reputable overnight delivery services or in the United States mails in accordance with the above provisions. Each party may designate such other address as shall also be given by such written notice. Other modes of delivery may also be utilized, provided such other delivery service can provide a proof of delivery.

36. **TIME OF ESSENCE.** Time is of the essence of this Lease. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that the failure to timely perform any of the obligations hereof by either party shall constitute a breach of and a default under this Lease by the party so failing to perform.

37. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and to the Premises, and supersedes all prior and contemporaneous leases, agreements, representations, and understandings of the parties. No supplement, modification, or amendment shall be binding unless executed in writing by all of the parties. Landlord makes no guarantee, warranty, representation, agreement, or statement concerning the use, occupancy, or suitability of the Leased Premises for Tenant's intended use, or the adequacy or fitness of the Premises for such use. Tenant warrants and represents, for the express benefit of Landlord, that (a) Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Leased Premises for Tenant's intended use; (b) that Tenant assumes all risk with respect thereto; (c) that no oral or written inducements, express or implied, have been made to Tenant to execute this Lease; (d) that in entering into this Lease, Tenant did not rely upon any statement, fact, promise, or representation not specifically set forth herein in writing; and (e) that for

purposes of this provision, the foregoing references to Landlord shall include Landlord's agents and employees, if any.

38. **PARTIAL INVALIDITY.** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

39. **SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant, unless the assignment to such assignee has been approved by Landlord as provided above.

40. **CONSTRUCTION OF DOCUMENT.** This Lease has been the subject of negotiation by all parties hereto, and consequently this Lease shall not be construed in favor of or against any party by reason of that party having prepared this Lease or any part hereof.

41. **NO OFFER.** The submission of this Lease by Landlord to Tenant does not constitute a reservation of or an option for the Premises, and this Lease becomes effective as a lease only upon the execution hereof by Landlord and Tenant, and delivery of the executed Lease by Tenant to Landlord, together with one month's rent and the security deposit required by this Lease.

42. **HAZARDOUS AND TOXIC SUBSTANCES.** Tenant shall not use, generate, store or dispose, or give consent to anyone else to use, generate, store or dispose, any hazardous, toxic, or radioactive materials [hereinafter referred to collectively as "Hazardous Materials"]. As herein used, Hazardous Materials shall include, without limitation, those materials identified in Sections 66680 through 66685 of Title 22 of the California Administrative Code Division 4, Chapter 30, as amended from time to time, and those substances defined as "hazardous substances," "hazardous materials," "hazardous waste", or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601 *et seq.*, the Hazardous Materials Transportation Act, 49 USC, Section 1801 *et seq.*, and any other governmental statutes, laws, ordinances, rules, and regulations now or hereafter in effect. Tenant shall indemnify, defend and hold Landlord from and against any and all claims, damages, costs and liabilities, including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant, including, without limitation, the cost of any required or necessary repair, clean up, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant. Neither the written consent by Landlord to the use, generation, storage or disposal of Hazardous Materials nor the strict compliance by Tenant with all statutes, laws, ordinances, rules and regulations pertaining to



Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification pursuant to this paragraph. Tenant's obligation pursuant to the foregoing indemnity shall survive the termination of this Lease.

43. **BROKERS' COMMISSIONS.** Tenant represents and warrants that Tenant has not employed any real estate agent or finder and that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant agrees to indemnify, defend, protect and hold Landlord harmless from any and all liabilities, claims, demands, or causes of action arising from any such claim, including attorneys' fees.

44. **JURY WAIVER.** Landlord and Tenant hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant,

Tenant's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

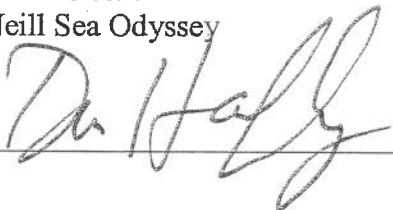
IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed by their duly authorized representative as of the day and year first written below.

DATED: 5/17, 2004

**LANDLORD:**

O'Neill Sea Odyssey

By:




DATED: Apr 14, 2004

**TENANT:**

By:



H:\ewn\oneill\sea odyssey\docs\lease agreement 031004wpd.wpd

  
SCP D.  
6.14.04

## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("First Amendment"), dated for reference purposes only as April 5, 2007, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Laurel Andres, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 15, 2004 ("Lease"), for certain Premises consisting of 210± square feet and commonly known as 2222 East Cliff Drive, Suite 204, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from August 1, 2007, until it expires on July 31, 2010 ("New Term").

2. **Base Rent.**

<u>Months</u>	<u>Rental Rate/SF/MO/NNN</u>
New Term	\$3.61/sq.ft./\$758.10/mo.*
	*Include SJ/Oakland CPI increase of 3.2%

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this First Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this First Amendment, the terms and conditions of this First Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this First Amendment.

3.3 **Counterparts.** If this First Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this First Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this First Amendment on behalf of the partnership and/or corporation and that this First Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This First Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

DATED: 4/13, 2007

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By: [Signature]  
Its: Executive Director

DATED: 4-13, 2007

**TENANT:**  
Laurel Andres

[Signature]

DATED: 4-25-07, 2007

**SANTA CRUZ PORT DISTRICT**  
By:

[Signature]  
Its: PORT DIRECTOR

## SECOND AMENDMENT TO LEASE

This First Amendment to Lease ("First Amendment"), dated for reference purposes only as April 1, 2010, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Laurel Andres, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 15, 2004 ("Lease"), for certain Premises consisting of 210± square feet and commonly known as 2222 East Cliff Drive, Suite 204, Santa Cruz, California ("Premises"). A First Amendment was executed on June 7, 2007 ("First Amendment").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from August 1, 2010, until it expires on July 31, 2013 ("New Term").

2. **Base Rent.**

<u>Months</u>	<u>Rental Rate/SF/MO/NNN</u>
New Term	\$3.61/sq.ft./\$758.10/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this First Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this First Amendment, the terms and conditions of this First Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Second Amendment.

3.3 **Counterparts.** If this Second Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Second Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this First Amendment on behalf of the partnership and/or corporation and that this First Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Second Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

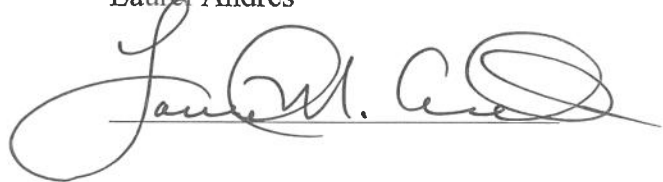
By:



DATED: April 1, 2010

Its Executive Director

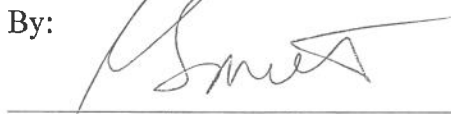
**TENANT:**  
Laurel Andres



DATED: 4/1, 2010

**SANTA CRUZ PORT DISTRICT**

By:



DATED: 4/20, 2010

Its:



## THIRD AMENDMENT TO LEASE

This Third Amendment to Lease ("First Amendment"), dated for reference purposes only as May 10, 2013, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Laurel Andres, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 15, 2004 ("Lease"), for certain Premises consisting of 210± square feet and commonly known as 2222 East Cliff Drive, Suite 204, Santa Cruz, California ("Premises"). A First Amendment was executed on June 7, 2007 ("First Amendment") and a second amendment was executed on April 1, 2010 ("Second Amendment").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from August 1, 2013, until it expires on July 31, 2016 ("New Term").

2. **Base Rent.**

<u>Months</u>	<u>Rental Rate/SF/MO/NNN</u>
New Term	\$3.70/sq.ft./\$777/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Third Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Third Amendment, the terms and conditions of this Third Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Third Amendment.

3.3 **Counterparts.** If this Third Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Third Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Third Amendment on behalf of the partnership

and/or corporation and that this Third Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Third Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

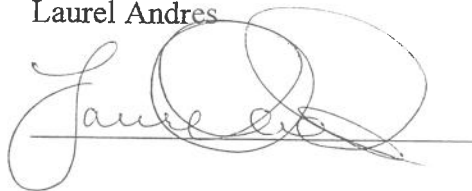
By:



DATED: May 10, 2013

Its Executive Director

**TENANT:**  
Laurel Andres



DATED: May 22, 2013

**SANTA CRUZ PORT DISTRICT**

By:

  
Its: BOB DIRECTOR

DATED: 6/3, 2013

## FOURTH AMENDMENT TO LEASE

This Fourth Amendment to Lease ("Fourth Amendment"), dated for reference purposes only as May 30, 2016, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Laurel Andres, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 15, 2004 ("Lease"), for certain Premises consisting of 210± square feet and commonly known as 2222 East Cliff Drive, Suite 204, Santa Cruz, California ("Premises"). A First Amendment was executed on June 7, 2007 ("First Amendment") and a Second amendment was executed on April 1, 2010 ("Second Amendment") and a Third Amendment was executed on May 10, 2013.

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from August 1, 2016, until it expires on July 31, 2019 ("New Term").

2. **Base Rent.**

<u>Months</u>	<u>Rental Rate/SF/MO/NNN</u>
New Term	\$3.80/sq.ft./\$798/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Fourth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Fourth Amendment, the terms and conditions of this Fourth Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Fourth Amendment.

3.3 **Counterparts.** If this Fourth Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Third Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Third Amendment on behalf of the partnership



and/or corporation and that this Third Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Fourth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

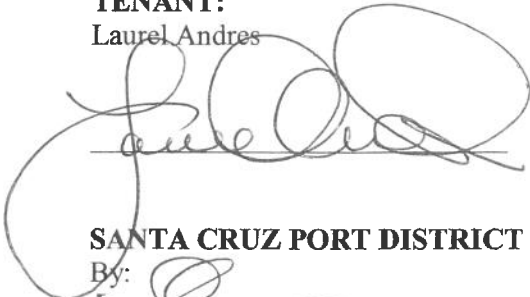
By:



DATED: May 30, 2016

Its Executive Director

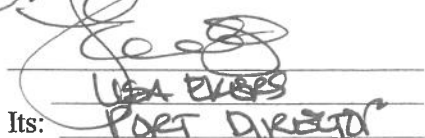
**TENANT:**  
Laurel Andres



DATED: 5-31, 2016

**SANTA CRUZ PORT DISTRICT**

By:

  
USA EXPRESS  
PORT DIRECTOR

DATED: 6/30, 2016

Its:

## FIFTH AMENDMENT TO LEASE

This Fifth Amendment to Lease ("Fifth Amendment"), dated for reference purposes only as April 4, 2019, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Laurel Andres, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 15, 2004 ("Lease"), for certain Premises consisting of 210± square feet and commonly known as 2222 East Cliff Drive, Suite 204, Santa Cruz, California ("Premises"). A First Amendment was executed on June 7, 2007 ("First Amendment") and a Second amendment was executed on April 1, 2010 ("Second Amendment") and a Third Amendment ("Third Amendment") was executed on May 10, 2013, and a Fourth Amendment ("Fourth Amendment") was executed on May 30, 2016.

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from August 1, 2019, until it expires on July 31, 2021 ("New Term").

2. **Base Rent.**

Months  
New Term

Rental Rate/SF/MO/NNN  
\$3.93/sq.ft./\$825/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Fifth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Fifth Amendment, the terms and conditions of this Fifth Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Fourth Amendment.

3.3 **Counterparts.** If this Fifth Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Fourth Amendment on behalf of a partnership or corporation represents that he or she is

duly authorized to execute and deliver this Fifth Amendment on behalf of the partnership and/or corporation and that this Fifth Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Fifth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



Rachel Kippen  
Its Executive Director

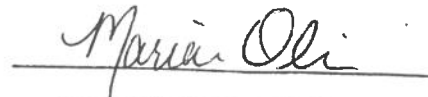
DATED: April 4, 2019

**TENANT:**  
Laurel Andres



DATED: April 6, 2019

**SANTA CRUZ PORT DISTRICT**  
By:



Its: Port Director

DATED: 4-24, 2019

## SIXTH AMENDMENT TO LEASE

This Sixth Amendment to Lease ("Sixth Amendment"), dated for reference purposes only as May 25, 2021, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Laurel Andres, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated April 15, 2004 ("Lease"), for certain Premises consisting of 210± square feet and commonly known as 2222 East Cliff Drive, Suite 204, Santa Cruz, California ("Premises"). A First Amendment was executed on June 7, 2007 ("First Amendment"), a Second Amendment was executed on April 1, 2010 ("Second Amendment"), a Third Amendment was executed on May 10, 2013 ("Third Amendment"), and a Fourth Amendment was executed on May 30, 2016.

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from August 1, 2021, until it expires on July 31, 2023 ("New Term").

2. **Base Rent.**

<u>Months</u>	<u>Rental Rate/SF/MO/NNN</u>
New Term	\$4.08/sq.ft./\$856.80/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Sixth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Sixth Amendment, the terms and conditions of this Sixth Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Sixth Amendment.

3.3 **Counterparts.** If this Sixth Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Sixth Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Sixth Amendment on behalf of the partnership and/or corporation and that this Sixth Amendment is binding upon the corporation or partnership in accordance with its terms.

3.5 **Governing Laws.** This Sixth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.


IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment as of the date and year first above written.

**LANDLORD:**

O'Neill Sea Odyssey,  
a California nonprofit corporation

By:

DATED: 06/24, 2021



Bridget O'Neill  
Its: Board Chair

**TENANT:**

Laurel Andres

DATED: 6/16, 2021



**SANTA CRUZ PORT DISTRICT**

By:

DATED: 7-28, 2021



Marian Olin  
Its: Port Director

EXHIBIT "C"

SUBLEASE 208: DONALD MARKLE

## LEASE AGREEMENT O'NEILL SEA ODYSSEY BUILDING

**THIS LEASE AGREEMENT** (the "Lease") is entered into this 7th day of December, 2009, in the County of Santa Cruz, State of California, by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle ("Tenant").

For and in consideration of the rents and covenants set forth below, Landlord hereby leases and Tenant takes the Premises described below on the following terms and conditions, including any exhibits and addenda which are attached.

**1. BASIC LEASE PROVISIONS.** The following basic lease provisions are part of this Lease, but are qualified and subject to further definition and clarification in the paragraphs which follow.

1.1. Tenant: Dr. Donald Markle

1.2. Premises: 2222 East Cliff Drive, Suite 208, Santa Cruz, California..

1.3. Dimensions: The Premises comprise approximately 165 square feet.

1.4. Use of Premises: Business office.

1.5. Lease Term: Twelve (12) months, commencing January 1, 2010.

1.6. Base Rent: \$ 660.00 per month.

1.7. Late charges: 6% of unpaid amount, 6 days after due date.

1.8. Security deposit: \$ 660.00.

1.9. Common Area maintenance charges, insurance and taxes: payable monthly as additional rent.

1.10. Anticipated commencement date: January 1, 2010

**2. PREMISES.** Landlord hereby leases, demises, and rents to Tenant, and Tenant hereby leases and takes from Landlord, the interior space only, as described in Section 1.2 above. The Premises shall have dimensions measuring from the center of any partition wall and to the outside of any exterior wall for a total approximate area as set forth in Section 1.3.

The Premises are a part of a multi-tenant office building (the "Building"), commonly known as O'Neill Sea Odyssey Building, 2222 East Cliff Drive, Santa Cruz, California. Use and occupancy by Tenant of the Premises shall include the use in common with others of the

Common Areas and facilities. Landlord does not warrant, represent or agree that the building or the Common Area will remain exactly as constructed or as presently existing.

3. **MASTER LEASE.** Landlord's interest in the Premises is Lessee under a Master Lease Agreement with the Santa Cruz Port District, a political subdivision, pursuant to a Master Lease Agreement (the "Master Lease"). This lease is subject to all terms and conditions of the Master Lease. In the event any conflict arises between any terms and conditions of this Lease and the Master Lease, the terms and conditions of the Master Lease shall prevail. Tenant acknowledges having previously received a copy of the Master Lease.

4. **LEASE TERM.** Unless sooner terminated as provided in this Lease, the term of this Lease shall be for a period of twelve (12) months. The Lease shall commence (the "Commencement Date") when Landlord delivers possession of the Premises to Tenant which Landlord anticipates will be on or about January 1, 2010. Should Tenant hold over and continue in possession after expiration of the term of this Lease or any extension thereof, Tenant's continued occupation shall be considered a month-to-month tenancy subject to all the terms and conditions of this lease.

5. **DELAY AND DELIVERY OF POSSESSION.** If Landlord is unable to deliver possession of all or part of the Premises to Tenant on the date originally anticipated as a result of circumstances beyond Landlord's control, no rent shall accrue or become due under this Lease for the portion not delivered until actual physical possession is delivered and tendered to Tenant. Should Landlord be unable to deliver possession of all of the Premises to Tenant within 180 days after the anticipated Commencement Date specified in Paragraph 1.10 above, Tenant may terminate this Lease by giving Landlord written notice of Tenant's election to do so, and in such event this Lease shall become null and void, and Landlord shall forthwith refund to Tenant any consideration given to Landlord pursuant to execution of this Lease.

6. **ACCEPTANCE OF PREMISES.** After Landlord delivers possession of the Premises to Tenant and Tenant takes occupancy of the Premises, Tenant shall have no legal or equitable remedy based upon a claim that Landlord failed to deliver possession in accordance with the terms of this Lease or based on a claim that the size, location, lay-out, dimensions, or construction of the Building, or service areas, sidewalks, and adjacent parking were not completed or furnished in accordance with the terms of this Lease.

7. **BASE RENT.** Tenant shall pay the Landlord for the use and occupancy of the Premises Base Rent as set forth in Section 1.6, payable in advance on the first day of each month of the lease term.

8. **TAXES, INSURANCE AND COMMON AREA CHARGES.** In addition to the Base Rent required under the terms of this Lease, Tenant shall pay to Landlord as additional rent, without deduction, set off or abatement, the following additional charges, the nonpayment of which shall be subject to all provisions of this Lease and of law as to default in the payment of rent:

a. Tenant's proportionate share of all direct costs and expenses of every kind and nature paid or incurred by Landlord in operating and maintaining the Common Areas, including a reasonable fee for managing and administering the common area;



b. Tenant's proportionate share of all real estate taxes, governmental fees, and assessments of every kind and nature levied against or in connection with the land, building, or improvements of which the premises are a part; and,

c. Tenant's proportionate share of the cost of all insurance obtained by Landlord in connection with the Building of which the premises are a part, not otherwise covered under common area expenses, including without limitation, all premiums for fire, extended coverage and public liability.

Tenant's proportionate share of the foregoing charges shall be 4%. Tenant's share of the foregoing charges shall be paid in monthly installments on the first day of each month in an amount to be estimated from time to time by Landlord. On or before each February 1, Landlord shall furnish to Tenant a statement of the actual amount of Tenant's proportionate share of such expenses for the preceding calendar year. Within 30 days after delivery of such statement, Tenant shall pay to Landlord or Landlord shall remit to Tenant, as the case may be, the difference between the estimated amounts paid by Tenant and the actual amounts of such charges for the preceding calendar year. For purposes of calculating the actual charges for any partial year, the total charges shall be prorated based twelve 30-day months.

**9. LATE CHARGES AND DISHONORED CHECKS.** If any rent payment otherwise due is not received by Landlord by the sixth (6th) day of the month such payment is due, in addition to the provisions for default in Paragraph 30 below, there shall be added thereto, as additional rent, an amount equal to six per cent (6%) of the amount due. No notice or demand shall be required for said additional rent to become due and payable. In the event that any check or other instrument tendered by Tenant is dishonored, in addition to late charges as specified above, Tenant shall pay an additional fee of \$20.00 to reimburse Landlord for administrative costs incurred in connection with such dishonored instrument.

**10. COMMON AREAS.** Landlord grants to Tenant and Tenant's patients and invitees the nonexclusive right to use, in common with all others to whom Landlord has or may hereafter grant rights to use the same, the Common Areas located within the Building. The term "Common Areas" as used in this Lease, shall include without limitation the parking areas, roadways, access roads, pedestrian sidewalks, pedestrian malls, hallways, stairs, elevators, common bathrooms, corridors, loading docks, delivery areas, ramps, landscaped areas, retaining walls, and all other areas or improvements which may be provided by Landlord for the common use of the tenants of the Building. The Common Areas shall at all times be subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the Common Areas and all facilities situated thereon. Landlord shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other facilities herein referred to; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Landlord's counsel, be necessary to prevent a dedication thereof or the accrual of any rights by any person or the public thereof; to close temporarily all or any portion of the parking areas or facilities; and to do and perform such other and further acts in and to said areas and improvements as, in the use of good business judgment, Landlord shall determine to be

advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees, and patients. Landlord shall operate, manage, equip, light, repair and maintain said Common Areas owned by Landlord for their intended purposes in such manner as Landlord shall at Landlord's sole discretion determine and Landlord may from time to time change the size, location, nature and use of said Common Areas and may make installations therein and move and remove the same.

**11. USE OF PREMISES.** The Premises shall be used for the sole purpose of operating a business offices, and for such purposes as may be reasonably incidental thereto, and none other. Tenant further agrees:

A. To comply with all requirements of any state or Federal statute, or local ordinance or regulation, applicable to Tenant or its use of the Premises, and to save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to do so.

B. To give to Landlord prompt written notice of any accident, fire or damage occurring on, or to, the Premises and the Common Areas of the Building.

C. To make such arrangements as Landlord may reasonably require from time to time for the storage and disposal of all garbage and refuse.

D. To keep the Premises in good condition and repair, and clean, orderly, sanitary, and free from objectionable odors, litter and debris, and from insects, vermin, and other pests.

E. To comply with any and all reasonable rules and regulations of Landlord in connection with the Premises or the Building which are now or hereafter in effect.

F. To install such fire extinguishers and other safety equipment as Landlord may require and to comply with the recommendations of Landlord's insurance carriers and their rate-making bodies.

G. To refrain from doing each and every one of the following:

(1) Using the Premises in any manner which, in Landlord's opinion, is, or may be, harmful to the Building or disturbing to other tenants in the Building;

(2) Using the Premises in any manner which would make void or voidable any policy of fire or extended coverage insurance covering any of the Building buildings, and if by reason of any use by Tenant of the Premises or the keeping by Tenant of any item or material in the Premises, the hazard insurance premiums on policies maintained by Landlord shall be increased over normal rates for retail stores in the Building, the amount of the increase in the premium shall be paid to Landlord by Tenant on demand;

(3) Causing or permitting any noxious, disturbing or offensive odors, fumes or gases, or any smoke, dust, steam or vapors, or any loud or disturbing noise or vibrations to originate in or be emitted from the Premises;

(4) Committing or suffering to be committed by any person any waste upon the Premises

or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the Building, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Building;

12. **UTILITIES.** Tenant shall pay all utility costs incurred in connection with Tenant's occupation and use of the Premises, including, without limitation, water, gas, electricity, sewer, garbage removal, and other utility services, and all utility taxes levied in connection with utilities used on the Premises. Landlord shall not be responsible nor liable in any way whatsoever for the quality, impairment, interruption, or stoppage of utilities, or for interference with or stoppage of any service with or without notice to Tenant. Tenant's proportionate share of all utilities not separately metered shall be same percentage set forth for taxes, insurance, and common area charges.

13. **NO JOINT VENTURE.** It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture or agency relationship between Landlord and Tenant or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party. Neither the method of computation of any rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord or Tenant, and Tenant shall take or suffer no action which might lead a third person to believe otherwise. It is both a fact and it is understood between the parties that Landlord shall not be liable for any debts incurred by Tenant in the conduct of Tenant's business.

15. **MAINTENANCE AND REPAIR.** From and after the time Tenant obtains possession of the Premises, Landlord shall have no obligation to make any repairs, improvements, or alterations whatsoever to the interior of the Premises, except to the extent necessitated by the negligence or misconduct of Landlord. Landlord shall maintain in good and substantial repair during the Lease term, the exterior of the building in which the Premises are located (including the roof and exterior walls, but not glass, plate glass, or doors) and paved parking and other Common Areas, except to the extent that the damage thereto is caused by negligence or misconduct of Tenant, in which event Tenant shall be responsible therefore. As provided above, Tenant shall at Tenant's own cost and expense, keep and maintain all interior portions of the Premises in good order and repair and in as safe and clean a condition as they were when received by Tenant, reasonable use and wear excepted. Said obligations shall include maintenance of exterior entrances, all partitions, doors, door jambs, door closers, door hardware, fixtures, equipment and appurtenances thereof, and plumbing, electrical, lighting, and heating systems which protrude into the Premises and all other portions of the building in which the Premises are situated except as provided in the following paragraph. Tenant shall at Tenant's sole cost and expense repair and replace the glass in any display window on the Premises that becomes broken, regardless of cause. If Tenant refuses or neglects to repair items properly required under this paragraph as soon as reasonably possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or the Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs, plus 10% for Landlord's overhead and supervision.

16. **ALTERATIONS.** Tenant shall not have the right to make any alterations, improvements or

additions to the Premises without first obtaining the Landlord's written consent. Tenant shall present to Landlord plans and specifications for such work at the time consent is sought. Tenant shall not cause or permit any lien to be placed on or accrue upon the Premises or any part thereof by reason of anything done or omitted to be done upon said Premises by or with the permission of Tenant. All alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Tenant or any other person shall be the property of Landlord, and upon termination of this Lease shall remain upon and be surrendered with the Premises as a part thereof; or, alternatively, Landlord may, at its option, upon the expiration of the Lease, require that Tenant at Tenant's expense to remove all such alterations, improvements and additions, and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. Any floor covering affixed to the floor of the Premises shall be and become the property of Landlord.

**17. TENANT IMPROVEMENTS.** Landlord shall deliver the Premises to Tenant with all perimeter walls taped and textured, with basic electrical service and lighting fixtures to the minimum standards required by code, and with Landlord's basic floor coverings. Painting, electrical, lighting, or floor covering upgrades, or other tenant improvements or upgrades, shall be completed by Tenant at Tenant's sole cost and expense, subject to the provisions of the preceding Paragraph 16.

**18. INSTALLATION AND REMOVAL OF TRADE FIXTURES.** Tenant at Tenant's sole cost and expense may install in the Premises such fixtures and equipment not permanently affixed to the realty as Tenant deems advisable, and may remove the same from the Premises at any time during the term of this Lease; provided, however, that no injury shall be done to the structural strength of the building when said fixtures or equipment are removed, and the building shall be restored to substantially its original condition. Any trade fixtures not removed from said Premises by Tenant prior to the expiration or sooner termination of this Lease shall be deemed abandoned by Tenant and shall become the property of Landlord. Landlord shall not be liable for trespass, conversion or negligence by reason of its acts or acts of anyone claiming under it or by reason of the negligence of any person with respect to acquisition and/or disposition of such property.

**19. INSPECTION AND ACCESS TO PREMISES.** Landlord expressly reserves the following rights: (a) to enter the Premises at reasonable times to examine or to make such repairs, additions or alterations as it may deem necessary for the safety, improvement or preservation thereof, or of the building in which the Premises are located, or of the Building, but Landlord assumes no obligation to make repairs to said Premises or said building or the Building other than as expressly stated in this Lease; (b) should Tenant fail to exercise, or not be entitled to exercise, the option to renew as provided below, Landlord shall have the right to enter the Premises and display a notice or sign "for rent" at any time within three (3) months prior to the expiration of this Lease, and to maintain the same as placed; (c) during or after the time Tenant should abandon or vacate the Premises or otherwise default hereunder, to enter and decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy; and (d) to install upon the roof and exterior walls of the Premises such signs, displays, antenna and other objects or structures as Landlord shall deem necessary or appropriate for the promotion, operation,

expansion, maintenance or repair of the Building. The exercise of any reserved right by Landlord shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises and shall never render Landlord liable in any manner to Tenant or to any other person. Tenant shall permit Landlord and its agents to erect, use, maintain and repair conduits, plumbing, vents, wires and equipment into, under, and through the Premises. All such work and installations shall be done so as not to unnecessarily interfere with Tenant's use of the Premises.

20. **SIGNS.** Except as otherwise set forth in this Lease, Tenant shall have the right, subject to the requirements of the County of Santa Cruz, to provide and install a storefront sign in accordance with the Building sign program. Except as thus provided, Tenant shall not place or suffer to be placed or maintained on any exterior door, roof, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises, without first obtaining Landlord's written approval and consent. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times and to remove the same at the end of the Term if requested by Landlord to do so. Upon removal thereof, Tenant agrees to repair any damage to the Premises caused by such installation.

**21. DESTRUCTION OF PREMISES.**

A. If the Premises shall be partially or totally destroyed by fire or other casualty covered under a full standard extended risk insurance policy so as to become partially or totally untenable, the same shall be repaired or rebuilt as speedily as practical under the circumstances at the expense of Landlord, unless Landlord elects not to repair or rebuild as provided in Subparagraph "B" of this clause; and, during the period required for restoration, a just and proportionate part of Base Rent shall be abated until the Premises are repaired or rebuilt.

B. If the Premises are (i) rendered substantially untenable by reason of such occurrence; or (ii) damaged or destroyed during the last three (3) years of the Term; or (iii) damaged or destroyed as a result of a risk which is not insurable under full standard extended risk insurance; or (iv) if the building of which the Premises are a part is damaged (whether or not the Premises are damaged) to the extent of fifty percent (50%) or more of its then monetary value; or (v) if the other buildings or Common Areas which then comprise the Building are damaged to such an extent that the Building cannot, in the sole judgment of the Landlord, be operated economically as an integral unit, then and in any such events Landlord may at its option terminate this Lease as of the date of the occurrence, by notice in writing to the Tenant. Unless Landlord gives such notice, this Lease will remain in full force and effect and Landlord shall repair such damage at its expense as expeditiously as possible under the circumstances.

C. If Landlord should elect or be obligated to repair or rebuild because of any damage or destruction, Landlord's obligation shall be limited to the basic building and any other work of improvements which may have been originally performed or installed at Landlord's expense. If the cost of performing Landlord's obligation would exceed the actual proceeds of insurance paid or payable to Landlord on account of such casualty, Landlord may at its option terminate this Lease. Tenant shall replace all work and improvements originally installed or performed by Tenant at its expense.

D. If the Premises are rendered substantially untenable by reason of such occurrence, Tenant may at its option terminate this Lease as of the date of the occurrence, by notice in writing to Landlord.

## 22. CONDEMNATION.

A. If title to all of the Premises is taken for any public or quasi-public use by eminent domain or by private purchase in lieu thereof, or if in Landlord's judgment title to so much of the Premises is so taken that a reasonable amount of reconstruction thereof will not result in the Premises being a practical improvement and reasonably suitable for use for the purpose for which the Premises are leased, then, in either event, this Lease shall terminate on the date that title vests in the condemning authority. This Lease shall not, however, terminate under this provision unless more than ten percent (10%) of the floor area of the Premises is so taken.

B. If title to (i) twenty percent (20%) or more of the ground floor area of the buildings in the Building or (ii) fifty percent (50%) or more of the parking area required to be maintained by Landlord is so taken, and if Landlord within one (1) year after such taking does not substitute for the (I can't delete this line)parking area so taken a sufficient number of parking spaces in a location reasonable accessible to the Premises to increase the parking areas remaining to at least seventy percent (70%) of the parking provided prior to the taking, then, either Landlord or Tenant shall have the option to terminate this Lease by notice in writing given to the other within thirty (30) days after taking or within thirty (30) days after the expiration of the one (1) year period, as the case may be. Notwithstanding anything to the contrary contained herein, if a taking of a portion of the parking area results in a violation of or noncompliance with governmental requirements for parking, then Landlord may elect to terminate this Lease by giving the notice described herein.

C. If this Lease is terminated under this Section, all rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no claim for the value of its leasehold estate or for the value of the unexpired Term of Lease, or for any other matter whether the same be of a direct or consequential nature.

D. If there is a partial taking of the Premises or the Building and this Lease is not thereby terminated under the provisions of this Article, then this Lease shall remain in full force and effect, and the Landlord shall, within a reasonable time thereafter, repair and restore the remaining portion of the Premises to the extent necessary to render the same reasonably suitable for the purposes for which the Premises were leased, and shall repair or reconstruct the remaining portion of the Building to the extent necessary to make the same a complete architectural unit; provided that such work shall not exceed the scope of the work required to be done by Landlord in originally constructing such buildings and the cost thereof shall not exceed the proceeds of the condemnation award paid to Landlord.

E. All compensation awarded or paid upon a total or partial taking of the Premises or the Building shall belong to and be the property of the Landlord without any participation by Tenant. Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, damage to, and cost of removal of trade fixtures,

furniture and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

F. After any partial taking of the Premises which does not result in a termination of this Lease, Base Rent for the remainder of the Term shall be reduced by the same percentage as the ground floor area of the space taken bears to the ground floor area of the entire Premises prior to such taking.

**23. LIABILITY AND INDEMNITY.** Landlord shall not be liable to Tenant for any damage arising from unforeseeable acts or negligence of other tenants or occupants of the Building. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by (i) any act, omission or negligence of Tenant or any subtenant of Tenant, or their respect contractors, licensees, invitees, agents, servants or employees, wheresoever the same may occur, or (ii) any use of the Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Premises, or any part thereof, and any service delivery facilities of any other portions of the Building used by Tenant, excluding such claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by, Landlord's active negligence or willful misconduct.

**24. LIABILITY INSURANCE.** Tenant shall, at Tenant's expense, obtain and keep in full force during the term of this Lease or any extensions thereof, a policy of comprehensive general liability insurance including contractual liability coverage, insuring Tenant and Landlord, against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than One Million Dollars (\$1,000,000.00) for combined single limit bodily injury and property damage coverage. The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to procure and maintain same, and at the expense of Tenant. Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein, or certificates evidencing the existence and amounts of such insurance, with loss payable clauses satisfactory to Landlord. No policy shall be cancelable, or subject to reduction of coverage without thirty (30) days' notice to Landlord at the address indicated below. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry, shall name any lender of Landlord of which Tenant has knowledge as an additional insured, and shall be written by a company or companies rated A+, AAA, or better in "Best's Insurance Guide".

**25. WAIVER OF SUBROGATION.** Each of the parties hereto waives any and all rights of recovery against the other or against any other tenant or occupant of the subject Premises or against the officers, employees, agents, representatives, patients and business visitors of such other party or of such other tenant or occupant of the subject Premises for loss of or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other policy of insurance carried

by such waiving party in lieu thereof, to the extent such loss or damage is insured against by such policy. Such waiver shall not be binding on either party unless the same is permitted by each party's insurance carrier without the payment of additional premium.

**26. ASSIGNMENT AND SUBLETTING.** Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's employees) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. If Tenant desires to make such an assignment, encumbrance, sublease or permit another person or entity to occupy or use part or all of the Premises, Tenant shall notify Landlord in writing by certified mail of such intent setting forth in detail all particulars of the proposed transaction, including adequate credit, financial, personal and business information on any person or entity involved in the proposed transaction. After the expiration of thirty (30) days from receipt of all items of information specified above, Tenant shall be entitled to proceed with the proposed assignment, encumbrance, sublease or additional occupancy, unless Landlord in the reasonable exercise of Landlord's judgment disapproves of the proposed assignee, sublessee, or occupant, on one or more of the following grounds:

- A. that the proposed use of the Premises conflicts or is incompatible with existing uses of the Building;
- B. that the proposed assignee, sublessee, or occupant's financial or credit ability or reputation is unsatisfactory;
- C. that the business or personal reputation of the proposed assignee, sublessee, or occupant is unsatisfactory;
- D. that the quality of previous or proposed business operations of the proposed assignee, sublessee, or occupant is unsatisfactory;
- E. that the business experience of the proposed assignee, sublessee, or occupant is unsatisfactory;
- F. that other factors or circumstances exist which Landlord reasonably believes would render occupancy of all or part of the Premises by the proposed assignee, sublessee, or occupant detrimental to the Building or to other businesses situated in the vicinity.

If Tenant is a corporation, an unincorporated association, or a partnership, any transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership in the aggregate in excess of 25% shall be deemed an assignment within the meaning of this section.

Tenant shall reimburse Landlord for attorneys' fees reasonably paid or incurred by Landlord in connection with any proposed assignment, encumbrance, sublease, or occupancy pursuant to this section.

In the event of any assignment, encumbrance, sublease, or occupancy pursuant to this section,



the provisions of this section shall apply to any further proposals to assign, sublease, encumber or allow any other person or entity to use all or part of the Premises.

Landlord may collect rent from any assignee, subtenant or occupant of all or any part of the Premises, and may apply the net amount collected to the rent required under the terms of this Lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this section, or the acceptance of the assignee, subtenant, or occupant as tenant, or a release of Tenant from the further performance by Tenant of the covenants on the part of Tenant herein contained. Tenant shall in no event be relieved of any liability or responsibility by reason of any assignment, sublease, encumbrance or change in occupancy.

**27. LENDERS AND SUCCESSORS TO LANDLORD.** Tenant agrees that this Lease shall be subordinate to any mortgages, trust deed, or other security of which Tenant is given written notice, now or hereafter encumbering the land and buildings of which the Premises are a part or upon any buildings hereafter placed upon the land of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, any such mortgage, deed of trust, or other security instrument shall contain a provision to the effect that so long as Tenant is not in default under this Lease or any renewal thereof, no foreclosure of the mortgage, deed of trust, or other security instrument, or any other proceeding in respect thereof, shall divest, impair, modify, abrogate, or otherwise adversely affect any interests or rights whatsoever of Tenant under this Lease. This shall be self-operative and no further instrument of subordination shall be required, provided, however, the Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver any document or instrument that may be required by a lender to effectuate any subordination. If Tenant without reasonable cause fails to execute and deliver any such document or instrument, Landlord will have the right to take such action as Landlord may be permitted otherwise to exercise under this Lease including the right to terminate this Lease.

Within thirty (30) days after receipt of a written request therefore by Landlord, Tenant agrees to execute and deliver in recordable form an estoppel certificate to any mortgagee or proposed mortgagee or purchaser to the Landlord certifying (if such be the case) that this Lease is unmodified and in full force and effect (and if there has been modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by the Tenant; and stating the date to which rentals and other charges are paid. Such certificate shall also include such other information as may be reasonably required. The failure by the Tenant to deliver any such certificate within thirty (30) days shall be conclusive upon the Tenant that this Lease is in full force and effect and has not been modified except as may be represented by Landlord. Notices of any default by Landlord shall be given by Tenant to any mortgagee of whom Tenant has been notified in writing, and said mortgagee shall have the right but not the obligation to cure said default.

Tenant shall attorn and be bound to any of Landlord's successors under all the terms, covenants and conditions of this Lease for the balance of the Lease Term.

**28. SURRENDER OF PREMISES.** Upon the expiration of the Lease Term, Tenant shall surrender the Premises to Landlord in as good order and condition as at the Commencement of

Lease Term (except for ordinary wear and tear) together with all additions, alterations and improvements which may have been made in or to the Premises. Landlord may, at its option, require the Tenant at the Tenant's expense to remove all such alterations, improvements and additions and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. In the event Tenant continues to occupy the Premises after the expiration of the Lease Term, without being given or being entitled to renewal or a new lease, such occupancy shall be considered a tenancy from month-to-month at a monthly rental equal to the rent payment due for the last month of the Lease Term including but not limited to Base Rent, as adjusted in accordance with Paragraph 8 above, Taxes, Insurance, Advertising and Marketing Expense, and all other rents due and payable by Tenant to Landlord. This provision shall not give Tenant any right to continue occupancy following the expiration of this Lease except with the written consent of Landlord. Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any succeeding occupant of the Premises for such delay.

**29. INSOLVENCY OF TENANT.** Tenant agrees that in the event all or substantially all of the Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of thirty (30) days, or should Tenant make an assignment for the benefit of creditors or be adjudicated a bankrupt, or should Tenant institute any proceedings under the bankruptcy act or under any amendment thereof which may hereafter be enacted, or under any other act relating to the subject of bankruptcy wherein Tenant seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition, arrangement or reorganization, or should any involuntary proceeding be filed against Tenant under any such bankruptcy laws and Tenant consent thereto or acquiesce therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset in any of such proceedings, and, in any such event and in addition to any and all rights and remedies of Landlord hereunder or by law provided, it shall be lawful for Landlord to declare the term hereof ended and to reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or hereunder.

**30. ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein provided shall be deemed to be other than on account of the earliest rent due and payable hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other proper remedy.

**31. DEFAULT AND REMEDIES.** The occurrence of any of the following shall constitute a default under this Lease:

A. Tenant's failure to pay rent or to make any other payment required to be made by Tenant hereunder when due, which failure continues for ten (10) days after written notice thereof.

B. Abandonment or vacation of the Premises by Tenant, for any purpose except remodeling or restoration for a time period approved by Landlord.

C. Tenant's failure to cause to be released any mechanic's or materialmen's liens filed against the

Premises within ten (10) days after the date the same shall have been filed.

D. Tenant's failure to observe or perform any other provision of this Lease to be observed or performed by Tenant, other than those described in Subparagraphs A, B, and C above, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such failure cannot reasonably be cured within such thirty-day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

E. The insolvency of Tenant or the execution by Tenant of an assignment for the benefit of creditors; the filing for reorganization or arrangement under any law relating to bankruptcy or insolvency; or, the appointment of a receiver or trustee to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease.

In the event of any default by Tenant hereunder, then, in addition to any other remedies available to Landlord at law or in equity, Landlord may at its option terminate this Lease and recover damages from Tenant, including (a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; (b) 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; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

Alternatively, in the event of such default, Landlord may elect not to terminate the Lease and Landlord may enforce rights and remedies under the Lease, including the right to recover rent as it becomes due. In the event Landlord terminates the Lease, Landlord shall have the right to reenter and take possession of the Premises, to remove all persons and property therefrom, which property may be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant, and to relet the Premises, or any part thereof, for the account of Tenant, for such term and upon such conditions and at such rent as Landlord at its sole discretion may deem proper. To the fullest extent permitted by law, the proceeds of any reletting shall be applied as follows: first, to pay Landlord all costs and expenses of such reletting (including without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new tenants, and if Landlord shall maintain and operate the Premises, the cost thereof); second, to pay any indebtedness of Tenant to Landlord other than rent; third, to the rent due and unpaid hereunder; fourth, the residue, if any, shall be held by Landlord and applied in payment of any other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of such revenue.

Nothing in this paragraph shall be deemed to affect Landlord's right to indemnification for liabilities arising prior to termination of this Lease for personal injury or property damage under the indemnification clause or clauses contained in this Lease.

No reentry or reletting of the Premises shall be construed as an election by Landlord to terminate either Tenant's right to possession or this Lease unless a written notice of such intention is given by Landlord to Tenant and notwithstanding any such reletting without such termination, Landlord may at any time thereafter elect to terminate Tenant's right to possession in this Lease.

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any set-off or abatement of rent. If Tenant shall fail to pay any sum of money, other than rent, required to be paid hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue beyond any applicable grace period set forth above, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make on Tenant's behalf any such payment or perform any such other act to be made or performed by Tenant as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs, together with interest thereon at the maximum legal rate permitted by the laws of California, to the date the default is cured, shall be payable to Landlord on demand, and Tenant covenants to pay any such sum. Landlord shall have, in addition to any other right or remedy of Landlord, the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rent.

All remedies given to Landlord in this Lease shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter at law or in equity.

**32. TENANT'S PROPERTY.** Tenant agrees to insure the contents of the Premises against fire, theft, vandalism, and such other hazards as are readily insurable under a normal "fire and extended coverage" policy, and to provide Landlord with a copy of such policy or any policies, and any modifications or replacements thereto, within thirty (30) days of execution of this Lease. Tenant shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon, or about the Premises by Tenant. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any damage to property of Tenant or of others located on the Premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks from any part of the Premises, or the Common Areas, or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the Premises, occupants of adjacent property, of the Common Area, or the public, or caused by operations and construction of any private, public or quasi-public work. Landlord shall not be liable for any latent defect in the Premises or in the building of which they form a part. All property of Tenant kept or stored on the Premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold Landlord harmless from any claims arising out of such damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Landlord, and through no fault of Tenant.

**33. WAIVER.** The failure of Landlord to insist in any one or more instances upon a strict

performance of any of the covenants or agreements in this Lease or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant, agreement, or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

**34. LEGAL EXPENSES.** Tenant shall pay to Landlord all amounts for reasonable attorneys' fees incurred by Landlord in connection with any breach or default under this Lease or incurred in order to enforce the terms or provisions hereof. Such amount shall be payable upon demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any of its rights or remedies in or under this Lease, the prevailing party shall be entitled to recover from the other party, all costs incurred by said prevailing party in said action, including reasonable attorneys' fees to be fixed by the court therein.

**35. NOTICES.** Any notice, demand, request or other document or instrument which may be or is required to be given under this Lease shall be given only in writing and shall be deemed delivered if sent by United States certified, postage prepaid mail, return receipt requested, or by a national overnight delivery service, and shall be addressed (i) if to Landlord, to 2222 East Cliff Drive, #1B, Santa Cruz, California, 95062; and (ii) if to Tenant, at the address set forth in Section 1.2 above. Notices shall be effective upon deposit with reputable overnight delivery services or in the United States mails in accordance with the above provisions. Each party may designate such other address as shall also be given by such written notice. Other modes of delivery may also be utilized, provided such other delivery service can provide a proof of delivery.

**36. TIME OF ESSENCE.** Time is of the essence of this Lease. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that the failure to timely perform any of the obligations hereof by either party shall constitute a breach of and a default under this Lease by the party so failing to perform.

**37. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and to the Premises, and supersedes all prior and contemporaneous leases, agreements, representations, and understandings of the parties. No supplement, modification, or amendment shall be binding unless executed in writing by all of the parties. Landlord makes no guarantee, warranty, representation, agreement, or statement concerning the use, occupancy, or suitability of the Leased Premises for Tenant's intended use, or the adequacy or fitness of the Premises for such use. Tenant warrants and represents, for the express benefit of Landlord, that (a) Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Leased Premises for Tenant's intended use; (b) that Tenant assumes all risk with respect thereto; (c) that no oral or written inducements, express or implied, have been made to Tenant to execute this Lease; (d) that in entering into this Lease, Tenant did not rely upon any statement, fact, promise, or representation not specifically set forth herein in writing; and (e) that for purposes of this provision, the foregoing references to Landlord shall include Landlord's agents and employees, if any.

38. **PARTIAL INVALIDITY.** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

39. **SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant, unless the assignment to such assignee has been approved by Landlord as provided above.

40. **CONSTRUCTION OF DOCUMENT.** This Lease has been the subject of negotiation by all parties hereto, and consequently this Lease shall not be construed in favor of or against any party by reason of that party having prepared this Lease or any part hereof.

41. **NO OFFER.** The submission of this Lease by Landlord to Tenant does not constitute a reservation of or an option for the Premises, and this Lease becomes effective as a lease only upon the execution hereof by Landlord and Tenant, and delivery of the executed Lease by Tenant to Landlord, together with one month's rent and the security deposit required by this Lease.

42. **HAZARDOUS AND TOXIC SUBSTANCES.** Tenant shall not use, generate, store or dispose, or give consent to anyone else to use, generate, store or dispose, any hazardous, toxic, or radioactive materials [hereinafter referred to collectively as "Hazardous Materials"]. As herein used, Hazardous Materials shall include, without limitation, those materials identified in Sections 66680 through 66685 of Title 22 of the California Administrative Code Division 4, Chapter 30, as amended from time to time, and those substances defined as "hazardous substances," "hazardous materials," "hazardous waste", or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601 et seq., the Hazardous Materials Transportation Act, 49 USC, Section 1801 et seq., and any other governmental statutes, laws, ordinances, rules, and regulations now or hereafter in effect. Tenant shall indemnify, defend and hold Landlord from and against any and all claims, damages, costs and liabilities, including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant, including, without limitation, the cost of any required or necessary repair, clean up, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant. Neither the written consent by Landlord to the use, generation, storage or disposal of Hazardous Materials nor the strict compliance by Tenant with all statutes, laws, ordinances, rules and regulations pertaining to Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification pursuant to this paragraph. Tenant's obligation pursuant to the foregoing indemnity shall survive the

termination of this Lease.

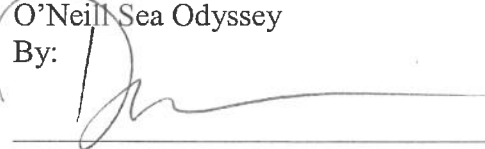
43. **BROKERS' COMMISSIONS.** Tenant represents and warrants that Tenant has not employed any real estate agent or finder and that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant agrees to indemnify, defend, protect and hold Landlord harmless from any and all liabilities, claims, demands, or causes of action arising from any such claim, including attorneys' fees.

44. **JURY WAIVER.** Landlord and Tenant hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant,

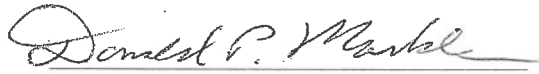
Tenant's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed by their duly authorized representative as of the day and year first written below.


DATED: 12/4/2009, 2010

**LANDLORD:**  
O'Neill Sea Odyssey  
By: 

DATED: 12/3, 2010 ~~9~~

**TENANT:**  
Dr. Donald Markle  
By: 

DATED: 12/22, 2010 ~~9~~

**SANTA CRUZ PORT DISTRICT**  
By: 

## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("First Amendment"), dated for reference purposes only as December 2, 2010, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 7, 2009 ("Lease"), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from January 1, 2011, until it expires on June 30, 2012 ("New Term").

2. **Base Rent.** From 1/1/2011 until 12/31/2011: \$660/month. From 1/1/2012 until 6/30/2012: \$673.20/month.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this First Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this First Amendment, the terms and conditions of this First Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this First Amendment.

3.3 **Counterparts.** If this First Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this First Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this First Amendment on behalf of the partnership and/or corporation and that this First Amendment is binding upon the corporation or partnership in accordance with its terms.



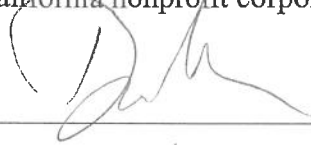
3.5 **Governing Laws.** This First Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

DATED: 12/2, 2010

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

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

Its: Executive Director

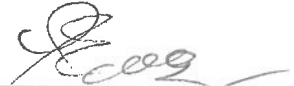
DATED: 12/2, 2010

**TENANT:**  
Laurel Andres

  
\_\_\_\_\_

DATED: 12/15, 2010

**SANTA CRUZ PORT DISTRICT**

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

Its: PORT DIRECTOR

## SECOND AMENDMENT TO LEASE

This Second Amendment to Lease ("Second Amendment"), dated for reference purposes only as May 3, 2012, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 7, 2009 ("Lease"), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from June 30, 2012, until it expires on December 31, 2013 ("New Term").

2. **Base Rent.** From 6/30/2012 until 12/31/2013: \$673.20/month.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this First Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Second Amendment, the terms and conditions of this Second Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Second Amendment.

3.3 **Counterparts.** If this Second Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Second Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Second Amendment on behalf of the partnership and/or corporation and that this Second Amendment is binding upon the corporation or partnership in accordance with its terms.

3.5 **Governing Laws.** This Second Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

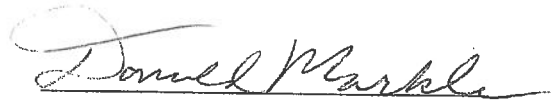
By:



Its: Executive Director

DATED: May 4, 2012

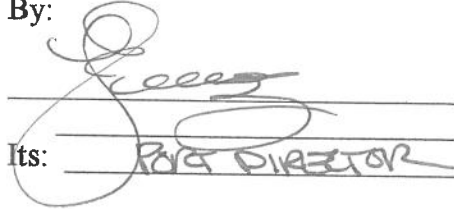
**TENANT:**  
Donald Markle



DATED: May 10, 2012

**SANTA CRUZ PORT DISTRICT**

By:



Its: PORT DIRECTOR

DATED: 5/23, 2012

## THIRD AMENDMENT TO LEASE

This Third Amendment to Lease ("Third Amendment"), dated for reference purposes only as November 14, 2013, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 7, 2009 ("Lease"), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from January 1, 2014, until it expires on June 31, 2015 ("New Term").

2. **Base Rent.** From 1/1/2014 until 6/31/2015: \$686.22/month.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Third Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Second Amendment, the terms and conditions of this Third Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Third Amendment.

3.3 **Counterparts.** If this Third Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Third Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Third Amendment on behalf of the partnership and/or corporation and that this Third Amendment is binding upon the corporation or partnership in accordance with its terms.

3.5 **Governing Laws.** This Third Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



Its: Executive Director

**TENANT:**  
Donald Markle



DATED: November 14, 2013

DATED: 11/14, 2013

**SANTA CRUZ PORT DISTRICT**

By:



Its: PORT DIRECTOR

DATED: 11/14, 2013

## FOURTH AMENDMENT TO LEASE

This Fourth Amendment to Lease ("Fourth Amendment"), dated for reference purposes only as March 30, 2015, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 7, 2009 ("Lease"), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from June 30, 2015, until it expires on December 31, 2016 ("New Term").

2. **Base Rent.** From 6/30/2015 until 12/31/2016: \$704.75/month.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Fourth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Fourth Amendment, the terms and conditions of this Third Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Fourth Amendment.

3.3 **Counterparts.** If this Fourth Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Fourth Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Fourth Amendment on behalf of the partnership and/or corporation and that this Fourth Amendment is binding upon the corporation or partnership in accordance with its terms.

3.5 **Governing Laws.** This Fourth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



DATED: March 30, 2015

Its: Executive Director

**TENANT:**  
Donald Markle

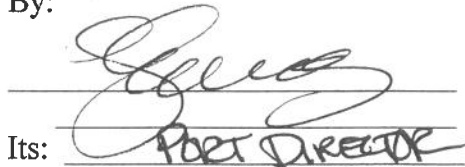
DATED: 4/23, 2015



**SANTA CRUZ PORT DISTRICT**

By:

DATED: \_\_\_\_\_, 2015



Its: PORT DIRECTOR

## FIFTH AMENDMENT TO LEASE

This Fifth Amendment to Lease ("Fourth Amendment"), dated for reference purposes only as November 1, 2016, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 7, 2009 ("Lease"), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from January 1, 2017, until it expires on June 30, 2018 ("New Term").

2. **Base Rent.** From 1/1/2017 until 6/30/2018: \$726.59/month.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Fifth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Fifth Amendment, the terms and conditions of this Fifth Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Fifth Amendment.

3.3 **Counterparts.** If this Fifth Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Fifth Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Fifth Amendment on behalf of the partnership and/or corporation and that this Fifth Amendment is binding upon the corporation or partnership in accordance with its terms.

3.5 **Governing Laws.** This Fifth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.



4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



DATED: November 1, 2016

Its: Executive Director

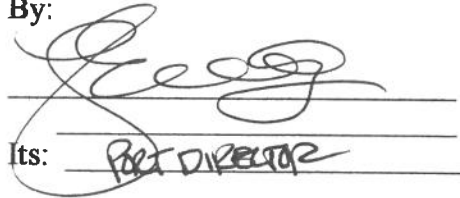
**TENANT:**  
Donald Markle



DATED: 11/30/16, 2016

**SANTA CRUZ PORT DISTRICT**

By:



DATED: 1/30/17, 2016

Its: PORT DIRECTOR

## SIXTH AMENDMENT TO LEASE

This Sixth Amendment to Lease ("Fourth Amendment"), dated for reference purposes only as March 8, 2018, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle, an individual ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 7, 2009 ("Lease"), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from July 1, 2018, until it expires on December 31, 2019 ("New Term").

2. **Base Rent.** From 7/1/2018 until 12/31/2019: \$747.45/month.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Sixth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Sixth Amendment, the terms and conditions of this Sixth Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Sixth Amendment.

3.3 **Counterparts.** If this Sixth Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Sixth Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Sixth Amendment on behalf of the partnership and/or corporation and that this Sixth Amendment is binding upon the corporation or partnership in accordance with its terms.

3.5 **Governing Laws.** This Sixth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



DATED: March 8, 2018

Its: Executive Director

**TENANT:**  
Donald Markle



DATED: MARCH 21, 2018

**SANTA CRUZ PORT DISTRICT**

By:



DATED: March 23, 2018

Its: Port Director

## SEVENTH AMENDMENT TO LEASE

This Seventh Amendment to Lease ("Seventh Amendment"), dated for reference purposes only as Oct 2, 2019, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Dr. Donald Markle, an individual. ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 7, 2009 ("Lease"), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from January 1, 2020, until it expires on June 30, 2021 ("New Term").

2. **Base Rent.** From 01/01/2020 until 06/30/2021: \$767.25/month.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Seventh Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Seventh Amendment, the terms and conditions of this Seventh Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Seventh Amendment.

3.3 **Counterparts.** If this Seventh Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Seventh Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Seventh Amendment on behalf of the partnership and/or corporation and that this Seventh Amendment is binding upon the corporation or partnership in accordance with its terms.

3.5 **Governing Laws.** This Seventh Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Seventh Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

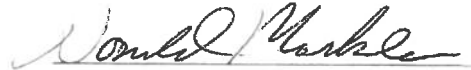
By:

DATED: October 2, 2019



Its: Executive Director

**TENANT:**  
Donald Markle



NOVEMBER 07  
DATED: 11/7, 2019

**SANTA CRUZ PORT DISTRICT**

By:



Its: Port Director

DATED: \_\_\_\_\_, 2019

## EIGHTH AMENDMENT TO LEASE

This Eighth Amendment to Lease (“Eighth Amendment”), dated for reference purposes only as May 5, 2021, is made by and between O’Neill Sea Odyssey, a California nonprofit corporation (“Landlord”) and Dr. Donald Markle, an individual (“Tenant”).

### RECITALS

**A.** Landlord and Tenant entered into that certain Lease dated December 7, 2009 (“Lease”), for certain Premises consisting of 165± square feet and commonly known as 2222 East Cliff Drive, Suite 208, Santa Cruz, California (“Premises”).

**B.** The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

**1. Term.** The Lease Term for the Premises shall be modified to continue in force from July 1, 2021, until it expires on December 31, 2022 (“New Term”).

**2. Base Rent.** From 7/1/2021 until 12/31/2022: \$779.53/month.

**3. General:**

**3.1 Effect of Amendment; Ratification.** Except as otherwise modified by this Eighth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Eighth Amendment, the terms and conditions of this Eighth Amendment shall prevail.

**3.2 Attorney’s Fees.** The provisions of the Lease respecting payment of attorney’s fees shall also apply to this Eighth Amendment.

**3.3 Counterparts.** If this Eighth Amendment is executed in counterparts, each counterpart shall be deemed an original.

**3.4 Authority to Execute Amendment.** Each individual executing this Eighth Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Eighth Amendment on behalf of the partnership and/or corporation and that this Eighth Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Eighth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

4. **Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the date and year first above written.

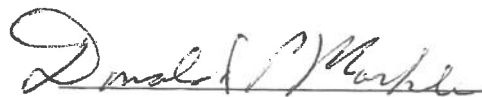
**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By: 

DATED: May 6, 2021

Its: Board Chair

**TENANT:**  
Donald Markle



DATED: May 12, 2021

**SANTA CRUZ PORT DISTRICT**  
By:

  
Marian Olin

DATED: 5-25, 2021

Its: Port Director

EXHIBIT "D"

SUBLEASE 212: MARTHA MACAMBRIDGE



# **LEASE AGREEMENT O'NEILL SEA ODYSSEY BUILDING**

**THIS LEASE AGREEMENT** (the "Lease") is entered into this 15th day of December, 2020, in the County of Santa Cruz, State of California, by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Martha Macambridge ("Tenant"). For and in consideration of the rents and covenants set forth below, Landlord hereby leases and Tenant takes the Premises described below on the following terms and conditions, including any exhibits and addenda which are attached.

**1. BASIC LEASE PROVISIONS.** The following basic lease provisions are part of this Lease, but are qualified and subject to further definition and clarification in the paragraphs which follow.

1.1. Tenant: Martha Macambridge

1.2. Premises: 2222 East Cliff Drive, Suite 212, Santa Cruz, California.

1.3. Dimensions: The Premises comprise approximately 270 square feet.

1.4. Use of Premises: Business office.

1.5. Lease Term: Twelve (12) month term, to commence December 15, 2020, with an option to renew lease, with an increase commensurate with the San Jose-Oakland Consumer Price Index.

1.6. Base Rent: \$1,163.00 per month.

1.7. Late charges: 6% of unpaid amount, 6 days after due date.

1.8. Security deposit: remains at \$ 1,163.00.

1.9. Common Area maintenance charges, insurance and taxes: payable monthly as additional rent.

1.10. Anticipated commencement date: December 15, 2020.

**2. PREMISES.** Landlord hereby leases, demises, and rents to Tenant, and Tenant hereby leases and takes from Landlord, the interior space only, as described in Section 1.2 above. The Premises shall have dimensions measuring from the center of any partition wall and to the outside of any exterior wall for a total approximate area as set forth in Section 1.3.

The Premises are a part of a multi-tenant office building (the "Building"), commonly known as

O'Neill Sea Odyssey Building, 2222 East Cliff Drive, Santa Cruz, California. Use and occupancy by Tenant of the Premises shall include the use in common with others of the Common Areas and facilities. Landlord does not warrant, represent or agree that the building or the Common Area will remain exactly as constructed or as presently existing.

3. **MASTER LEASE.** Landlord's interest in the Premises is Lessee under a Master Lease Agreement with the Santa Cruz Port District, a political subdivision, pursuant to a Master Lease Agreement (the "Master Lease"). This lease is subject to all terms and conditions of the Master Lease. In the event any conflict arises between any terms and conditions of this Lease and the Master Lease, the terms and conditions of the Master Lease shall prevail. Tenant acknowledges having previously received a copy of the Master Lease.

4. **LEASE TERM.** Unless sooner terminated as provided in this Lease, the term of this Lease shall be for a period of twelve (12) months. The Lease shall commence December 15, 2020 when Landlord delivers possession of the Premises to Tenant which Landlord anticipates will be on or about December 15, 2020. If tenant is in compliance with all terms and conditions of this lease and wishes to extend the expiration of this lease, Tenant shall give landlord a letter (within 120 days from the end of the original expiration date of the lease and within 120 days from the end of the option period) stating that Tenant wishes to extend the lease for an additional twelve month term under the same terms and conditions. The Base Rent will be adjusted on the renewal date and each renewal date to reflect any increases in the cost of living in accordance with the Index using as the base month published closest to the 120-day option period notification date. Should Tenant hold over and continue in possession after expiration of the term of this Lease or any extension thereof, Tenant's continued occupation shall be considered a month-to-month tenancy subject to all the terms and conditions of this lease.

5. **DELAY AND DELIVERY OF POSSESSION.** If Landlord is unable to deliver possession of all or part of the Premises to Tenant on the date originally anticipated as a result of circumstances beyond Landlord's control, no rent shall accrue or become due under this Lease for the portion not delivered until actual physical possession is delivered and tendered to Tenant. Should Landlord be unable to deliver possession of all of the Premises to Tenant within 180 days after the anticipated Commencement Date specified in Paragraph 1.10 above, Tenant may terminate this Lease by giving Landlord written notice of Tenant's election to do so, and in such event this Lease shall become null and void, and Landlord shall forthwith refund to Tenant any consideration given to Landlord pursuant to execution of this Lease.

6. **ACCEPTANCE OF PREMISES.** After Landlord delivers possession of the Premises to Tenant and Tenant takes occupancy of the Premises, Tenant shall have no legal or equitable remedy based upon a claim that Landlord failed to deliver possession in accordance with the terms of this Lease or based on a claim that the size, location, lay-out, dimensions, or construction of the Building, or service areas, sidewalks, and adjacent parking were not completed or furnished in accordance with the terms of this Lease.

7. **BASE RENT.** Tenant shall pay the Landlord for the use and occupancy of the Premises Base Rent as set forth in Section 1.6, payable in advance on the first day of each month of the lease term.

**8. TAXES, INSURANCE AND COMMON AREA CHARGES.** In addition to the Base Rent required under the terms of this Lease, Tenant shall pay to Landlord as additional rent, without deduction, set off or abatement, the following additional charges, the nonpayment of which shall be subject to all provisions of this Lease and of law as to default in the payment of rent:

a. Tenant's proportionate share of all direct costs and expenses of every kind and nature paid or incurred by Landlord in operating and maintaining the Common Areas, including a reasonable fee for managing and administering the common area;

b. Tenant's proportionate share of all real estate taxes, governmental fees, and assessments of every kind and nature levied against or in connection with the land, building, or improvements of which the premises are a part; and,

c. Tenant's proportionate share of the cost of all insurance obtained by Landlord in connection with the Building of which the premises are a part, not otherwise covered under common area expenses, including without limitation, all premiums for fire, extended coverage and public liability.

Tenant's proportionate share of the foregoing charges shall be 7%. Tenant's share of the foregoing charges shall be paid in quarterly installments. On or before each June 3, Landlord shall furnish to Tenant a statement of the actual amount of Tenant's proportionate share of such remaining reconciled expenses for the preceding calendar year. Within 30 days after delivery of such statement, Tenant shall pay to Landlord or Landlord shall remit to Tenant, as the case may be, the difference between the estimated amounts paid by Tenant and the actual amounts of such charges for the preceding calendar year. For purposes of calculating the actual charges for any partial year, the total charges shall be prorated based twelve 30-day months.

**9. LATE CHARGES AND DISHONORED CHECKS.** If any rent payment otherwise due is not received by Landlord by the sixth (6th) day of the month such payment is due, in addition to the provisions for default in Paragraph 30 below, there shall be added thereto, as additional rent, an amount equal to six per cent (6%) of the amount due. No notice or demand shall be required for said additional rent to become due and payable. In the event that any check or other instrument tendered by Tenant is dishonored, in addition to late charges as specified above, Tenant shall pay an additional fee of \$20.00 to reimburse Landlord for administrative costs incurred in connection with such dishonored instrument.

**10. COMMON AREAS.** Landlord grants to Tenant and Tenant's patients and invitees the nonexclusive right to use, in common with all others to whom Landlord has or may hereafter grant rights to use the same, the Common Areas located within the Building. The term "Common Areas" as used in this Lease, shall include without limitation the parking areas, roadways, access roads, pedestrian sidewalks, pedestrian malls, hallways, stairs, elevators, common bathrooms, corridors, loading docks, delivery areas, ramps, landscaped areas, retaining walls, and all other areas or improvements which may be provided by Landlord for the common use of the tenants of the Building. The Common Areas shall at all times be subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the Common Areas and all facilities situated thereon. Landlord shall have the right to construct,

maintain and operate lighting facilities on all said areas and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other facilities herein referred to; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Landlord's counsel, be necessary to prevent a dedication thereof or the accrual of any rights by any person or the public thereof; to close temporarily all or any portion of the parking areas or facilities; and to do and perform such other and further acts in and to said areas and improvements as, in the use of good business judgment, Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees, and patients. Landlord shall operate, manage, equip, light, repair and maintain said Common Areas owned by Landlord for their intended purposes in such manner as Landlord shall at Landlord's sole discretion determine and Landlord may from time to time change the size, location, nature and use of said Common Areas and may make installations therein and move and remove the same.

11. **USE OF PREMISES.** The Premises shall be used for the sole purpose of operating a business offices, and for such purposes as may be reasonably incidental thereto, and none other. Tenant further agrees:

A. To comply with all requirements of any state or Federal statute, or local ordinance or regulation, applicable to Tenant or its use of the Premises, and to save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to do so.

B. To give to Landlord prompt written notice of any accident, fire or damage occurring on, or to, the Premises and the Common Areas of the Building.

C. To make such arrangements as Landlord may reasonably require from time to time for the storage and disposal of all garbage and refuse.

D. To keep the Premises in good condition and repair, and clean, orderly, sanitary, and free from objectionable odors, litter and debris, and from insects, vermin, and other pests.

E. To comply with any and all reasonable rules and regulations of Landlord in connection with the Premises or the Building which are now or hereafter in effect.

F. To install such fire extinguishers and other safety equipment as Landlord may require and to comply with the recommendations of Landlord's insurance carriers and their rate-making bodies.

G. To refrain from doing each and every one of the following:

(1) Using the Premises in any manner which, in Landlord's opinion, is, or may be, harmful to the Building or disturbing to other tenants in the Building;

(2) Using the Premises in any manner which would make void or voidable any policy of fire or extended coverage insurance covering any of the Building buildings, and if by reason of any use by Tenant of the Premises or the keeping by Tenant of any item or material in the Premises, the hazard insurance premiums on policies maintained by Landlord shall be increased

over normal rates for retail stores in the Building, the amount of the increase in the premium shall be paid to Landlord by Tenant on demand;

(3) Causing or permitting any noxious, disturbing or offensive odors, fumes or gases, or any smoke, dust, steam or vapors, or any loud or disturbing noise or vibrations to originate in or be emitted from the Premises;

(4) Committing or suffering to be committed by any person any waste upon the Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the Building, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Building;

12. **UTILITIES.** Tenant shall pay all utility costs incurred in connection with Tenant's occupation and use of the Premises, including, without limitation, water, gas, electricity, sewer, garbage removal, and other utility services, and all utility taxes levied in connection with utilities used on the Premises. Landlord shall not be responsible nor liable in any way whatsoever for the quality, impairment, interruption, or stoppage of utilities, or for interference with or stoppage of any service with or without notice to Tenant. Tenant's proportionate share of all utilities not separately metered shall be same percentage set forth for taxes, insurance, and common area charges.

13. **NO JOINT VENTURE.** It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture or agency relationship between Landlord and Tenant or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party. Neither the method of computation of any rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord or Tenant, and Tenant shall take or suffer no action which might lead a third person to believe otherwise. It is both a fact and it is understood between the parties that Landlord shall not be liable for any debts incurred by Tenant in the conduct of Tenant's business.

15. **MAINTENANCE AND REPAIR.** From and after the time Tenant obtains possession of the Premises, Landlord shall have no obligation to make any repairs, improvements, or alterations whatsoever to the interior of the Premises, except to the extent necessitated by the negligence or misconduct of Landlord. Landlord shall maintain in good and substantial repair during the Lease term, the exterior of the building in which the Premises are located (including the roof and exterior walls, but not glass, plate glass, or doors) and paved parking and other Common Areas, except to the extent that the damage thereto is caused by negligence or misconduct of Tenant, in which event Tenant shall be responsible therefore. As provided above, Tenant shall at Tenant's own cost and expense, keep and maintain all interior portions of the Premises in good order and repair and in as safe and clean a condition as they were when received by Tenant, reasonable use and wear excepted. Said obligations shall include maintenance of exterior entrances, all partitions, doors, door jambs, door closers, door hardware, fixtures, equipment and appurtenances thereof, and plumbing, electrical, lighting, and heating systems which protrude into the Premises and all other portions of the building in which the Premises are situated except as provided in the following paragraph. Tenant shall at Tenant's sole cost and expense repair and replace the glass in any display window on the Premises that

becomes broken, regardless of cause. If Tenant refuses or neglects to repair items properly required under this paragraph as soon as reasonably possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or the Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs, plus 10% for Landlord's overhead and supervision.

**16. ALTERATIONS.** Tenant shall not have the right to make any alterations, improvements or additions to the Premises without first obtaining the Landlord's written consent. Tenant shall present to Landlord plans and specifications for such work at the time consent is sought. Tenant shall not cause or permit any lien to be placed on or accrue upon the Premises or any part thereof by reason of anything done or omitted to be done upon said Premises by or with the permission of Tenant. All alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Tenant or any other person shall be the property of Landlord, and upon termination of this Lease shall remain upon and be surrendered with the Premises as a part thereof; or, alternatively, Landlord may, at its option, upon the expiration of the Lease, require that Tenant at Tenant's expense to remove all such alterations, improvements and additions, and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. Any floor covering affixed to the floor of the Premises shall be and become the property of Landlord.

**17. TENANT IMPROVEMENTS.** Landlord shall deliver the Premises to Tenant with all perimeter walls taped and textured, with basic electrical service and lighting fixtures to the minimum standards required by code, and with Landlord's basic floor coverings. Painting, electrical, lighting, or floor covering upgrades, or other tenant improvements or upgrades, shall be completed by Tenant at Tenant's sole cost and expense, subject to the provisions of the preceding Paragraph 16.

**18. INSTALLATION AND REMOVAL OF TRADE FIXTURES.** Tenant at Tenant's sole cost and expense may install in the Premises such fixtures and equipment not permanently affixed to the realty as Tenant deems advisable, and may remove the same from the Premises at any time during the term of this Lease; provided, however, that no injury shall be done to the structural strength of the building when said fixtures or equipment are removed, and the building shall be restored to substantially its original condition. Any trade fixtures not removed from said Premises by Tenant prior to the expiration or sooner termination of this Lease shall be deemed abandoned by Tenant and shall become the property of Landlord. Landlord shall not be liable for trespass, conversion or negligence by reason of its acts or acts of anyone claiming under it or by reason of the negligence of any person with respect to acquisition and/or disposition of such property.

**19. INSPECTION AND ACCESS TO PREMISES.** Landlord expressly reserves the following rights: (a) to enter the Premises at reasonable times to examine or to make such repairs, additions or alterations as it may deem necessary for the safety, improvement or preservation thereof, or of the building in which the Premises are located, or of the Building, but Landlord assumes no obligation to make repairs to said Premises or said building or the Building

other than as expressly stated in this Lease; (b) should Tenant fail to exercise, or not be entitled to exercise, the option to renew as provided below, Landlord shall have the right to enter the Premises and display a notice or sign "for rent" at any time within three (3) months prior to the expiration of this Lease, and to maintain the same as placed; (c) during or after the time Tenant should abandon or vacate the Premises or otherwise default hereunder, to enter and decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy; and (d) to install upon the roof and exterior walls of the Premises such signs, displays, antenna and other objects or structures as Landlord shall deem necessary or appropriate for the promotion, operation, expansion, maintenance or repair of the Building. The exercise of any reserved right by Landlord shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises and shall never render Landlord liable in any manner to Tenant or to any other person. Tenant shall permit Landlord and its agents to erect, use, maintain and repair conduits, plumbing, vents, wires and equipment into, under, and through the Premises. All such work and installations shall be done so as not to unnecessarily interfere with Tenant's use of the Premises.

20. **SIGNS.** Except as otherwise set forth in this Lease, Tenant shall have the right, subject to the requirements of the County of Santa Cruz, to provide and install a storefront sign in accordance with the Building sign program. Except as thus provided, Tenant shall not place or suffer to be placed or maintained on any exterior door, roof, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises, without first obtaining Landlord's written approval and consent. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times and to remove the same at the end of the Term if requested by Landlord to do so. Upon removal thereof, Tenant agrees to repair any damage to the Premises caused by such installation.

## 21. **DESTRUCTION OF PREMISES.**

A. If the Premises shall be partially or totally destroyed by fire or other casualty covered under a full standard extended risk insurance policy so as to become partially or totally untenable, the same shall be repaired or rebuilt as speedily as practical under the circumstances at the expense of Landlord, unless Landlord elects not to repair or rebuild as provided in Subparagraph "B" of this clause; and, during the period required for restoration, a just and proportionate part of Base Rent shall be abated until the Premises are repaired or rebuilt.

B. If the Premises are (i) rendered substantially untenable by reason of such occurrence; or (ii) damaged or destroyed during the last three (3) years of the Term; or (iii) damaged or destroyed as a result of a risk which is not insurable under full standard extended risk insurance; or (iv) if the building of which the Premises are a part is damaged (whether or not the Premises are damaged) to the extent of fifty percent (50%) or more of its then monetary value; or (v) if the other buildings or Common Areas which then comprise the Building are damaged to such an extent that the Building cannot, in the sole judgment of the Landlord, be operated economically as an integral unit, then and in any such events Landlord may at its option terminate this Lease as of the date of the occurrence, by notice in writing to the Tenant. Unless Landlord gives such notice, this Lease will remain in full force and effect and Landlord shall repair such damage at its expense as expeditiously as possible under the circumstances.

C. If Landlord should elect or be obligated to repair or rebuild because of any damage or destruction, Landlord's obligation shall be limited to the basic building and any other work of improvements which may have been originally performed or installed at Landlord's expense. If the cost of performing Landlord's obligation would exceed the actual proceeds of insurance paid or payable to Landlord on account of such casualty, Landlord may at its option terminate this Lease. Tenant shall replace all work and improvements originally installed or performed by Tenant at its expense.

D. If the Premises are rendered substantially untenable by reason of such occurrence, Tenant may at its option terminate this Lease as of the date of the occurrence, by notice in writing to Landlord.

## **22. CONDEMNATION.**

A. If title to all of the Premises is taken for any public or quasi-public use by eminent domain or by private purchase in lieu thereof, or if in Landlord's judgment title to so much of the Premises is so taken that a reasonable amount of reconstruction thereof will not result in the Premises being a practical improvement and reasonably suitable for use for the purpose for which the Premises are leased, then, in either event, this Lease shall terminate on the date that title vests in the condemning authority. This Lease shall not, however, terminate under this provision unless more than ten percent (10%) of the floor area of the Premises is so taken.

B. If this Lease is terminated under this Section, all rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no claim for the value of its leasehold estate or for the value of the unexpired Term of Lease, or for any other matter whether the same be of a direct or consequential nature.

C. If there is a partial taking of the Premises or the Building and this Lease is not thereby terminated under the provisions of this Article, then this Lease shall remain in full force and effect, and the Landlord shall, within a reasonable time thereafter, repair and restore the remaining portion of the Premises to the extent necessary to render the same reasonably suitable for the purposes for which the Premises were leased, and shall repair or reconstruct the remaining portion of the Building to the extent necessary to make the same a complete architectural unit; provided that such work shall not exceed the scope of the work required to be done by Landlord in originally constructing such buildings and the cost thereof shall not exceed the proceeds of the condemnation award paid to Landlord.

D. All compensation awarded or paid upon a total or partial taking of the Premises or the Building shall belong to and be the property of the Landlord without any participation by Tenant. Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, damage to, and cost of removal of trade fixtures, furniture and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

E. After any partial taking of the Premises which does not result in a termination of this Lease, Base Rent for the remainder of the Term shall be reduced by the same percentage as the ground



floor area of the space taken bears to the ground floor area of the entire Premises prior to such taking.

**23. LIABILITY AND INDEMNITY.** Landlord shall not be liable to Tenant for any damage arising from unforeseeable acts or negligence of other tenants or occupants of the Building. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by (i) any act, omission or negligence of Tenant or any subtenant of Tenant, or their respect contractors, licensees, invitees, agents, servants or employees, wheresoever the same may occur, or (ii) any use of the Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Premises, or any part thereof, and any service delivery facilities of any other portions of the Building used by Tenant, excluding such claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by, Landlord's active negligence or willful misconduct.

**24. LIABILITY INSURANCE.** Tenant shall, at Tenant's expense, obtain and keep in full force during the term of this Lease or any extensions thereof, a policy of comprehensive general liability insurance including contractual liability coverage, insuring Tenant and Landlord, against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than One Million Dollars (\$1,000,000.00) for combined single limit bodily injury and property damage coverage. The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to procure and maintain same, and at the expense of Tenant. Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein, or certificates evidencing the existence and amounts of such insurance, with loss payable clauses satisfactory to Landlord. No policy shall be cancelable, or subject to reduction of coverage without thirty (30) days' notice to Landlord at the address indicated below. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry, shall name any lender of Landlord of which Tenant has knowledge as an additional insured, and shall be written by a company or companies rated A+, AAA, or better in "Best's Insurance Guide".

**25. WAIVER OF SUBROGATION.** Each of the parties hereto waives any and all rights of recovery against the other or against any other tenant or occupant of the subject Premises or against the officers, employees, agents, representatives, patients and business visitors of such other party or of such other tenant or occupant of the subject Premises for loss of or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other policy of insurance carried by such waiving party in lieu thereof, to the extent such loss or damage is insured against by such policy. Such waiver shall not be binding on either party unless the same is permitted by each party's insurance carrier without the payment of additional premium.

**26. ASSIGNMENT AND SUBLETTING.** Tenant shall not voluntarily assign or encumber its

interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's employees) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. If Tenant desires to make such an assignment, encumbrance, sublease or permit another person or entity to occupy or use part or all of the Premises, Tenant shall notify Landlord in writing by certified mail of such intent setting forth in detail all particulars of the proposed transaction, including adequate credit, financial, personal and business information on any person or entity involved in the proposed transaction. After the expiration of thirty (30) days from receipt of all items of information specified above, Tenant shall be entitled to proceed with the proposed assignment, encumbrance, sublease or additional occupancy, unless Landlord in the reasonable exercise of Landlord's judgment disapproves of the proposed assignee, sublessee, or occupant, on one or more of the following grounds:

A. that the proposed use of the Premises conflicts or is incompatible with existing uses of the Building;

B. that the proposed assignee, sublessee, or occupant's financial or credit ability or reputation is unsatisfactory;

C. that the business or personal reputation of the proposed assignee, sublessee, or occupant is unsatisfactory;

D. that the quality of previous or proposed business operations of the proposed assignee, sublessee, or occupant is unsatisfactory;

E. that the business experience of the proposed assignee, sublessee, or occupant is unsatisfactory;

F. that other factors or circumstances exist which Landlord reasonably believes would render occupancy of all or part of the Premises by the proposed assignee, sublessee, or occupant detrimental to the Building or to other businesses situated in the vicinity.

If Tenant is a corporation, an unincorporated association, or a partnership, any transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership in the aggregate in excess of 25% shall be deemed an assignment within the meaning of this section.

Tenant shall reimburse Landlord for attorneys' fees reasonably paid or incurred by Landlord in connection with any proposed assignment, encumbrance, sublease, or occupancy pursuant to this section.

In the event of any assignment, encumbrance, sublease, or occupancy pursuant to this section, the provisions of this section shall apply to any further proposals to assign, sublease, encumber or allow any other person or entity to use all or part of the Premises.

Landlord may collect rent from any assignee, subtenant or occupant of all or any part of the Premises, and may apply the net amount collected to the rent required under the terms of this

Lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this section, or the acceptance of the assignee, subtenant, or occupant as tenant, or a release of Tenant from the further performance by Tenant of the covenants on the part of Tenant herein contained. Tenant shall in no event be relieved of any liability or responsibility by reason of any assignment, sublease, encumbrance or change in occupancy.

**27. LENDERS AND SUCCESSORS TO LANDLORD.** Tenant agrees that this Lease shall be subordinate to any mortgages, trust deed, or other security of which Tenant is given written notice, now or hereafter encumbering the land and buildings of which the Premises are a part or upon any buildings hereafter placed upon the land of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, any such mortgage, deed of trust, or other security instrument shall contain a provision to the effect that so long as Tenant is not in default under this Lease or any renewal thereof, no foreclosure of the mortgage, deed of trust, or other security instrument, or any other proceeding in respect thereof, shall divest, impair, modify, abrogate, or otherwise adversely affect any interests or rights whatsoever of Tenant under this Lease. This shall be self-operative and no further instrument of subordination shall be required, provided, however, the Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver any document or instrument that may be required by a lender to effectuate any subordination. If Tenant without reasonable cause fails to execute and deliver any such document or instrument, Landlord will have the right to take such action as Landlord may be permitted otherwise to exercise under this Lease including the right to terminate this Lease.

Within thirty (30) days after receipt of a written request therefore by Landlord, Tenant agrees to execute and deliver in recordable form an estoppel certificate to any mortgagee or proposed mortgagee or purchaser to the Landlord certifying (if such be the case) that this Lease is unmodified and in full force and effect (and if there has been modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by the Tenant; and stating the date to which rentals and other charges are paid. Such certificate shall also include such other information as may be reasonably required. The failure by the Tenant to deliver any such certificate within thirty (30) days shall be conclusive upon the Tenant that this Lease is in full force and effect and has not been modified except as may be represented by Landlord. Notices of any default by Landlord shall be given by Tenant to any mortgagee of whom Tenant has been notified in writing, and said mortgagee shall have the right but not the obligation to cure said default.

Tenant shall attorn and be bound to any of Landlord's successors under all the terms, covenants and conditions of this Lease for the balance of the Lease Term.

**28. SURRENDER OF PREMISES.** Upon the expiration of the Lease Term, Tenant shall surrender the Premises to Landlord in as good order and condition as at the Commencement of Lease Term (except for ordinary wear and tear) together with all additions, alterations and improvements which may have been made in or to the Premises. Landlord may, at its option, require the Tenant at the Tenant's expense to remove all such alterations, improvements and additions and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. In the event Tenant continues to occupy the Premises after

the expiration of the Lease Term, without being given or being entitled to renewal or a new lease, such occupancy shall be considered a tenancy from month-to-month at a monthly rental equal to the rent payment due for the last month of the Lease Term including but not limited to Base Rent, as adjusted in accordance with Paragraph 8 above, Taxes, Insurance, Advertising and Marketing Expense, and all other rents due and payable by Tenant to Landlord. This provision shall not give Tenant any right to continue occupancy following the expiration of this Lease except with the written consent of Landlord. Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any succeeding occupant of the Premises for such delay.

**29. INSOLVENCY OF TENANT.** Tenant agrees that in the event all or substantially all of the Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of thirty (30) days, or should Tenant make an assignment for the benefit of creditors or be adjudicated a bankrupt, or should Tenant institute any proceedings under the bankruptcy act or under any amendment thereof which may hereafter be enacted, or under any other act relating to the subject of bankruptcy wherein Tenant seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition, arrangement or reorganization, or should any involuntary proceeding be filed against Tenant under any such bankruptcy laws and Tenant consent thereto or acquiesce therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset in any of such proceedings, and, in any such event and in addition to any and all rights and remedies of Landlord hereunder or by law provided, it shall be lawful for Landlord to declare the term hereof ended and to reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or hereunder.

**30. ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein provided shall be deemed to be other than on account of the earliest rent due and payable hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other proper remedy.

**31. DEFAULT AND REMEDIES.** The occurrence of any of the following shall constitute a default under this Lease:

A. Tenant's failure to pay rent or to make any other payment required to be made by Tenant hereunder when due, which failure continues for ten (10) days after written notice thereof.

B. Abandonment or vacation of the Premises by Tenant, for any purpose except remodeling or restoration for a time period approved by Landlord.

C. Tenant's failure to cause to be released any mechanic's or materialmen's liens filed against the Premises within ten (10) days after the date the same shall have been filed.

D. Tenant's failure to observe or perform any other provision of this Lease to be observed or performed by Tenant, other than those described in Subparagraphs A, B, and C above, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant;

provided, however, that if the nature of such failure cannot reasonably be cured within such thirty-day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

E. The insolvency of Tenant or the execution by Tenant of an assignment for the benefit of creditors; the filing for reorganization or arrangement under any law relating to bankruptcy or insolvency; or, the appointment of a receiver or trustee to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease.

In the event of any default by Tenant hereunder, then, in addition to any other remedies available to Landlord at law or in equity, Landlord may at its option terminate this Lease and recover damages from Tenant, including (a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; (b) 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; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

Alternatively, in the event of such default, Landlord may elect not to terminate the Lease and Landlord may enforce rights and remedies under the Lease, including the right to recover rent as it becomes due. In the event Landlord terminates the Lease, Landlord shall have the right to reenter and take possession of the Premises, to remove all persons and property therefrom, which property may be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant, and to relet the Premises, or any part thereof, for the account of Tenant, for such term and upon such conditions and at such rent as Landlord at its sole discretion may deem proper. To the fullest extent permitted by law, the proceeds of any reletting shall be applied as follows: first, to pay Landlord all costs and expenses of such reletting (including without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new tenants, and if Landlord shall maintain and operate the Premises, the cost thereof); second, to pay any indebtedness of Tenant to Landlord other than rent; third, to the rent due and unpaid hereunder; fourth, the residue, if any, shall be held by Landlord and applied in payment of any other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of such revenue.

Nothing in this paragraph shall be deemed to affect Landlord's right to indemnification for liabilities arising prior to termination of this Lease for personal injury or property damage under the indemnification clause or clauses contained in this Lease.

No reentry or reletting of the Premises shall be construed as an election by Landlord to terminate either Tenant's right to possession or this Lease unless a written notice of such intention is given by Landlord to Tenant and notwithstanding any such reletting without such termination, Landlord may at any time thereafter elect to terminate Tenant's right to possession in this Lease.

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any set-off or abatement of rent. If Tenant shall fail to pay any sum of money, other than rent, required to be paid hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue beyond any applicable grace period set forth above, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make on Tenant's behalf any such payment or perform any such other act to be made or performed by Tenant as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs, together with interest thereon at the maximum legal rate permitted by the laws of California, to the date the default is cured, shall be payable to Landlord on demand, and Tenant covenants to pay any such sum. Landlord shall have, in addition to any other right or remedy of Landlord, the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rent.

All remedies given to Landlord in this Lease shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter at law or in equity.

32. **TENANT'S PROPERTY.** Tenant agrees to insure the contents of the Premises against fire, theft, vandalism, and such other hazards as are readily insurable under a normal "fire and extended coverage" policy, and to provide Landlord with a copy of such policy or any policies, and any modifications or replacements thereto, within thirty (30) days of execution of this Lease. Tenant shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon, or about the Premises by Tenant. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any damage to property of Tenant or of others located on the Premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks from any part of the Premises, or the Common Areas, or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the Premises, occupants of adjacent property, of the Common Area, or the public, or caused by operations and construction of any private, public or quasi-public work. Landlord shall not be liable for any latent defect in the Premises or in the building of which they form a part. All property of Tenant kept or stored on the Premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold Landlord harmless from any claims arising out of such damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Landlord, and through no fault of Tenant.

33. **WAIVER.** The failure of Landlord to insist in any one or more instances upon a strict performance of any of the covenants or agreements in this Lease or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant, agreement, or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall

be deemed to have been made unless expressed in writing and signed by Landlord.

34. **LEGAL EXPENSES.** Tenant shall pay to Landlord all amounts for reasonable attorneys' fees incurred by Landlord in connection with any breach or default under this Lease or incurred in order to enforce the terms or provisions hereof. Such amount shall be payable upon demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any of its rights or remedies in or under this Lease, the prevailing party shall be entitled to recover from the other party, all costs incurred by said prevailing party in said action, including reasonable attorneys' fees to be fixed by the court therein.

35. **NOTICES.** Any notice, demand, request or other document or instrument which may be or is required to be given under this Lease shall be given only in writing and shall be deemed delivered if sent by United States certified, postage prepaid mail, return receipt requested, or by a national overnight delivery service, and shall be addressed (i) if to Landlord, to 2222 East Cliff Drive, Suite 222, Santa Cruz, California, 95062; and (ii) if to Tenant, at the address set forth in Section 1.2 above. Notices shall be effective upon deposit with reputable overnight delivery services or in the United States mails in accordance with the above provisions. Each party may designate such other address as shall also be given by such written notice. Other modes of delivery may also be utilized, provided such other delivery service can provide a proof of delivery.

36. **TIME OF ESSENCE.** Time is of the essence of this Lease. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that the failure to timely perform any of the obligations hereof by either party shall constitute a breach of and a default under this Lease by the party so failing to perform.

37. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and to the Premises, and supersedes all prior and contemporaneous leases, agreements, representations, and understandings of the parties. No supplement, modification, or amendment shall be binding unless executed in writing by all of the parties. Landlord makes no guarantee, warranty, representation, agreement, or statement concerning the use, occupancy, or suitability of the Leased Premises for Tenant's intended use, or the adequacy or fitness of the Premises for such use. Tenant warrants and represents, for the express benefit of Landlord, that (a) Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Leased Premises for Tenant's intended use; (b) that Tenant assumes all risk with respect thereto; (c) that no oral or written inducements, express or implied, have been made to Tenant to execute this Lease; (d) that in entering into this Lease, Tenant did not rely upon any statement, fact, promise, or representation not specifically set forth herein in writing; and (e) that for purposes of this provision, the foregoing references to Landlord shall include Landlord's agents and employees, if any.

38. **PARTIAL INVALIDITY.** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or

unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

39. **SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant, unless the assignment to such assignee has been approved by Landlord as provided above.

40. **CONSTRUCTION OF DOCUMENT.** This Lease has been the subject of negotiation by all parties hereto, and consequently this Lease shall not be construed in favor of or against any party by reason of that party having prepared this Lease or any part hereof.

41. **NO OFFER.** The submission of this Lease by Landlord to Tenant does not constitute a reservation of or an option for the Premises, and this Lease becomes effective as a lease only upon the execution hereof by Landlord and Tenant, and delivery of the executed Lease by Tenant to Landlord, together with one month's rent and the security deposit required by this Lease.

42. **HAZARDOUS AND TOXIC SUBSTANCES.** Tenant shall not use, generate, store or dispose, or give consent to anyone else to use, generate, store or dispose, any hazardous, toxic, or radioactive materials [hereinafter referred to collectively as "Hazardous Materials"]. As herein used, Hazardous Materials shall include, without limitation, those materials identified in Sections 66680 through 66685 of Title 22 of the California Administrative Code Division 4, Chapter 30, as amended from time to time, and those substances defined as "hazardous substances," "hazardous materials," "hazardous waste", or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601 et seq., the Hazardous Materials Transportation Act, 49 USC, Section 1801 et seq., and any other governmental statutes, laws, ordinances, rules, and regulations now or hereafter in effect. Tenant shall indemnify, defend and hold Landlord from and against any and all claims, damages, costs and liabilities, including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant, including, without limitation, the cost of any required or necessary repair, clean up, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant. Neither the written consent by Landlord to the use, generation, storage or disposal of Hazardous Materials nor the strict compliance by Tenant with all statutes, laws, ordinances, rules and regulations pertaining to Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification pursuant to this paragraph. Tenant's obligation pursuant to the foregoing indemnity shall survive the termination of this Lease.

43. **BROKERS' COMMISSIONS.** Tenant represents and warrants that Tenant has not employed any real estate agent or finder and that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant agrees to indemnify,



defend, protect and hold Landlord harmless from any and all liabilities, claims, demands, or causes of action arising from any such claim, including attorneys' fees.

44. **JURY WAIVER.** Landlord and Tenant hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed by their duly authorized representative as of the day and year first written below.

**LANDLORD:**  
O'Neill Sea Odyssey  
By: Rachel Kippen, Executive Director



DATED: December 2, 2020

**TENANT:**  
Martha Macambridge  
By:



DATED: 12.3, 2020

**SANTA CRUZ PORT DISTRICT**  
By:



DATED: 1/27/21, 2020

Marian Olin, Port Director

## AMENDMENT TO LEASE

This Amendment to Lease (“Amendment”), dated for reference purposes only as October 1, 2021, is made by and between O’Neill Sea Odyssey, a California nonprofit corporation (“Landlord”) and Martha Macambridge, an individual (“Tenant”).

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated December 15, 2020 (“Lease”), for certain Premises consisting of 270± square feet and commonly known as 2222 East Cliff Drive, Suite 212 Santa Cruz, California (“Premises”).

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force on a month to month basis, at your current rate, indicated below, from December 15, 2021, until deck construction is complete, at which time a second lease amendment with 12 month term will be presented to Tenant for review, with the normal expected CPI increase.

2. **Base Rent.**

Months  
New Term

Rental Rate/SF/MO/NNN  
\$4.31/sq.ft./\$1,163/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall prevail.

3.2 **Attorney’s Fees.** The provisions of the Lease respecting payment of attorney’s fees shall also apply to this Amendment.

3.3 **Counterparts.** If this Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Amendment on behalf of the partnership and/or

corporation and that this Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

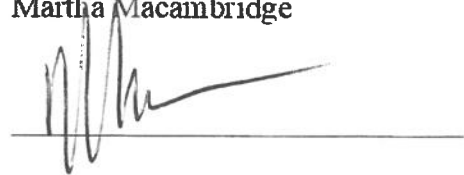
By:



Barbara Beerstein  
Its: Interim Executive Director

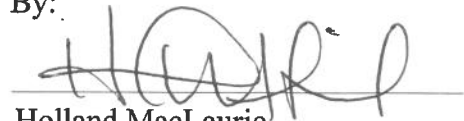
DATED: 26 October 2021

**TENANT:**  
Martha Macambridge



DATED: Oct 25 2021

**SANTA CRUZ PORT DISTRICT**  
By:



Holland MacLaurie  
Its: Port Director

DATED: Nov. 23, 2021

EXHIBIT "E"

SUBLEASE 216: MARY MORGAN

## LEASE AGREEMENT O'NEILL SEA ODYSSEY BUILDING

**THIS LEASE AGREEMENT** (the "Lease") is entered into this 10th day of January, 2014, in the County of Santa Cruz, State of California, by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Mary Morgan ("Tenant").

For and in consideration of the rents and covenants set forth below, Landlord hereby leases and Tenant takes the Premises described below on the following terms and conditions, including any exhibits and addenda which are attached.

**1. BASIC LEASE PROVISIONS.** The following basic lease provisions are part of this Lease, but are qualified and subject to further definition and clarification in the paragraphs which follow.

1.1. Tenant: Mary Morgan

1.2. Premises: 2222 East Cliff Drive, Suite 216, Santa Cruz, California.

1.3. Dimensions: The Premises comprise approximately 478 square feet.

1.4. Use of Premises: Business office and healing arts.

1.5. Lease Term: Twenty four (24) months, commencing April 1, 2014.

1.6. Base Rent: \$2,213.38 per month.

1.7. Late charges: 6% of unpaid amount, 6 days after due date.

1.8. Security deposit: \$ 2,213.38.

1.9. Common Area maintenance charges, insurance and taxes: payable monthly as additional rent.

1.10. Anticipated commencement date: April 1, 2014.

**2. PREMISES.** Landlord hereby leases, demises, and rents to Tenant, and Tenant hereby leases and takes from Landlord, the interior space only, as described in Section 1.2 above. The Premises shall have dimensions measuring from the center of any partition wall and to the outside of any exterior wall for a total approximate area as set forth in Section 1.3.

The Premises are a part of a multi-tenant office building (the "Building"), commonly known as O'Neill Sea Odyssey Building, 2222 East Cliff Drive, Santa Cruz, California. Use and occupancy by Tenant of the Premises shall include the use in common with others of the Common Areas and facilities. Landlord does not warrant, represent or agree that the building or the Common Area will remain exactly as constructed or as presently existing.

**3. MASTER LEASE.** Landlord's interest in the Premises is Lessee under a Master Lease Agreement with the Santa Cruz Port District, a political subdivision, pursuant to a Master Lease Agreement (the

“Master Lease”). This lease is subject to all terms and conditions of the Master Lease. In the event any conflict arises between any terms and conditions of this Lease and the Master Lease, the terms and conditions of the Master Lease shall prevail. Tenant acknowledges having previously received a copy of the Master Lease.

4. **LEASE TERM.** Unless sooner terminated as provided in this Lease, the term of this Lease shall be for a period of twenty four (24) months. The Lease shall commence (the "Commencement Date") when Landlord delivers possession of the Premises to Tenant which Landlord anticipates will be on or about April 1, 2014. Should Tenant hold over and continue in possession after expiration of the term of this Lease or any extension thereof, Tenant's continued occupation shall be considered a month-to-month tenancy subject to all the terms and conditions of this lease.

5. **DELAY AND DELIVERY OF POSSESSION.** If Landlord is unable to deliver possession of all or part of the Premises to Tenant on the date originally anticipated as a result of circumstances beyond Landlord's control, no rent shall accrue or become due under this Lease for the portion not delivered until actual physical possession is delivered and tendered to Tenant. Should Landlord be unable to deliver possession of all of the Premises to Tenant within 180 days after the anticipated Commencement Date specified in Paragraph 1.10 above, Tenant may terminate this Lease by giving Landlord written notice of Tenant's election to do so, and in such event this Lease shall become null and void, and Landlord shall forthwith refund to Tenant any consideration given to Landlord pursuant to execution of this Lease.

6. **ACCEPTANCE OF PREMISES.** After Landlord delivers possession of the Premises to Tenant and Tenant takes occupancy of the Premises, Tenant shall have no legal or equitable remedy based upon a claim that Landlord failed to deliver possession in accordance with the terms of this Lease or based on a claim that the size, location, lay-out, dimensions, or construction of the Building, or service areas, sidewalks, and adjacent parking were not completed or furnished in accordance with the terms of this Lease.

7. **BASE RENT.** Tenant shall pay the Landlord for the use and occupancy of the Premises Base Rent as set forth in Section 1.6, payable in advance on the first day of each month of the lease term.

8. **TAXES, INSURANCE AND COMMON AREA CHARGES.** In addition to the Base Rent required under the terms of this Lease, Tenant shall pay to Landlord as additional rent, without deduction, set off or abatement, the following additional charges, the nonpayment of which shall be subject to all provisions of this Lease and of law as to default in the payment of rent:

a. Tenant's proportionate share of all direct costs and expenses of every kind and nature paid or incurred by Landlord in operating and maintaining the Common Areas, including a reasonable fee for managing and administering the common area;

b. Tenant's proportionate share of all real estate taxes, governmental fees, and assessments of every kind and nature levied against or in connection with the land, building, or improvements of which the premises are a part; and,

c. Tenant's proportionate share of the cost of all insurance obtained by Landlord in connection with the Building of which the premises are a part, not otherwise covered under common area expenses, including without limitation, all premiums for fire, extended coverage and public liability.

Tenant's proportionate share of the foregoing charges shall be 13%. Tenant's share of the foregoing charges shall be paid in monthly installments on the first day of each month in an amount to be

estimated from time to time by Landlord. On or before each February 1, Landlord shall furnish to Tenant a statement of the actual amount of Tenant's proportionate share of such expenses for the preceding calendar year. Within 30 days after delivery of such statement, Tenant shall pay to Landlord or Landlord shall remit to Tenant, as the case may be, the difference between the estimated amounts paid by Tenant and the actual amounts of such charges for the preceding calendar year. For purposes of calculating the actual charges for any partial year, the total charges shall be prorated based twelve 30-day months.

**9. LATE CHARGES AND DISHONORED CHECKS.** If any rent payment otherwise due is not received by Landlord by the sixth (6th) day of the month such payment is due, in addition to the provisions for default in Paragraph 30 below, there shall be added thereto, as additional rent, an amount equal to six per cent (6%) of the amount due. No notice or demand shall be required for said additional rent to become due and payable. In the event that any check or other instrument tendered by Tenant is dishonored, in addition to late charges as specified above, Tenant shall pay an additional fee of \$20.00 to reimburse Landlord for administrative costs incurred in connection with such dishonored instrument.

**10. COMMON AREAS.** Landlord grants to Tenant and Tenant's clients and invitees the nonexclusive right to use, in common with all others to whom Landlord has or may hereafter grant rights to use the same, the Common Areas located within the Building. The term "Common Areas" as used in this Lease, shall include without limitation the parking areas, roadways, access roads, pedestrian sidewalks, pedestrian malls, hallways, stairs, elevators, common bathrooms, corridors, loading docks, delivery areas, ramps, landscaped areas, retaining walls, and all other areas or improvements which may be provided by Landlord for the common use of the tenants of the Building. The Common Areas shall at all times be subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the Common Areas and all facilities situated thereon. Landlord shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other facilities herein referred to; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Landlord's counsel, be necessary to prevent a dedication thereof or the accrual of any rights by any person or the public thereof; to close temporarily all or any portion of the parking areas or facilities; and to do and perform such other and further acts in and to said areas and improvements as, in the use of good business judgment, Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees, and patients. Landlord shall operate, manage, equip, light, repair and maintain said Common Areas owned by Landlord for their intended purposes in such manner as Landlord shall at Landlord's sole discretion determine and Landlord may from time to time change the size, location, nature and use of said Common Areas and may make installations therein and move and remove the same.

**11. USE OF PREMISES.** The Premises shall be used for the sole purpose of operating a business office, and for such purposes as may be reasonably incidental thereto, and none other. Tenant further agrees:

A. To comply with all requirements of any state or Federal statute, or local ordinance or regulation, applicable to Tenant or its use of the Premises, and to save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to do so.

B. To give to Landlord prompt written notice of any accident, fire or damage occurring on, or to, the Premises and the Common Areas of the Building.

C. To make such arrangements as Landlord may reasonably require from time to time for the storage and disposal of all garbage and refuse.

D. To keep the Premises in good condition and repair, and clean, orderly, sanitary, and free from objectionable odors, litter and debris, and from insects, vermin, and other pests.

E. To comply with any and all reasonable rules and regulations of Landlord in connection with the Premises or the Building which are now or hereafter in effect.

F. To install such fire extinguishers and other safety equipment as Landlord may require and to comply with the recommendations of Landlord's insurance carriers and their rate-making bodies.

G. To refrain from doing each and every one of the following:

(1) Using the Premises in any manner which, in Landlord's opinion, is, or may be, harmful to the Building or disturbing to other tenants in the Building;

(2) Using the Premises in any manner which would make void or voidable any policy of fire or extended coverage insurance covering any of the Building buildings, and if by reason of any use by Tenant of the Premises or the keeping by Tenant of any item or material in the Premises, the hazard insurance premiums on policies maintained by Landlord shall be increased over normal rates for retail stores in the Building, the amount of the increase in the premium shall be paid to Landlord by Tenant on demand;

(3) Causing or permitting any noxious, disturbing or offensive odors, fumes or gases, or any smoke, dust, steam or vapors, or any loud or disturbing noise or vibrations to originate in or be emitted from the Premises;

(4) Committing or suffering to be committed by any person any waste upon the Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the Building, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Building;

12. **UTILITIES.** Tenant shall pay all utility costs incurred in connection with Tenant's occupation and use of the Premises, including, without limitation, water, gas, electricity, sewer, garbage removal, and other utility services, and all utility taxes levied in connection with utilities used on the Premises. Landlord shall not be responsible nor liable in any way whatsoever for the quality, impairment, interruption, or stoppage of utilities, or for interference with or stoppage of any service with or without notice to Tenant. Tenant's proportionate share of all utilities not separately metered shall be same percentage set forth for taxes, insurance, and common area charges.

13. **NO JOINT VENTURE.** It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture or agency relationship between Landlord and Tenant or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party. Neither the method of computation of any rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord or Tenant, and Tenant shall take or suffer no action which might lead a third person to believe otherwise. It is both a fact and it is understood between the parties that Landlord shall not be liable for any debts incurred by Tenant in the conduct of Tenant's business.



**15. MAINTENANCE AND REPAIR.** From and after the time Tenant obtains possession of the Premises, Landlord shall have no obligation to make any repairs, improvements, or alterations whatsoever to the interior of the Premises, except to the extent necessitated by the negligence or misconduct of Landlord. Landlord shall maintain in good and substantial repair during the Lease term, the exterior of the building in which the Premises are located (including the roof and exterior walls, but not glass, plate glass, or doors) and paved parking and other Common Areas, except to the extent that the damage thereto is caused by negligence or misconduct of Tenant, in which event Tenant shall be responsible therefore. As provided above, Tenant shall at Tenant's own cost and expense, keep and maintain all interior portions of the Premises in good order and repair and in as safe and clean a condition as they were when received by Tenant, reasonable use and wear excepted. Said obligations shall include maintenance of exterior entrances, all partitions, doors, door jambs, door closers, door hardware, fixtures, equipment and appurtenances thereof, and plumbing, electrical, lighting, and heating systems which protrude into the Premises and all other portions of the building in which the Premises are situated except as provided in the following paragraph. Tenant shall at Tenant's sole cost and expense repair and replace the glass in any display window on the Premises that becomes broken, regardless of cause. If Tenant refuses or neglects to repair items properly required under this paragraph as soon as reasonably possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or the Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs, plus 10% for Landlord's overhead and supervision.

**16. ALTERATIONS.** Tenant shall not have the right to make any alterations, improvements or additions to the Premises without first obtaining the Landlord's written consent. Tenant shall present to Landlord plans and specifications for such work at the time consent is sought. Tenant shall not cause or permit any lien to be placed on or accrue upon the Premises or any part thereof by reason of anything done or omitted to be done upon said Premises by or with the permission of Tenant. All alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Tenant or any other person shall be the property of Landlord, and upon termination of this Lease shall remain upon and be surrendered with the Premises as a part thereof; or, alternatively, Landlord may, at its option, upon the expiration of the Lease, require that Tenant at Tenant's expense to remove all such alterations, improvements and additions, and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. Any floor covering affixed to the floor of the Premises shall be and become the property of Landlord.

**17. TENANT IMPROVEMENTS.** Landlord shall deliver the Premises to Tenant with all perimeter walls taped and textured, with basic electrical service and lighting fixtures to the minimum standards required by code, and with Landlord's basic floor coverings. Painting, electrical, lighting, or floor covering upgrades, or other tenant improvements or upgrades, shall be completed by Tenant at Tenant's sole cost and expense, subject to the provisions of the preceding Paragraph 16.

**18. INSTALLATION AND REMOVAL OF TRADE FIXTURES.** Tenant at Tenant's sole cost and expense may install in the Premises such fixtures and equipment not permanently affixed to the realty as Tenant deems advisable, and may remove the same from the Premises at any time during the term of this Lease; provided, however, that no injury shall be done to the structural strength of the building when said fixtures or equipment are removed, and the building shall be restored to substantially its original condition. Any trade fixtures not removed from said Premises by Tenant prior to the expiration or sooner termination of this Lease shall be deemed abandoned by Tenant and shall become the property of Landlord. Landlord shall not be liable for trespass, conversion or negligence by reason of its acts or acts of anyone claiming under it or by reason of the negligence of any person with respect to acquisition and/or disposition of such property.

**19. INSPECTION AND ACCESS TO PREMISES.** Landlord expressly reserves the following rights: (a) to enter the Premises at reasonable times to examine or to make such repairs, additions or alterations as it may deem necessary for the safety, improvement or preservation thereof, or of the building in which the Premises are located, or of the Building, but Landlord assumes no obligation to make repairs to said Premises or said building or the Building other than as expressly stated in this Lease; (b) should Tenant fail to exercise, or not be entitled to exercise, the option to renew as provided below, Landlord shall have the right to enter the Premises and display a notice or sign "for rent" at any time within three (3) months prior to the expiration of this Lease, and to maintain the same as placed; (c) during or after the time Tenant should abandon or vacate the Premises or otherwise default hereunder, to enter and decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy; and (d) to install upon the roof and exterior walls of the Premises such signs, displays, antenna and other objects or structures as Landlord shall deem necessary or appropriate for the promotion, operation, expansion, maintenance or repair of the Building. The exercise of any reserved right by Landlord shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises and shall never render Landlord liable in any manner to Tenant or to any other person. Tenant shall permit Landlord and its agents to erect, use, maintain and repair conduits, plumbing, vents, wires and equipment into, under, and through the Premises. All such work and installations shall be done so as not to unnecessarily interfere with Tenant's use of the Premises.

**20. SIGNS.** Except as otherwise set forth in this Lease, Tenant shall have the right, subject to the requirements of the City of Santa Cruz and the Santa Cruz Port District, to provide and install a storefront sign in accordance with the Building sign program. Except as thus provided, Tenant shall not place or suffer to be placed or maintained on any exterior door, roof, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises, without first obtaining Landlord's written approval and consent. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times and to remove the same at the end of the Term if requested by Landlord to do so. Upon removal thereof, Tenant agrees to repair any damage to the Premises caused by such installation.

**21. DESTRUCTION OF PREMISES.**

A. If the Premises shall be partially or totally destroyed by fire or other casualty covered under a full standard extended risk insurance policy so as to become partially or totally untenable, the same shall be repaired or rebuilt as speedily as practical under the circumstances at the expense of Landlord, unless Landlord elects not to repair or rebuild as provided in Subparagraph "B" of this clause; and, during the period required for restoration, a just and proportionate part of Base Rent shall be abated until the Premises are repaired or rebuilt.

B. If the Premises are (i) rendered substantially untenable by reason of such occurrence; or (ii) damaged or destroyed during the last three (3) years of the Term; or (iii) damaged or destroyed as a result of a risk which is not insurable under full standard extended risk insurance; or (iv) if the building of which the Premises are a part is damaged (whether or not the Premises are damaged) to the extent of fifty percent (50%) or more of its then monetary value; or (v) if the other buildings or Common Areas which then comprise the Building are damaged to such an extent that the Building cannot, in the sole judgment of the Landlord, be operated economically as an integral unit, then and in any such events Landlord may at its option terminate this Lease as of the date of the occurrence, by notice in writing to the Tenant. Unless Landlord gives such notice, this Lease will remain in full force and effect and Landlord shall

repair such damage at its expense as expeditiously as possible under the circumstances.

C. If Landlord should elect or be obligated to repair or rebuild because of any damage or destruction, Landlord's obligation shall be limited to the basic building and any other work of improvements which may have been originally performed or installed at Landlord's expense. If the cost of performing Landlord's obligation would exceed the actual proceeds of insurance paid or payable to Landlord on account of such casualty, Landlord may at its option terminate this Lease. Tenant shall replace all work and improvements originally installed or performed by Tenant at its expense.

D. If the Premises are rendered substantially untenable by reason of such occurrence, Tenant may at its option terminate this Lease as of the date of the occurrence, by notice in writing to Landlord.

## 22. CONDEMNATION.

A. If title to all of the Premises is taken for any public or quasi-public use by eminent domain or by private purchase in lieu thereof, or if in Landlord's judgment title to so much of the Premises is so taken that a reasonable amount of reconstruction thereof will not result in the Premises being a practical improvement and reasonably suitable for use for the purpose for which the Premises are leased, then, in either event, this Lease shall terminate on the date that title vests in the condemning authority. This Lease shall not, however, terminate under this provision unless more than ten percent (10%) of the floor area of the Premises is so taken.

B. If title to (i) twenty percent (20%) or more of the ground floor area of the buildings in the Building or (ii) fifty percent (50%) or more of the parking area required to be maintained by Landlord is so taken, and if Landlord within one (1) year after such taking does not substitute for the (I can't delete this line) parking area so taken a sufficient number of parking spaces in a location reasonable accessible to the Premises to increase the parking areas remaining to at least seventy percent (70%) of the parking provided prior to the taking, then, either Landlord or Tenant shall have the option to terminate this Lease by notice in writing given to the other within thirty (30) days after taking or within thirty (30) days after the expiration of the one (1) year period, as the case may be. Notwithstanding anything to the contrary contained herein, if a taking of a portion of the parking area results in a violation of or noncompliance with governmental requirements for parking, then Landlord may elect to terminate this Lease by giving the notice described herein.

C. If this Lease is terminated under this Section, all rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no claim for the value of its leasehold estate or for the value of the unexpired Term of Lease, or for any other matter whether the same be of a direct or consequential nature.

D. If there is a partial taking of the Premises or the Building and this Lease is not thereby terminated under the provisions of this Article, then this Lease shall remain in full force and effect, and the Landlord shall, within a reasonable time thereafter, repair and restore the remaining portion of the Premises to the extent necessary to render the same reasonably suitable for the purposes for which the Premises were leased, and shall repair or reconstruct the remaining portion of the Building to the extent necessary to make the same a complete architectural unit; provided that such work shall not exceed the scope of the work required to be done by Landlord in originally constructing such buildings and the cost thereof shall not exceed the proceeds of the condemnation award paid to Landlord.

E. All compensation awarded or paid upon a total or partial taking of the Premises or the Building shall belong to and be the property of the Landlord without any participation by Tenant. Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, damage to, and cost of removal of trade fixtures, furniture and other personal property

belonging to Tenant; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

F. After any partial taking of the Premises which does not result in a termination of this Lease, Base Rent for the remainder of the Term shall be reduced by the same percentage as the ground floor area of the space taken bears to the ground floor area of the entire Premises prior to such taking.

**23. LIABILITY AND INDEMNITY.** Landlord shall not be liable to Tenant for any damage arising from unforeseeable acts or negligence of other tenants or occupants of the Building. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) to the extent arising from or in connection with, or caused by (i) any act, omission or negligence of Tenant or any subtenant of Tenant, or their respect contractors, licensees, invitees, agents, servants or employees, wheresoever the same may occur, or (ii) any use of the Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Premises, or any part thereof, and any service delivery facilities of any other portions of the Building used by Tenant, excluding such claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by, Landlord's active negligence or willful misconduct.

**24. LIABILITY INSURANCE.** Tenant shall, at Tenant's expense, obtain and keep in full force during the term of this Lease or any extensions thereof, a policy of comprehensive general liability insurance including contractual liability coverage, insuring Tenant and Landlord, against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than One Million Dollars (\$1,000,000.00) for combined single limit bodily injury and property damage coverage. The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to procure and maintain same, and at the expense of Tenant. Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein, or certificates evidencing the existence and amounts of such insurance, with loss payable clauses satisfactory to Landlord. No policy shall be cancelable, or subject to reduction of coverage without thirty (30) days' notice to Landlord at the address indicated below. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry, shall name any lender of Landlord of which Tenant has knowledge as an additional insured, and shall be written by a company or companies rated A+, AAA, or better in "Best's Insurance Guide".

**25. WAIVER OF SUBROGATION.** Each of the parties hereto waives any and all rights of recovery against the other or against any other tenant or occupant of the subject Premises or against the officers, employees, agents, representatives, patients and business visitors of such other party or of such other tenant or occupant of the subject Premises for loss of or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other policy of insurance carried by such waiving party in lieu thereof, to the extent such loss or damage is insured against by such policy. Such waiver shall not be binding on either party unless the same is permitted by each party's insurance carrier without the payment of additional premium.

**26. ASSIGNMENT AND SUBLETTING.** Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's employees and clients) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. If Tenant desires to make such an assignment, encumbrance,

sublease or permit another person or entity to occupy or use part or all of the Premises, Tenant shall notify Landlord in writing by certified mail of such intent setting forth in detail all particulars of the proposed transaction, including adequate credit, financial, personal and business information on any person or entity involved in the proposed transaction. After the expiration of thirty (30) days from receipt of all items of information specified above, Tenant shall be entitled to proceed with the proposed assignment, encumbrance, sublease or additional occupancy, unless Landlord in the reasonable exercise of Landlord's judgment disapproves of the proposed assignee, sublessee, or occupant, on one or more of the following grounds:

- A. that the proposed use of the Premises conflicts or is incompatible with existing uses of the Building;
- B. that the proposed assignee, sublessee, or occupant's financial or credit ability or reputation is unsatisfactory;
- C. that the business or personal reputation of the proposed assignee, sublessee, or occupant is unsatisfactory;
- D. that the quality of previous or proposed business operations of the proposed assignee, sublessee, or occupant is unsatisfactory;
- E. that the business experience of the proposed assignee, sublessee, or occupant is unsatisfactory;
- F. that other factors or circumstances exist which Landlord reasonably believes would render occupancy of all or part of the Premises by the proposed assignee, sublessee, or occupant detrimental to the Building or to other businesses situated in the vicinity.

If Tenant is a corporation, an unincorporated association, or a partnership, any transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership in the aggregate in excess of 25% shall be deemed an assignment within the meaning of this section.

Tenant shall reimburse Landlord for attorneys' fees reasonably paid or incurred by Landlord in connection with any proposed assignment, encumbrance, sublease, or occupancy pursuant to this section.

In the event of any assignment, encumbrance, sublease, or occupancy pursuant to this section, the provisions of this section shall apply to any further proposals to assign, sublease, encumber or allow any other person or entity to use all or part of the Premises.

Landlord may collect rent from any assignee, subtenant or occupant of all or any part of the Premises, and may apply the net amount collected to the rent required under the terms of this Lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this section, or the acceptance of the assignee, subtenant, or occupant as tenant, or a release of Tenant from the further performance by Tenant of the covenants on the part of Tenant herein contained. Tenant shall in no event be relieved of any liability or responsibility by reason of any assignment, sublease, encumbrance or change in occupancy.

**27. LENDERS AND SUCCESSORS TO LANDLORD.** Tenant agrees that this Lease shall be subordinate to any mortgages, trust deed, or other security of which Tenant is given written notice, now or hereafter encumbering the land and buildings of which the Premises are a part or upon any buildings hereafter placed upon the land of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, any such mortgage, deed of trust, or other security instrument shall contain a provision to the effect that so long as Tenant is not in default under this Lease

or any renewal thereof, no foreclosure of the mortgage, deed of trust, or other security instrument, or any other proceeding in respect thereof, shall divest, impair, modify, abrogate, or otherwise adversely affect any interests or rights whatsoever of Tenant under this Lease. This shall be self-operative and no further instrument of subordination shall be required, provided, however, the Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver any document or instrument that may be required by a lender to effectuate any subordination. If Tenant without reasonable cause fails to execute and deliver any such document or instrument, Landlord will have the right to take such action as Landlord may be permitted otherwise to exercise under this Lease including the right to terminate this Lease.

Within thirty (30) days after receipt of a written request therefore by Landlord, Tenant agrees to execute and deliver in recordable form an estoppel certificate to any mortgagee or proposed mortgagee or purchaser to the Landlord certifying (if such be the case) that this Lease is unmodified and in full force and effect (and if there has been modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by the Tenant; and stating the date to which rentals and other charges are paid. Such certificate shall also include such other information as may be reasonably required. The failure by the Tenant to deliver any such certificate within thirty (30) days shall be conclusive upon the Tenant that this Lease is in full force and effect and has not been modified except as may be represented by Landlord. Notices of any default by Landlord shall be given by Tenant to any mortgagee of whom Tenant has been notified in writing, and said mortgagee shall have the right but not the obligation to cure said default.

Tenant shall attorn and be bound to any of Landlord's successors under all the terms, covenants and conditions of this Lease for the balance of the Lease Term.

**28. SURRENDER OF PREMISES.** Upon the expiration of the Lease Term, Tenant shall surrender the Premises to Landlord in as good order and condition as at the Commencement of Lease Term (except for ordinary wear and tear) together with all additions, alterations and improvements which may have been made in or to the Premises. Landlord may, at its option, require the Tenant at the Tenant's expense to remove all such alterations, improvements and additions and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. In the event Tenant continues to occupy the Premises after the expiration of the Lease Term, without being given or being entitled to renewal or a new lease, such occupancy shall be considered a tenancy from month-to-month at a monthly rental equal to the rent payment due for the last month of the Lease Term including but not limited to Base Rent, as adjusted in accordance with Paragraph 8 above, Taxes, Insurance, Advertising and Marketing Expense, and all other rents due and payable by Tenant to Landlord. This provision shall not give Tenant any right to continue occupancy following the expiration of this Lease except with the written consent of Landlord. Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any succeeding occupant of the Premises for such delay.

**29. INSOLVENCY OF TENANT.** Tenant agrees that in the event all or substantially all of the Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of thirty (30) days, or should Tenant make an assignment for the benefit of creditors or be adjudicated a bankrupt, or should Tenant institute any proceedings under the bankruptcy act or under any amendment thereof which may hereafter be enacted, or under any other act relating to the subject of bankruptcy wherein Tenant seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition, arrangement or reorganization, or should any involuntary proceeding be filed against Tenant under any such bankruptcy laws and Tenant consent thereto or acquiesce therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset in any of such proceedings, and, in any such event and in addition to any and all rights and remedies of Landlord hereunder or by law provided, it shall be lawful for Landlord to declare the

term hereof ended and to reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or hereunder.

**30. ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein provided shall be deemed to be other than on account of the earliest rent due and payable hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other proper remedy.

**31. DEFAULT AND REMEDIES.** The occurrence of any of the following shall constitute a default under this Lease:

A. Tenant's failure to pay rent or to make any other payment required to be made by Tenant hereunder when due, which failure continues for ten (10) days after written notice thereof.

B. Abandonment or vacation of the Premises by Tenant, for any purpose except remodeling or restoration for a time period approved by Landlord.

C. Tenant's failure to cause to be released any mechanic's or materialmen's liens filed against the Premises within ten (10) days after the date the same shall have been filed.

D. Tenant's failure to observe or perform any other provision of this Lease to be observed or performed by Tenant, other than those described in Subparagraphs A, B, and C above, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such failure cannot reasonably be cured within such thirty-day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

E. The insolvency of Tenant or the execution by Tenant of an assignment for the benefit of creditors; the filing for reorganization or arrangement under any law relating to bankruptcy or insolvency; or, the appointment of a receiver or trustee to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease.

In the event of any default by Tenant hereunder, then, in addition to any other remedies available to Landlord at law or in equity, Landlord may at its option terminate this Lease and recover damages from Tenant, including (a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; (b) 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; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

Alternatively, in the event of such default, Landlord may elect not to terminate the Lease and Landlord may enforce rights and remedies under the Lease, including the right to recover rent as it becomes due. In the event Landlord terminates the Lease, Landlord shall have the right to reenter and take possession of the Premises, to remove all persons and property therefrom, which property may be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant, and to relet the Premises, or

any part thereof, for the account of Tenant, for such term and upon such conditions and at such rent as Landlord at its sole discretion may deem proper. To the fullest extent permitted by law, the proceeds of any reletting shall be applied as follows: first, to pay Landlord all costs and expenses of such reletting (including without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new tenants, and if Landlord shall maintain and operate the Premises, the cost thereof); second, to pay any indebtedness of Tenant to Landlord other than rent; third, to the rent due and unpaid hereunder; fourth, the residue, if any, shall be held by Landlord and applied in payment of any other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of such revenue.

Nothing in this paragraph shall be deemed to affect Landlord's right to indemnification for liabilities arising prior to termination of this Lease for personal injury or property damage under the indemnification clause or clauses contained in this Lease.

No reentry or reletting of the Premises shall be construed as an election by Landlord to terminate either Tenant's right to possession or this Lease unless a written notice of such intention is given by Landlord to Tenant and notwithstanding any such reletting without such termination, Landlord may at any time thereafter elect to terminate Tenant's right to possession in this Lease.

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any set-off or abatement of rent. If Tenant shall fail to pay any sum of money, other than rent, required to be paid hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue beyond any applicable grace period set forth above, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make on Tenant's behalf any such payment or perform any such other act to be made or performed by Tenant as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs, together with interest thereon at the maximum legal rate permitted by the laws of California, to the date the default is cured, shall be payable to Landlord on demand, and Tenant covenants to pay any such sum. Landlord shall have, in addition to any other right or remedy of Landlord, the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rent.

All remedies given to Landlord in this Lease shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter at law or in equity.

**32. TENANT'S PROPERTY.** Tenant agrees to insure the contents of the Premises against fire, theft, vandalism, and such other hazards as are readily insurable under a normal "fire and extended coverage" policy, and to provide Landlord with a copy of such policy or any policies, and any modifications or replacements thereto, within thirty (30) days of execution of this Lease. Tenant shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon, or about the Premises by Tenant. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any damage to property of Tenant or of others located on the Premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks from any part of the Premises, or the Common Areas, or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the Premises, occupants of adjacent property, of the Common Area, or the public, or caused by operations and construction of any private, public or quasi-public work. Landlord shall not be liable for any latent



defect in the Premises or in the building of which they form a part. All property of Tenant kept or stored on the Premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold Landlord harmless from any claims arising out of such damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Landlord, and through no fault of Tenant.

33. **WAIVER.** The failure of Landlord to insist in any one or more instances upon a strict performance of any of the covenants or agreements in this Lease or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant, agreement, or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

34. **LEGAL EXPENSES.** Tenant shall pay to Landlord all amounts for reasonable attorneys' fees incurred by Landlord in connection with any breach or default under this Lease or incurred in order to enforce the terms or provisions hereof. Such amount shall be payable upon demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any of its rights or remedies in or under this Lease, the prevailing party shall be entitled to recover from the other party, all costs incurred by said prevailing party in said action, including reasonable attorneys' fees to be fixed by the court therein.

35. **NOTICES.** Any notice, demand, request or other document or instrument which may be or is required to be given under this Lease shall be given only in writing and shall be deemed delivered if sent by United States certified, postage prepaid mail, return receipt requested, or by a national overnight delivery service, and shall be addressed (i) if to Landlord, to 2222 East Cliff Drive, #1B, Santa Cruz, California, 95062; and (ii) if to Tenant, at the address set forth in Section 1.2 above. Notices shall be effective upon deposit with reputable overnight delivery services or in the United States mails in accordance with the above provisions. Each party may designate such other address as shall also be given by such written notice. Other modes of delivery may also be utilized, provided such other delivery service can provide a proof of delivery.

36. **TIME OF ESSENCE.** Time is of the essence of this Lease. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that the failure to timely perform any of the obligations hereof by either party shall constitute a breach of and a default under this Lease by the party so failing to perform.

37. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and to the Premises, and supersedes all prior and contemporaneous leases, agreements, representations, and understandings of the parties. No supplement, modification, or amendment shall be binding unless executed in writing by all of the parties. Landlord makes no guarantee, warranty, representation, agreement, or statement concerning the use, occupancy, or suitability of the Leased Premises for Tenant's intended use, or the adequacy or fitness of the Premises for such use. Tenant warrants and represents, for the express benefit of Landlord, that (a) Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of the Leased Premises for Tenant's intended use; (b) that Tenant assumes all risk with respect thereto; (c) that no oral or written inducements, express or implied, have been made to Tenant to execute this Lease; (d) that in entering into this Lease, Tenant did not rely upon any statement, fact, promise, or representation not specifically set forth herein in writing; and (e) that for purposes of this provision, the foregoing references to Landlord shall include Landlord's agents and employees, if any.

38. **PARTIAL INVALIDITY.** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

39. **SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant, unless the assignment to such assignee has been approved by Landlord as provided above.

40. **CONSTRUCTION OF DOCUMENT.** This Lease has been the subject of negotiation by all parties hereto, and consequently this Lease shall not be construed in favor of or against any party by reason of that party having prepared this Lease or any part hereof.

41. **NO OFFER.** The submission of this Lease by Landlord to Tenant does not constitute a reservation of or an option for the Premises, and this Lease becomes effective as a lease only upon the execution hereof by Landlord and Tenant, and delivery of the executed Lease by Tenant to Landlord, together with one month's rent and the security deposit required by this Lease.

42. **HAZARDOUS AND TOXIC SUBSTANCES.** Tenant shall not use, generate, store or dispose, or give consent to anyone else to use, generate, store or dispose, any hazardous, toxic, or radioactive materials [hereinafter referred to collectively as "Hazardous Materials"]. As herein used, Hazardous Materials shall include, without limitation, those materials identified in Sections 66680 through 66685 of Title 22 of the California Administrative Code Division 4, Chapter 30, as amended from time to time, and those substances defined as "hazardous substances," "hazardous materials," "hazardous waste", or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601 et seq., the Hazardous Materials Transportation Act, 49 USC, Section 1801 et seq., and any other governmental statutes, laws, ordinances, rules, and regulations now or hereafter in effect. Tenant shall indemnify, defend and hold Landlord from and against any and all claims, damages, costs and liabilities, including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant, including, without limitation, the cost of any required or necessary repair, clean up, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant. Neither the written consent by Landlord to the use, generation, storage or disposal of Hazardous Materials nor the strict compliance by Tenant with all statutes, laws, ordinances, rules and regulations pertaining to Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification pursuant to this paragraph. Tenant's obligation pursuant to the foregoing indemnity shall survive the termination of this Lease.

43. **BROKERS' COMMISSIONS.** Tenant represents and warrants that Tenant has not employed any real estate agent or finder and that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant agrees to indemnify, defend, protect and hold Landlord harmless from any and all liabilities, claims, demands, or causes of action arising from any such claim, including attorneys' fees.

44. **JURY WAIVER.** Landlord and Tenant hereby waive their respective right to trial by jury of any

cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed by their duly authorized representative as of the day and year first written below.

**LANDLORD:**  
O'Neill Sea Odyssey  
By:



DATED: January 10, 2014

**TENANT:**  
Mary Morgan  
By:



DATED: January 27, 2014

**SANTA CRUZ PORT DISTRICT**  
By:



DATED: \_\_\_\_\_, 2014

## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("First Amendment"), dated for reference purposes only as December 30, 2015, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Mary Morgan. ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated January 10, 2014 ("Lease"), for certain Premises consisting of 478± square feet and commonly known as 2222 East Cliff Drive, Suite 216, Santa Cruz, California ("Premises").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from April 1, 2016, until it expires on March 31, 2018 ("New Term").

2. **Base Rent.**

<u>Months</u>	<u>Rental/MO/NNN</u>
New Term	
April 1, 2016	\$2,213.38/mo.
April 1, 2017	\$2,270.93/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this First Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this First Amendment, the terms and conditions of this First Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this First Amendment.

3.3 **Counterparts.** If this First Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this First Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this First Amendment on behalf of the partnership and/or corporation and that this First Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This First Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



DATED: December 19, 2015

Its Executive Director

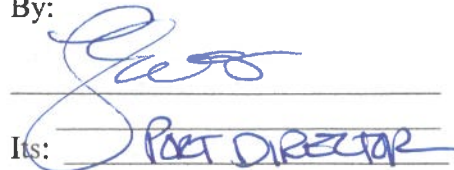
**TENANT:**  
Mary Morgan

DATED: 1/4, 2016



**SANTA CRUZ PORT DISTRICT**  
By:

DATED: 2/1, 2016



Its: PORT DIRECTOR

## SECOND AMENDMENT TO LEASE

This Second Amendment to Lease (“First Amendment”), dated for reference purposes only as January 17, 2018, is made by and between O’Neill Sea Odyssey, a California nonprofit corporation (“Landlord”) and Mary Morgan. (“Tenant”).

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated January 10, 2014 (“Lease”), for certain Premises consisting of 478± square feet and commonly known as 2222 East Cliff Drive, Suite 216, Santa Cruz, California (“Premises”). The parties thereafter entered into a First Amendment (“First Amendment”) on December 19, 2015.

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from April 1, 2018, until it expires on March 31, 2023 (“New Term”).

2. **Base Rent.**

<u>Months</u>	<u>Rental/MO</u>
New Term	
April 1, 2018	\$2,332.25/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Second Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Second Amendment, the terms and conditions of this Second Amendment shall prevail.

3.2 **Attorney’s Fees.** The provisions of the Lease respecting payment of attorney’s fees shall also apply to this Second Amendment.

3.3 **Counterparts.** If this Second Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Second Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Second Amendment on behalf of the

partnership and/or corporation and that this Second Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Second Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



DATED: January 17, 2018

Its Executive Director

**TENANT:**  
Mary Morgan



DATED: 2/28, 2018

**SANTA CRUZ PORT DISTRICT**

By:



DATED: 3-1, 2018

Its: Port Director

EXHIBIT "F"

SUBLEASE 220: ESTRIATUS LAW



# LEASE AGREEMENT O'NEILL SEA ODYSSEY BUILDING

**THIS LEASE AGREEMENT** (the "Lease") is entered into this 3rd day of February, 2014, in the County of Santa Cruz, State of California, by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Estriatus Law ("Tenant").

For and in consideration of the rents and covenants set forth below, Landlord hereby leases and Tenant takes the Premises described below on the following terms and conditions, including any exhibits and addenda which are attached.

**1. BASIC LEASE PROVISIONS.** The following basic lease provisions are part of this Lease, but are qualified and subject to further definition and clarification in the paragraphs which follow.

1.1. Tenant: Estriatus Law.

1.2. Premises: 2222 East Cliff Drive, Suite 220, Santa Cruz, California.

1.3. Dimensions: The Premises comprise approximately 337 square feet.

1.4. Use of Premises: Business office.

1.5. Lease Term: Twenty Four (24) months, commencing March 15, 2014, with an option to renew for a new term.

1.6. Base Rent: \$ 1,380.47 per month.

1.7. Late charges: 6% of unpaid amount, 6 days after due date.

1.8. Security deposit: \$ 1,380.47.

1.9. Common Area maintenance charges, insurance and taxes: payable monthly as additional rent.

1.10. Anticipated commencement date: March 15, 2014.

**2. PREMISES.** Landlord hereby leases, demises, and rents to Tenant, and Tenant hereby leases and takes from Landlord, the interior space only, as described in Section 1.2 above. The Premises shall have dimensions measuring from the center of any partition wall and to the outside of any exterior wall for a total approximate area as set forth in Section 1.3.

The Premises are a part of a multi-tenant office building (the "Building"), commonly known as O'Neill Sea Odyssey Building, 2222 East Cliff Drive, Santa Cruz, California. Use and occupancy by Tenant of the Premises shall include the use in common with others of the Common Areas and facilities. Landlord does not warrant, represent or agree that the building or the Common Area will remain exactly as constructed or as presently existing.

the Common Area will remain exactly as constructed or as presently existing.

3. **MASTER LEASE.** Landlord's interest in the Premises is Lessee under a Master Lease Agreement with the Santa Cruz Port District, a political subdivision, pursuant to a Master Lease Agreement (the "Master Lease"). This lease is subject to all terms and conditions of the Master Lease. In the event any conflict arises between any terms and conditions of this Lease and the Master Lease, the terms and conditions of the Master Lease shall prevail. Tenant acknowledges having previously received a copy of the Master Lease.

4. **LEASE TERM.** Unless sooner terminated as provided in this Lease, the term of this Lease shall be for a period of twenty four (24) months. The Lease shall commence (the "Commencement Date") when Landlord delivers possession of the Premises to Tenant which Landlord anticipates will be on or about March 15, 2014. If tenant is in compliance with all terms and conditions of this lease and wishes to extend the expiration of this lease, Tenant shall give landlord a letter (within 90 days from the end of the original expiration date of the lease and within 90 days from the end of the first option period) stating that Tenant wishes to extend the lease for successive twenty four (24) month terms (each a "renewal term") under the same terms and conditions. The Base Rent will be adjusted on the renewal date and each renewal date to reflect any increases in the cost of living in accordance with the Index using as the base month published closest to the 90-day option period notification date. Should Tenant hold over and continue in possession after expiration of the term of this Lease or any extension thereof, Tenant's continued occupation shall be considered a month-to-month tenancy subject to all the terms and conditions of this lease.

5. **DELAY AND DELIVERY OF POSSESSION.** If Landlord is unable to deliver possession of all or part of the Premises to Tenant on the date originally anticipated as a result of circumstances beyond Landlord's control, no rent shall accrue or become due under this Lease for the portion not delivered until actual physical possession is delivered and tendered to Tenant. Should Landlord be unable to deliver possession of all of the Premises to Tenant within 180 days after the anticipated Commencement Date specified in Paragraph 1.10 above, Tenant may terminate this Lease by giving Landlord written notice of Tenant's election to do so, and in such event this Lease shall become null and void, and Landlord shall forthwith refund to Tenant any consideration given to Landlord pursuant to execution of this Lease.

6. **ACCEPTANCE OF PREMISES.** After Landlord delivers possession of the Premises to Tenant and Tenant takes occupancy of the Premises, Tenant shall have no legal or equitable remedy based upon a claim that Landlord failed to deliver possession in accordance with the terms of this Lease or based on a claim that the size, location, lay-out, dimensions, or construction of the Building, or service areas, sidewalks, and adjacent parking were not completed or furnished in accordance with the terms of this Lease.

7. **BASE RENT.** Tenant shall pay the Landlord for the use and occupancy of the Premises Base Rent as set forth in Section 1.6, payable in advance on the first day of each month of the lease term.

8. **TAXES, INSURANCE AND COMMON AREA CHARGES.** In addition to the Base Rent required under the terms of this Lease, Tenant shall pay to Landlord as additional rent, without deduction, set off or abatement, the following additional charges, the nonpayment of which shall

be subject to all provisions of this Lease and of law as to default in the payment of rent:

a. Tenant's proportionate share of all direct costs and expenses of every kind and nature paid or incurred by Landlord in operating and maintaining the Common Areas, including a reasonable fee for managing and administering the common area;

b. Tenant's proportionate share of all real estate taxes, governmental fees, and assessments of every kind and nature levied against or in connection with the land, building, or improvements of which the premises are a part; and,

c. Tenant's proportionate share of the cost of all insurance obtained by Landlord in connection with the Building of which the premises are a part, not otherwise covered under common area expenses, including without limitation, all premiums for fire, extended coverage and public liability.

Tenant's proportionate share of the foregoing charges shall be 17%. Tenant's share of the foregoing charges shall be paid in monthly installments on the first day of each month in an amount to be estimated from time to time by Landlord. On or before each February 1, Landlord shall furnish to Tenant a statement of the actual amount of Tenant's proportionate share of such expenses for the preceding calendar year. Within 30 days after delivery of such statement, Tenant shall pay to Landlord or Landlord shall remit to Tenant, as the case may be, the difference between the estimated amounts paid by Tenant and the actual amounts of such charges for the preceding calendar year. For purposes of calculating the actual charges for any partial year, the total charges shall be prorated based twelve 30-day months.

**9. LATE CHARGES AND DISHONORED CHECKS.** If any rent payment otherwise due is not received by Landlord by the sixth (6th) day of the month such payment is due, in addition to the provisions for default in Paragraph 30 below, there shall be added thereto, as additional rent, an amount equal to six per cent (6%) of the amount due. No notice or demand shall be required for said additional rent to become due and payable. In the event that any check or other instrument tendered by Tenant is dishonored, in addition to late charges as specified above, Tenant shall pay an additional fee of \$20.00 to reimburse Landlord for administrative costs incurred in connection with such dishonored instrument.

**10. COMMON AREAS.** Landlord grants to Tenant and Tenant's patients and invitees the nonexclusive right to use, in common with all others to whom Landlord has or may hereafter grant rights to use the same, the Common Areas located within the Building. The term "Common Areas" as used in this Lease, shall include without limitation the parking areas, roadways, access roads, pedestrian sidewalks, pedestrian malls, hallways, stairs, elevators, common bathrooms, corridors, loading docks, delivery areas, ramps, landscaped areas, retaining walls, and all other areas or improvements which may be provided by Landlord for the common use of the tenants of the Building. The Common Areas shall at all times be subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the Common Areas and all facilities situated thereon. Landlord shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements; to police the same; from time to time to change the area, level, location and arrangement of parking areas and other

facilities herein referred to; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Landlord's counsel, be necessary to prevent a dedication thereof or the accrual of any rights by any person or the public thereof; to close temporarily all or any portion of the parking areas or facilities; and to do and perform such other and further acts in and to said areas and improvements as, in the use of good business judgment, Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees, and patients. Landlord shall operate, manage, equip, light, repair and maintain said Common Areas owned by Landlord for their intended purposes in such manner as Landlord shall at Landlord's sole discretion determine and Landlord may from time to time change the size, location, nature and use of said Common Areas and may make installations therein and move and remove the same.

**11. USE OF PREMISES.** The Premises shall be used for the sole purpose of operating a business office, and for such purposes as may be reasonably incidental thereto, and none other. Tenant further agrees:

A. To comply with all requirements of any state or Federal statute, or local ordinance or regulation, applicable to Tenant or its use of the Premises, and to save Landlord harmless from penalties, fines, costs, expenses or damages resulting from failure to do so.

B. To give to Landlord prompt written notice of any accident, fire or damage occurring on, or to, the Premises and the Common Areas of the Building.

C. To make such arrangements as Landlord may reasonably require from time to time for the storage and disposal of all garbage and refuse.

D. To keep the Premises in good condition and repair, and clean, orderly, sanitary, and free from objectionable odors, litter and debris, and from insects, vermin, and other pests.

E. To comply with any and all reasonable rules and regulations of Landlord in connection with the Premises or the Building which are now or hereafter in effect.

F. To install such fire extinguishers and other safety equipment as Landlord may require and to comply with the recommendations of Landlord's insurance carriers and their rate-making bodies.

G. To refrain from doing each and every one of the following:

(1) Using the Premises in any manner which, in Landlord's opinion, is, or may be, harmful to the Building or disturbing to other tenants in the Building;

(2) Using the Premises in any manner which would make void or voidable any policy of fire or extended coverage insurance covering any of the Building buildings, and if by reason of any use by Tenant of the Premises or the keeping by Tenant of any item or material in the Premises, the hazard insurance premiums on policies maintained by Landlord shall be increased over normal rates for retail stores in the Building, the amount of the increase in the premium shall be paid to Landlord by Tenant on demand;

(3) Causing or permitting any noxious, disturbing or offensive odors, fumes or gases, or any smoke, dust, steam or vapors, or any loud or disturbing noise or vibrations to originate in or be emitted from the Premises;

(4) Committing or suffering to be committed by any person any waste upon the Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant in the Building, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Building;

12. **UTILITIES.** Tenant shall pay all utility costs incurred in connection with Tenant's occupation and use of the Premises, including, without limitation, water, gas, electricity, sewer, garbage removal, and other utility services, and all utility taxes levied in connection with utilities used on the Premises. Landlord shall not be responsible nor liable in any way whatsoever for the quality, impairment, interruption, or stoppage of utilities, or for interference with or stoppage of any service with or without notice to Tenant. Tenant's proportionate share of all utilities not separately metered shall be same percentage set forth for taxes, insurance and common area charges.

13. **NO JOINT VENTURE.** It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture or agency relationship between Landlord and Tenant or between Landlord and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party. Neither the method of computation of any rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord or Tenant, and Tenant shall take or suffer no action which might lead a third person to believe otherwise. It is both a fact and it is understood between the parties that Landlord shall not be liable for any debts incurred by Tenant in the conduct of Tenant's business.

15. **MAINTENANCE AND REPAIR.** From and after the time Tenant obtains possession of the Premises, Landlord shall have no obligation to make any repairs, improvements, or alterations whatsoever to the interior of the Premises, except to the extent necessitated by the negligence or misconduct of Landlord. Landlord shall maintain in good and substantial repair during the Lease term, the exterior of the building in which the Premises are located (including the roof and exterior walls, but not glass, plate glass, or doors) and paved parking and other Common Areas, except to the extent that the damage thereto is caused by negligence or misconduct of Tenant, in which event Tenant shall be responsible therefore. As provided above, Tenant shall at Tenant's own cost and expense, keep and maintain all interior portions of the Premises in good order and repair and in as safe and clean a condition as they were when received by Tenant, reasonable use and wear excepted. Said obligations shall include maintenance of exterior entrances, all partitions, doors, door jambs, door closers, door hardware, fixtures, equipment and appurtenances thereof, and plumbing, electrical, lighting, and heating systems which protrude into the Premises and all other portions of the building in which the Premises are situated except as provided in the following paragraph. Tenant shall at Tenant's sole cost and expense repair and replace the glass in any display window on the Premises that becomes broken, regardless of cause. If Tenant refuses or neglects to repair items properly required under this paragraph as soon as reasonably possible after written demand, Landlord may

make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or the Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs, plus 10% for Landlord's overhead and supervision.

**16. ALTERATIONS.** Tenant shall not have the right to make any alterations, improvements or additions to the Premises without first obtaining the Landlord's written consent. Tenant shall present to Landlord plans and specifications for such work at the time consent is sought. Tenant shall not cause or permit any lien to be placed on or accrue upon the Premises or any part thereof by reason of anything done or omitted to be done upon said Premises by or with the permission of Tenant. All alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Tenant or any other person shall be the property of Landlord, and upon termination of this Lease shall remain upon and be surrendered with the Premises as a part thereof; or, alternatively, Landlord may, at its option, upon the expiration of the Lease, require that Tenant at Tenant's expense to remove all such alterations, improvements and additions, and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. Any floor covering affixed to the floor of the Premises shall be and become the property of Landlord.

**17. TENANT IMPROVEMENTS.** Landlord shall deliver the Premises to Tenant with all perimeter walls taped and textured, with basic electrical service and lighting fixtures to the minimum standards required by code, and with Landlord's basic floor coverings. Painting, electrical, lighting, or floor covering upgrades, or other tenant improvements or upgrades, shall be completed by Tenant at Tenant's sole cost and expense, subject to the provisions of the preceding Paragraph 16.

**18. INSTALLATION AND REMOVAL OF TRADE FIXTURES.** Tenant at Tenant's sole cost and expense may install in the Premises such fixtures and equipment not permanently affixed to the realty as Tenant deems advisable, and may remove the same from the Premises at any time during the term of this Lease; provided, however, that no injury shall be done to the structural strength of the building when said fixtures or equipment are removed, and the building shall be restored to substantially its original condition. Any trade fixtures not removed from said Premises by Tenant prior to the expiration or sooner termination of this Lease shall be deemed abandoned by Tenant and shall become the property of Landlord. Landlord shall not be liable for trespass, conversion or negligence by reason of its acts or acts of anyone claiming under it or by reason of the negligence of any person with respect to acquisition and/or disposition of such property.

**19. INSPECTION AND ACCESS TO PREMISES.** Landlord expressly reserves the following rights: (a) to enter the Premises at reasonable times to examine or to make such repairs, additions or alterations as it may deem necessary for the safety, improvement or preservation thereof, or of the building in which the Premises are located, or of the Building, but Landlord assumes no obligation to make repairs to said Premises or said building or the Building other than as expressly stated in this Lease; (b) should Tenant fail to exercise, or not be entitled to exercise, the option to renew as provided below, Landlord shall have the right to enter the

Premises and display a notice or sign "for rent" at any time within three (3) months prior to the expiration of this Lease, and to maintain the same as placed; (c) during or after the time Tenant should abandon or vacate the Premises or otherwise default hereunder, to enter and decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy; and (d) to install upon the roof and exterior walls of the Premises such signs, displays, antenna and other objects or structures as Landlord shall deem necessary or appropriate for the promotion, operation, expansion, maintenance or repair of the Building. The exercise of any reserved right by Landlord shall never be deemed an eviction or disturbance of Tenant's use and possession of the Premises and shall never render Landlord liable in any manner to Tenant or to any other person. Tenant shall permit Landlord and its agents to erect, use, maintain and repair conduits, plumbing, vents, wires and equipment into, under, and through the Premises. All such work and installations shall be done so as not to unnecessarily interfere with Tenant's use of the Premises.

20. **SIGNS.** Except as otherwise set forth in this Lease, Tenant shall have the right, subject to the requirements of the County of Santa Cruz, to provide and install a storefront sign in accordance with the Building sign program. Except as thus provided, Tenant shall not place or suffer to be placed or maintained on any exterior door, roof, wall or window of the Premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises, without first obtaining Landlord's written approval and consent. Tenant further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times and to remove the same at the end of the Term if requested by Landlord to do so. Upon removal thereof, Tenant agrees to repair any damage to the Premises caused by such installation.

21. **DESTRUCTION OF PREMISES.**

A. If the Premises shall be partially or totally destroyed by fire or other casualty covered under a full standard extended risk insurance policy so as to become partially or totally untenable, the same shall be repaired or rebuilt as speedily as practical under the circumstances at the expense of Landlord, unless Landlord elects not to repair or rebuild as provided in Subparagraph "B" of this clause; and, during the period required for restoration, a just and proportionate part of Base Rent shall be abated until the Premises are repaired or rebuilt.

B. If the Premises are (i) rendered substantially untenable by reason of such occurrence; or (ii) damaged or destroyed during the last three (3) years of the Term; or (iii) damaged or destroyed as a result of a risk which is not insurable under full standard extended risk insurance; or (iv) if the building of which the Premises are a part is damaged (whether or not the Premises are damaged) to the extent of fifty percent (50%) or more of its then monetary value; or (v) if the other buildings or Common Areas which then comprise the Building are damaged to such an extent that the Building cannot, in the sole judgment of the Landlord, be operated economically as an integral unit, then and in any such events Landlord may at its option terminate this Lease as of the date of the occurrence, by notice in writing to the Tenant. Unless Landlord gives such notice, this Lease will remain in full force and effect and Landlord shall repair such damage at its expense as expeditiously as possible under the circumstances.

C. If Landlord should elect or be obligated to repair or rebuild because of any damage or



destruction, Landlord's obligation shall be limited to the basic building and any other work of improvements which may have been originally performed or installed at Landlord's expense. If the cost of performing Landlord's obligation would exceed the actual proceeds of insurance paid or payable to Landlord on account of such casualty, Landlord may at its option terminate this Lease. Tenant shall replace all work and improvements originally installed or performed by Tenant at its expense.

D. If the Premises are rendered substantially untenable by reason of such occurrence, Tenant may at its option terminate this Lease as of the date of the occurrence, by notice in writing to Landlord.

## **22. CONDEMNATION.**

A. If title to all of the Premises is taken for any public or quasi-public use by eminent domain or by private purchase in lieu thereof, or if in Landlord's judgment title to so much of the Premises is so taken that a reasonable amount of reconstruction thereof will not result in the Premises being a practical improvement and reasonably suitable for use for the purpose for which the Premises are leased, then, in either event, this Lease shall terminate on the date that title vests in the condemning authority. This Lease shall not, however, terminate under this provision unless more than ten percent (10%) of the floor area of the Premises is so taken.

B. If title to (i) twenty percent (20%) or more of the ground floor area of the buildings in the Building or (ii) fifty percent (50%) or more of the parking area required to be maintained by Landlord is so taken, and if Landlord within one (1) year after such taking does not substitute for the (I can't delete this line) parking area so taken a sufficient number of parking spaces in a location reasonable accessible to the Premises to increase the parking areas remaining to at least seventy percent (70%) of the parking provided prior to the taking, then, either Landlord or Tenant shall have the option to terminate this Lease by notice in writing given to the other within thirty (30) days after taking or within thirty (30) days after the expiration of the one (1) year period, as the case may be. Notwithstanding anything to the contrary contained herein, if a taking of a portion of the parking area results in a violation of or noncompliance with governmental requirements for parking, then Landlord may elect to terminate this Lease by giving the notice described herein.

C. If this Lease is terminated under this Section; all rent shall be apportioned and adjusted as of the date of termination. Tenant shall have no claim for the value of its leasehold estate or for the value of the unexpired Term of Lease, or for any other matter whether the same be of a direct or consequential nature.

D. If there is a partial taking of the Premises or the Building and this Lease is not thereby terminated under the provisions of this Article, then this Lease shall remain in full force and effect, and the Landlord shall, within a reasonable time thereafter, repair and restore the remaining portion of the Premises to the extent necessary to render the same reasonably suitable for the purposes for which the Premises were leased, and shall repair or reconstruct the remaining portion of the Building to the extent necessary to make the same a complete architectural unit; provided that such work shall not exceed the scope of the work required to be done by Landlord in originally constructing such buildings and the cost thereof shall not exceed the



proceeds of the condemnation award paid to Landlord.

E. All compensation awarded or paid upon a total or partial taking of the Premises or the Building shall belong to and be the property of the Landlord without any participation by Tenant. Nothing herein shall be construed to preclude Tenant from prosecuting any claim directly against the condemning authority for loss of business, damage to, and cost of removal of trade fixtures, furniture and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or adversely affect Landlord's award.

F. After any partial taking of the Premises which does not result in a termination of this Lease, Base Rent for the remainder of the Term shall be reduced by the same percentage as the ground floor area of the space taken bears to the ground floor area of the entire Premises prior to such taking.

**23. LIABILITY AND INDEMNITY.** Landlord shall not be liable to Tenant for any damage arising from unforeseeable acts or negligence of other tenants or occupants of the Building. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by (i) any act, omission or negligence of Tenant or any subtenant of Tenant, or their respect contractors, licensees, invitees, agents, servants or employees, wheresoever the same may occur, or (ii) any use of the Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Premises, or any part thereof, and any service delivery facilities of any other portions of the Building used by Tenant, excluding such claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees) arising from or in connection with, or caused by, Landlord's active negligence or willful misconduct.

**24. LIABILITY INSURANCE.** Tenant shall, at Tenant's expense, obtain and keep in full force during the term of this Lease or any extensions thereof, a policy of comprehensive general liability insurance including contractual liability coverage, insuring Tenant and Landlord, against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than One Million Dollars (\$1,000,000.00) for combined single limit bodily injury and property damage coverage. The limit of any such insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to procure and maintain same, and at the expense of Tenant. Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein, or certificates evidencing the existence and amounts of such insurance, with loss payable clauses satisfactory to Landlord. No policy shall be cancelable, or subject to reduction of coverage without thirty (30) days' notice to Landlord at the address indicated below. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry, shall name any lender of Landlord of which Tenant has knowledge as an additional insured, and shall be written by a company or companies rated A+, AAA, or better in "Best's Insurance Guide".

**25. WAIVER OF SUBROGATION.** Each of the parties hereto waives any and all rights of

recovery against the other or against any other tenant or occupant of the subject Premises or against the officers, employees, agents, representatives, patients and business visitors of such other party or of such other tenant or occupant of the subject Premises for loss of or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other policy of insurance carried by such waiving party in lieu thereof, to the extent such loss or damage is insured against by such policy. Such waiver shall not be binding on either party unless the same is permitted by each party's insurance carrier without the payment of additional premium.

**26. ASSIGNMENT AND SUBLETTING.** Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's employees) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. If Tenant desires to make such an assignment, encumbrance, sublease or permit another person or entity to occupy or use part or all of the Premises, Tenant shall notify Landlord in writing by certified mail of such intent setting forth in detail all particulars of the proposed transaction, including adequate credit, financial, personal and business information on any person or entity involved in the proposed transaction. After the expiration of thirty (30) days from receipt of all items of information specified above, Tenant shall be entitled to proceed with the proposed assignment, encumbrance, sublease or additional occupancy, unless Landlord in the reasonable exercise of Landlord's judgment disapproves of the proposed assignee, sublessee, or occupant, on one or more of the following grounds:

- A. that the proposed use of the Premises conflicts or is incompatible with existing uses of the Building;
- B. that the proposed assignee, sublessee, or occupant's financial or credit ability or reputation is unsatisfactory;
- C. that the business or personal reputation of the proposed assignee, sublessee, or occupant is unsatisfactory;
- D. that the quality of previous or proposed business operations of the proposed assignee, sublessee, or occupant is unsatisfactory;
- E. that the business experience of the proposed assignee, sublessee, or occupant is unsatisfactory;
- F. that other factors or circumstances exist which Landlord reasonably believes would render occupancy of all or part of the Premises by the proposed assignee, sublessee, or occupant detrimental to the Building or to other businesses situated in the vicinity.

If Tenant is a corporation, an unincorporated association, or a partnership, any transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership in the aggregate in excess of 25% shall be deemed an assignment within the meaning of this section.

Tenant shall reimburse Landlord for attorneys' fees reasonably paid or incurred by Landlord in connection with any proposed assignment, encumbrance, sublease, or occupancy pursuant to this section.

In the event of any assignment, encumbrance, sublease, or occupancy pursuant to this section, the provisions of this section shall apply to any further proposals to assign, sublease, encumber or allow any other person or entity to use all or part of the Premises.

Landlord may collect rent from any assignee, subtenant or occupant of all or any part of the Premises, and may apply the net amount collected to the rent required under the terms of this Lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of this section, or the acceptance of the assignee, subtenant, or occupant as tenant, or a release of Tenant from the further performance by Tenant of the covenants on the part of Tenant herein contained. Tenant shall in no event be relieved of any liability or responsibility by reason of any assignment, sublease, encumbrance or change in occupancy.

**27. LENDERS AND SUCCESSORS TO LANDLORD.** Tenant agrees that this Lease shall be subordinate to any mortgages, trust deed, or other security of which Tenant is given written notice, now or hereafter encumbering the land and buildings of which the Premises are a part or upon any buildings hereafter placed upon the land of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, any such mortgage, deed of trust, or other security instrument shall contain a provision to the effect that so long as Tenant is not in default under this Lease or any renewal thereof, no foreclosure of the mortgage, deed of trust, or other security instrument, or any other proceeding in respect thereof, shall divest, impair, modify, abrogate, or otherwise adversely affect any interests or rights whatsoever of Tenant under this Lease. This shall be self-operative and no further instrument of subordination shall be required, provided, however, the Tenant shall from time to time on the request from the Landlord or of any other party in interest, execute and deliver any document or instrument that may be required by a lender to effectuate any subordination. If Tenant without reasonable cause fails to execute and deliver any such document or instrument, Landlord will have the right to take such action as Landlord may be permitted otherwise to exercise under this Lease including the right to terminate this Lease.

Within thirty (30) days after receipt of a written request therefore by Landlord, Tenant agrees to execute and deliver in recordable form an estoppel certificate to any mortgagee or proposed mortgagee or purchaser to the Landlord certifying (if such be the case) that this Lease is unmodified and in full force and effect (and if there has been modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by the Tenant; and stating the date to which rentals and other charges are paid. Such certificate shall also include such other information as may be reasonably required. The failure by the Tenant to deliver any such certificate within thirty (30) days shall be conclusive upon the Tenant that this Lease is in full force and effect and has not been modified except as may be represented by Landlord. Notices of any default by Landlord shall be given by Tenant to any mortgagee of whom Tenant has been notified in writing, and said mortgagee shall have the right but not the obligation to cure said default.

Tenant shall attorn and be bound to any of Landlord's successors under all the terms, covenants and conditions of this Lease for the balance of the Lease Term.

**28. SURRENDER OF PREMISES.** Upon the expiration of the Lease Term, Tenant shall surrender the Premises to Landlord in as good order and condition as at the Commencement of Lease Term (except for ordinary wear and tear) together with all additions, alterations and improvements which may have been made in or to the Premises. Landlord may, at its option, require the Tenant at the Tenant's expense to remove all such alterations, improvements and additions and to restore the Premises to the condition they were in when originally delivered to Tenant, save ordinary wear and tear. In the event Tenant continues to occupy the Premises after the expiration of the Lease Term, without being given or being entitled to renewal or a new lease, such occupancy shall be considered a tenancy from month-to-month at a monthly rental equal to the rent payment due for the last month of the Lease Term including but not limited to Base Rent, as adjusted in accordance with Paragraph 8 above, Taxes, Insurance, Advertising and Marketing Expense, and all other rents due and payable by Tenant to Landlord. This provision shall not give Tenant any right to continue occupancy following the expiration of this Lease except with the written consent of Landlord. Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any succeeding occupant of the Premises for such delay.

**29. INSOLVENCY OF TENANT.** Tenant agrees that in the event all or substantially all of the Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of thirty (30) days, or should Tenant make an assignment for the benefit of creditors or be adjudicated a bankrupt, or should Tenant institute any proceedings under the bankruptcy act or under any amendment thereof which may hereafter be enacted, or under any other act relating to the subject of bankruptcy wherein Tenant seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition, arrangement or reorganization, or should any involuntary proceeding be filed against Tenant under any such bankruptcy laws and Tenant consent thereto or acquiesce therein by pleading or default, then this Lease or any interest in and to the Premises shall not become an asset in any of such proceedings, and, in any such event and in addition to any and all rights and remedies of Landlord hereunder or by law provided, it shall be lawful for Landlord to declare the term hereof ended and to reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or hereunder.

**30. ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein provided shall be deemed to be other than on account of the earliest rent due and payable hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other proper remedy.

**31. DEFAULT AND REMEDIES.** The occurrence of any of the following shall constitute a default under this Lease:

A. Tenant's failure to pay rent or to make any other payment required to be made by Tenant

hereunder when due, which failure continues for ten (10) days after written notice thereof.

B. Abandonment or vacation of the Premises by Tenant, for any purpose except remodeling or restoration for a time period approved by Landlord.

C. Tenant's failure to cause to be released any mechanic's or materialmen's liens filed against the Premises within ten (10) days after the date the same shall have been filed.

D. Tenant's failure to observe or perform any other provision of this Lease to be observed or performed by Tenant, other than those described in Subparagraphs A, B, and C above, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such failure cannot reasonably be cured within such thirty-day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

E. The insolvency of Tenant or the execution by Tenant of an assignment for the benefit of creditors; the filing for reorganization or arrangement under any law relating to bankruptcy or insolvency; or, the appointment of a receiver or trustee to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease.

In the event of any default by Tenant hereunder, then, in addition to any other remedies available to Landlord at law or in equity, Landlord may at its option terminate this Lease and recover damages from Tenant, including (a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; (b) 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; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

Alternatively, in the event of such default, Landlord may elect not to terminate the Lease and Landlord may enforce rights and remedies under the Lease, including the right to recover rent as it becomes due. In the event Landlord terminates the Lease, Landlord shall have the right to reenter and take possession of the Premises, to remove all persons and property therefrom, which property may be stored by Landlord at a warehouse or elsewhere at the risk, expense and for the account of Tenant, and to relet the Premises, or any part thereof, for the account of Tenant, for such term and upon such conditions and at such rent as Landlord at its sole discretion may deem proper. To the fullest extent permitted by law, the proceeds of any reletting shall be applied as follows: first, to pay Landlord all costs and expenses of such reletting (including without limitation, costs and expenses of retaking or repossessing the Premises, removing persons and property therefrom, securing new tenants, and if Landlord shall maintain and operate the Premises, the cost thereof); second, to pay any indebtedness of Tenant to Landlord other than rent; third, to the rent due and unpaid hereunder; fourth, the residue, if any, shall be held by Landlord and applied in payment of any other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant shall not be entitled to receive any portion of

such revenue.

Nothing in this paragraph shall be deemed to affect Landlord's right to indemnification for liabilities arising prior to termination of this Lease for personal injury or property damage under the indemnification clause or clauses contained in this Lease.

No reentry or reletting of the Premises shall be construed as an election by Landlord to terminate either Tenant's right to possession or this Lease unless a written notice of such intention is given by Landlord to Tenant and notwithstanding any such reletting without such termination, Landlord may at any time thereafter elect to terminate Tenant's right to possession in this Lease.

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any set-off or abatement of rent. If Tenant shall fail to pay any sum of money, other than rent, required to be paid hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue beyond any applicable grace period set forth above, Landlord may, but shall not be obligated to do so, and without waiving or releasing Tenant from any obligations of Tenant, make on Tenant's behalf any such payment or perform any such other act to be made or performed by Tenant as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs, together with interest thereon at the maximum legal rate permitted by the laws of California, to the date the default is cured, shall be payable to Landlord on demand, and Tenant covenants to pay any such sum. Landlord shall have, in addition to any other right or remedy of Landlord, the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rent.

All remedies given to Landlord in this Lease shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter at law or in equity.

**32. TENANT'S PROPERTY.** Tenant agrees to insure the contents of the Premises against fire, theft, vandalism, and such other hazards as are readily insurable under a normal "fire and extended coverage" policy, and to provide Landlord with a copy of such policy or any policies, and any modifications or replacements thereto, within thirty (30) days of execution of this Lease. Tenant shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon, or about the Premises by Tenant. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any damage to property of Tenant or of others located on the Premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks from any part of the Premises, or the Common Areas, or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the Premises, occupants of adjacent property, of the Common Area, or the public, or caused by operations and construction of any private, public or quasi-public work. Landlord shall not be liable for any latent defect in the Premises or in the building of which they form a part. All property of Tenant kept or stored on the Premises shall be so kept or stored at

the risk of Tenant only and Tenant shall hold Landlord harmless from any claims arising out of such damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Landlord, and through no fault of Tenant.

33. **WAIVER.** The failure of Landlord to insist in any one or more instances upon a strict performance of any of the covenants or agreements in this Lease or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant, agreement, or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

34. **LEGAL EXPENSES.** Tenant shall pay to Landlord all amounts for reasonable attorneys' fees incurred by Landlord in connection with any breach or default under this Lease or incurred in order to enforce the terms or provisions hereof. Such amount shall be payable upon demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any of its rights or remedies in or under this Lease, the prevailing party shall be entitled to recover from the other party, all costs incurred by said prevailing party in said action, including reasonable attorneys' fees to be fixed by the court therein.

35. **NOTICES.** Any notice, demand, request or other document or instrument which may be or is required to be given under this Lease shall be given only in writing and shall be deemed delivered if sent by United States certified, postage prepaid mail, return receipt requested, or by a national overnight delivery service, and shall be addressed (i) if to Landlord, to 2222 East Cliff Drive, #222, Santa Cruz, California, 95062; and (ii) if to Tenant, at the address set forth in Section 1.2 above. Notices shall be effective upon deposit with reputable overnight delivery services or in the United States mails in accordance with the above provisions. Each party may designate such other address as shall also be given by such written notice. Other modes of delivery may also be utilized, provided such other delivery service can provide a proof of delivery.

36. **TIME OF ESSENCE.** Time is of the essence of this Lease. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that the failure to timely perform any of the obligations hereof by either party shall constitute a breach of and a default under this Lease by the party so failing to perform.

37. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and to the Premises, and supersedes all prior and contemporaneous leases, agreements, representations, and understandings of the parties. No supplement, modification, or amendment shall be binding unless executed in writing by all of the parties. Landlord makes no guarantee, warranty, representation, agreement, or statement concerning the use, occupancy, or suitability of the Leased Premises for Tenant's intended use, or the adequacy or fitness of the Premises for such use. Tenant warrants and represents, for the express benefit of Landlord, that (a) Tenant has undertaken a complete and independent evaluation of the risks inherent in the execution of this Lease and the operation of



the Leased Premises for Tenant's intended use; (b) that Tenant assumes all risk with respect thereto; (c) that no oral or written inducements, express or implied, have been made to Tenant to execute this Lease; (d) that in entering into this Lease, Tenant did not rely upon any statement, fact, promise, or representation not specifically set forth herein in writing; and (e) that for purposes of this provision, the foregoing references to Landlord shall include Landlord's agents and employees, if any.

**38. PARTIAL INVALIDITY.** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

**39. SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant, unless the assignment to such assignee has been approved by Landlord as provided above.

**40. CONSTRUCTION OF DOCUMENT.** This Lease has been the subject of negotiation by all parties hereto, and consequently this Lease shall not be construed in favor of or against any party by reason of that party having prepared this Lease or any part hereof.

**41. NO OFFER.** The submission of this Lease by Landlord to Tenant does not constitute a reservation of or an option for the Premises, and this Lease becomes effective as a lease only upon the execution hereof by Landlord and Tenant, and delivery of the executed Lease by Tenant to Landlord, together with one month's rent and the security deposit required by this Lease.

**42. HAZARDOUS AND TOXIC SUBSTANCES.** Tenant shall not use, generate, store or dispose, or give consent to anyone else to use, generate, store or dispose, any hazardous, toxic, or radioactive materials [hereinafter referred to collectively as "Hazardous Materials"]. As herein used, Hazardous Materials shall include, without limitation, those materials identified in Sections 66680 through 66685 of Title 22 of the California Administrative Code Division 4, Chapter 30, as amended from time to time, and those substances defined as "hazardous substances," "hazardous materials," "hazardous waste", or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC, Section 9601 *et seq.*, the Hazardous Materials Transportation Act, 49 USC, Section 1801 *et seq.*, and any other governmental statutes, laws, ordinances, rules, and regulations now or hereafter in effect. Tenant shall indemnify, defend and hold Landlord from and against any and all claims, damages, costs and liabilities, including all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant, including, without limitation, the cost of any required or necessary repair, clean up, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, to the full extent that such action is



attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant. Neither the written consent by Landlord to the use, generation, storage or disposal of Hazardous Materials nor the strict compliance by Tenant with all statutes, laws, ordinances, rules and regulations pertaining to Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification pursuant to this paragraph. Tenant's obligation pursuant to the foregoing indemnity shall survive the termination of this Lease.

43. **BROKERS' COMMISSIONS.** Tenant represents and warrants that Tenant has not employed any real estate agent or finder and that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant agrees to indemnify, defend, protect and hold Landlord harmless from any and all liabilities, claims, demands, or causes of action arising from any such claim, including attorneys' fees.

44. **JURY WAIVER.** Landlord and Tenant hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either Landlord against Tenant or Tenant against Landlord on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

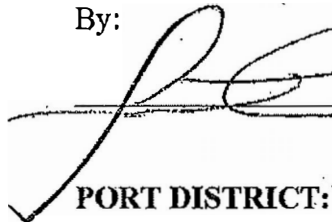
IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed by their duly authorized representative as of the day and year first written below.

**LANDLORD:**  
O'Neill Sea Odyssey  
By:



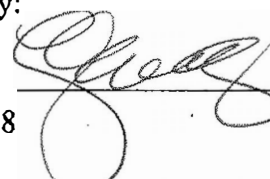
DATED: February 3, 2014

**TENANT:**  
Estriatus Law, PC  
By:



DATED: Feb 5, 2014

**PORT DISTRICT:**  
Lisa Ekers, Port Director  
By:



DATED: \_\_\_\_\_, 2014



## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("First Amendment"), dated for reference purposes only as December 15, 2015, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Estriatus Law, PC, a California professional corporation ("Tenant").

### RECITALS

- A. Landlord and Tenant entered into that certain Lease dated February 3, 2014 ("Lease"), for certain Premises consisting of 337± square feet and commonly known as 2222 East Cliff Drive, Suite 220, Santa Cruz, California ("Premises").
- B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from March 15, 2016, until it expires on March 14, 2018 ("New Term"). Tenant shall have a right to renew the Lease Term, according to the terms and conditions stated in Section 4 of the Lease, at the end of the New Term.

2. **Base Rent.**

<u>Months</u>	<u>Rental/MO/NNN</u>
New Term	\$1,416.36/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this First Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this First Amendment, the terms and conditions of this First Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this First Amendment.

3.3 **Counterparts.** If this First Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this First Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this First Amendment on behalf of the partnership

and/or corporation and that this First Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This First Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:

DATED: December 15, 2015

Its Executive Director

**TENANT:**  
Estriatus Law

DATED: Dec. 28, 2015

**SANTA CRUZ PORT DISTRICT**  
By:

DATED: \_\_\_\_\_, 2016

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

## SECOND AMENDMENT TO LEASE

This Second Amendment to Lease (“Second Amendment”), dated for reference purposes only as December 19, 2017, is made by and between O’Neill Sea Odyssey, a California nonprofit corporation (“Landlord”) and Estriatus Law, PC, a California professional corporation (“Tenant”).

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated February 3, 2014 (“Lease”), for certain Premises consisting of 337± square feet and commonly known as 2222 East Cliff Drive, Suite 220, Santa Cruz, California (“Premises”). The parties thereafter entered into a First Amendment of Lease dated December 15, 2015 (“First Amendment”).

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from March 15, 2018, until it expires on March 14, 2020 (“New Term”). Tenant shall have a right to renew the Lease Term, according to the terms and conditions stated in Section 4 of the Lease, at the end of the New Term.

2. **Base Rent.**

<u>Months</u>	<u>Rental/MO/NNN</u>
New Term	\$1,454.60/mo.

3. **General:**

3.1 **Effect of Amendment; Ratification.** Except as otherwise modified by this Second Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Second Amendment, the terms and conditions of this Second Amendment shall prevail.

3.2 **Attorney’s Fees.** The provisions of the Lease respecting payment of attorney’s fees shall also apply to this Second Amendment.

3.3 **Counterparts.** If this Second Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Second Amendment on behalf of a partnership or corporation represents that he or she is

duly authorized to execute and deliver this Second Amendment on behalf of the partnership and/or corporation and that this Second Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Second Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

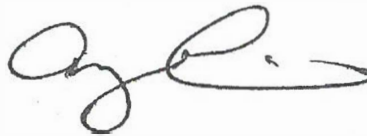
By:



DATED: December 19, 2017

Its Executive Director

**TENANT:**  
Estriatus Law



DATED: February 28, 2018

Its President

**SANTA CRUZ PORT DISTRICT**

By:



DATED: 3-1-, 2018

Its: Port Director

## THIRD AMENDMENT TO LEASE

This Third Amendment to Lease ("Third Amendment"), dated for reference purposes only as January 24, 2020, is made by and between O'Neill Sea Odyssey, a California nonprofit corporation ("Landlord") and Estriatus Law, PC, a California professional corporation ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease dated February 3, 2014 ("Lease"), for certain Premises consisting of 337± square feet and commonly known as 2222 East Cliff Drive, Suite 220, Santa Cruz, California ("Premises"). The parties thereafter entered into a First Amendment of Lease dated December 15, 2015 ("First Amendment").

B. The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

1. **Term.** The Lease Term for the Premises shall be modified to continue in force from March 15, 2020, until it expires on March 14, 2022 ("New Term"). Tenant shall have a right to renew the Lease Term, according to the terms and conditions stated in Section 4 of the Lease, at the end of the New Term.

2. **Base Rent.**

<u>Months</u>	<u>Rental/MO/NNN</u>
New Term	\$1,490.97/mo.

3. **General:**

3.1 **Effect of Amendment: Ratification.** Except as otherwise modified by this Third Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Third Amendment, the terms and conditions of this Third Amendment shall prevail.

3.2 **Attorney's Fees.** The provisions of the Lease respecting payment of attorney's fees shall also apply to this Third Amendment.

3.3 **Counterparts.** If this Third Amendment is executed in counterparts, each counterpart shall be deemed an original.

3.4 **Authority to Execute Amendment.** Each individual executing this Third Amendment on behalf of a partnership or corporation represents that he or she is duly

authorized to execute and deliver this Third Amendment on behalf of the partnership and/or corporation and that this Third Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Third Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

By:



DATED: January 24, 2020

Its Executive Director

**TENANT:**  
Estriatus Law



DATED: January 27, 2020

**SANTA CRUZ PORT DISTRICT**  
Marian Olin, Port Director

By:



DATED: 6-24 2020



## FOURTH AMENDMENT TO LEASE

This Fourth Amendment to Lease (“Fourth Amendment”), dated for reference purposes only as March 14, 2022, is made by and between O’Neill Sea Odyssey, a California nonprofit corporation (“Landlord”) and Estriatus Law, PC, a California professional corporation (“Tenant”).

### RECITALS

**A.** Landlord and Tenant entered into that certain Lease dated February 3, 2014 (“Lease”), for certain Premises consisting of 337± square feet and commonly known as 2222 East Cliff Drive, Suite 220, Santa Cruz, California (“Premises”). The parties thereafter entered into a First Amendment of Lease dated December 15, 2015 (“First Amendment”), a Second Amendment of Lease dated December 19, 2017 (“Second Amendment”), and a Third Amendment of Lease dated January 24, 2020 (“Third Amendment”).

**B.** The capitalized terms used and not otherwise defined herein shall have the same meanings and definitions as set forth in the Lease.

### AMENDMENT PROVISIONS

**1. Term.** The Lease Term for the Premises shall be modified to continue in force from March 15, 2022, until it expires on March 14, 2023 (“New Term”). Tenant shall have a right to renew the Lease Term, according to the terms and conditions stated in Section 4 of the Lease, at the end of the New Term.

**2. Base Rent.**

<u>Months</u>	<u>Rental/MO/NNN</u>
New Term	\$4.61/sq. foot = \$1,553.57/mo.

**3. General:**

**3.1 Effect of Amendment; Ratification.** Except as otherwise modified by this Fourth Amendment, the Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Fourth Amendment, the terms and conditions of this Fourth Amendment shall prevail.

**3.2 Attorney’s Fees.** The provisions of the Lease respecting payment of attorney’s fees shall also apply to this Fourth Amendment.

**3.3 Counterparts.** If this Fourth Amendment is executed in counterparts, each counterpart shall be deemed an original.

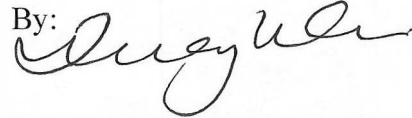
**3.4 Authority to Execute Amendment.** Each individual executing this Fourth Amendment on behalf of a partnership or corporation represents that he or she is duly authorized to execute and deliver this Fourth Amendment on behalf of the partnership and/or corporation and that this Fourth Amendment is binding upon the corporation or partnership in accordance with its terms.

**3.5 Governing Laws.** This Fourth Amendment and any enforcement of the agreements and modifications set forth above shall be governed by and construed in accordance with the laws of the State of California.

**4. Tenant Improvements:** Landlord shall not be required to provide any Tenant Improvements to the Premises during the New Term or any subsequent Extension Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the date and year first above written.

**LANDLORD:**  
O'Neill Sea Odyssey,  
a California nonprofit corporation

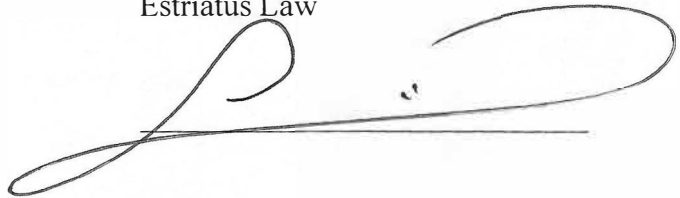
By: 

DATED: 3/17/22

Its Executive Director

**TENANT:**  
Estriatus Law

DATED: 3-17, 2022



**SANTA CRUZ PORT DISTRICT**

By: 

DATED: March 23, 2022

Holland MacLaurie, Port Director



TO: Port Commission  
 FROM: Holland MacLaurie, Port Director  
 DATE: April 15, 2022  
 SUBJECT: Approval of FY23 Fee Schedule

**Recommendation:** *Approve the FY23 fee schedule and authorize the Port Director to waive or adjust fees as deemed appropriate.*

**BACKGROUND**

User fees are charged for a variety of Port District services and permits, and for rental of Port District facilities. The Port Commission approves marina fees (e.g., slip fees, dry storage, etc.) through the budget approval process. The Port Commission also periodically reviews and adjusts visitor fees such as parking and visitor berthing rates.

**ANALYSIS**

The proposed FY23 fee schedule is included for review as Attachment A. Proposed fee changes for FY23 are outlined below:

Fee	Current Rate	Proposed Change	Comments
RV Park RV in Launch Ramp (w/o trailer) RV in Launch Ramp (w/ trailer)	\$58.00 / day \$58.00 / day \$76.00 / day	\$60.00 / day \$60.00 / day \$78.00 / day	Last increase FY21. Neighboring RV park rates average approximately \$84.00/night (peak-season). A modest increase is proposed, recognizing that the Port District's RV park does not provide extensive amenities.
Concession Parking Lot: Entry before 4 PM, first 2.5 hrs. Entry before 4 PM, after 2.5 hrs. Entry after 4 PM	\$1.50 / hour \$5.00 / hour \$1.50 / hour	\$1.75 / hour \$5.25 / hour \$1.75 / hour	First 30 minutes free. Last increase FY16.
Handlaunch or Additional vessel with Cartop	\$6.00 / day	\$7.00 / day	Last increase FY17.
Visitor Berthing: Up to 50' Monohull: 1-14 days Up to 50' Monohull: 15+ days 50' + Monohull: 1-14 days 50' + Monohull: 15+ days	\$1.25 / ft \$2.00 / ft \$1.50 / ft \$2.00 / ft	\$1.50 / ft \$2.25 / ft \$1.75 / ft \$2.25 / ft	Last increase FY15. Updated rates align with neighboring harbors providing similar services and accommodations.
Visitor Berthing – Commercial	\$0.60 / ft.	\$0.90 / ft	Commercial rate was reduced from \$0.75/ft. to \$0.60/ft. in FY19.

<b>Fee</b>	<b>Current Rate</b>	<b>Proposed Change</b>	<b>Comments</b>
End-tie full length (Regattas, Cruises, Etc.)	\$250.00	\$270.00	Fee introduced in FY15. No adjustments since that time. Increase aligns with proposed adjustment to visitor berthing fees.
Winter End-Tie Berthing Program – Recreational	\$23.25 / ft / mo	\$27.90 / ft / mo	Fee introduced in FY19. No adjustments since that time. Increase aligns with proposed adjustment to visitor berthing fees.
Winter End-Tie Berthing Program – Commercial	\$15.00 / ft / mo	\$18.00 / ft / mo	Fee introduced in FY19. No adjustments since that time. Increase aligns with proposed adjustment to visitor berthing fees.
Events – Harbor Beach: 0-100 people Addtl 50 people	\$300.00 / day \$100.00 / day	\$325.00 / day \$125.00 / day	Last increase FY16.
Events – West Jetty	\$250.00 / day	\$275.00 / day	Current rate predates FY14.
Events – Information Booth	\$40.00 / day	\$50.00 / day	Current rate predates FY14.
Events – Live Music/DJ	\$165.00 / day	\$175.00 / day	Current rate predates FY14.
Events – Stereo System	\$65.00 / day	\$75.00 / day	Current rate predates FY14.
Events – Volleyball Court	\$50.00 / day	\$60.00 / day	Current rate predates FY14.
Events – Public Meeting Room	\$25.00 / hour	\$40.00 / hour	Current rate predates FY14.
Dock Box Sale	\$450.00	\$475.00	Increase to reflect actual cost to Port District. Rate remains competitive with other suppliers.
Launch Area Rinse/Flush	\$2.00 / 5-minutes	\$2.25 / 5-minutes	Rate has not been adjusted since implementation of metered system.
<b>STAFF SERVICES:</b> Facilities Maintenance Manager Supervising Maint. Worker Maintenance Worker Supervising Dredge Worker Harbormaster Assistant Harbormaster Senior Deputy Harbormaster Deputy Harbormaster Reserve Deputy Harbormaster Customer Service Rep. Accounting Technician Administrative Assistant Parking Coordinator Parking Control	\$98.76 / hour \$70.35 / hour \$65.83 / hour \$74.73 / hour \$98.76 / hour \$78.01 / hour \$71.62 / hour \$65.83 / hour \$44.00 / hour \$63.13 / hour \$69.84 / hour \$64.21 / hour \$56.73 / hour \$33.68 / hour	\$114.86 / hour \$80.26 / hour \$76.51 / hour \$83.07 / hour \$114.86 / hour \$88.89 / hour \$81.79 / hour \$76.51 / hour \$45.00 / hour \$69.50 / hour \$76.51 / hour \$70.56 / hour \$67.79 / hour \$35.36 / hour	Commensurate with 2022 salaries.

As part of the FY23 budget process, the Port Commission approved a 3.2% increase to marina fees. For discussion and comparison purposes, the proposed FY23 fee schedule includes a column depicting a 3.2% increase to each fee.

**IMPACT ON PORT DISTRICT RESOURCES**

There is no impact on Port District resources associated with adopting the fee schedule. Staff estimates additional revenue as a result of adjusting the fees.

ATTACHMENT:      A. FY23 Draft Fee Schedule (redline)

Santa Cruz Port District  
**FY23 FEE SCHEDULE**

Description	Fee	3.2% Increase	Comments
<b>PARKING</b>			
Meter Parking Pass: Slip Renter	\$7.00 /day	\$7.22	
Meter & Pay Station Parking Pass: Visitors	\$15.00 /day	\$15.48	
Meter & Pay Station Parking: Visitors	\$1.50 /hour	\$1.55	
Slip Licensee 1st/2nd Additional Parking Stickers	\$50.00 / \$100	51.60 / 103.20	
Concession Restaurant & Tenant Lot (Overflow)	\$6.00	\$6.19	
Concession Parking Lot Lost Ticket Fee	\$40.00	\$41.28	
RV Park	<del>\$60.00</del> <del>\$58.00</del> /night	\$59.86	
RV in Launch Ramp (w/o trailer)	<del>\$60.00</del> <del>\$58.00</del> /night	\$59.86	
RV in Launch Ramp (w/trailer)	<del>\$78.00</del> <del>\$76.00</del> /night	\$78.43	
Overnight Parking: Single Vehicle	\$30.00 /night*	\$30.96	*Includes all-day parking through 9 PM 2nd night
Overnight Parking in Launch Ramp: Vehicle & Trailer	\$30.00 /night*	\$30.96	
Overnight Parking: 7th & Brommer	\$20.00 /night	\$20.64	
Concession Parking Lot: Entry before 4 PM (first 2.5 hours)	<del>\$1.75</del> <del>\$1.50</del> /hour*	1.55	
Concession Parking Lot: Entry before 4 PM (after 2.5 hours)	<del>\$5.25</del> <del>\$5.00</del> /hour*	5.16	*30 minutes or less FREE
Concession Parking Lot: Entry after 4 PM	<del>\$1.75</del> <del>\$1.50</del> /hour*	1.55	
<b>LAUNCHING</b>			
Daily Launch Permit	\$18.00	\$18.58	
Daily Launch Permit - Disabled	\$12.00	\$12.38	
Daily Cartop Launch Permit (2 vessels)	\$15.00*	\$15.48	*Includes launching for 2 vessels/boards & vehicle parking.
Handlaunch or Additional Vessel w/ Cartop	<del>\$7.00</del> <del>\$6.00</del>	\$6.19	
Annual Launch Permit: Daily	\$370.00	\$381.84	
Annual Launch Permit: M - F	\$265.00	\$273.48	
Annual Launch Permit - Disabled: Daily	\$225.00	\$232.20	
Annual Launch Permit - Disabled: M - F	\$165.00	\$170.28	
Annual Launch Permit Cartop	\$250.00	\$258.00	
<b>VISITOR BERTHING</b>			
Up to 50' Monohull: 1-14 Days	<del>\$1.50</del> <del>\$1.25</del> /ft.	\$1.29	
Up to 50' Monohull: 15+ Days	<del>\$2.25</del> <del>\$2.00</del> /ft.	\$2.06	
50'+ Multihull: 1-14 Days	<del>\$1.75</del> <del>\$1.50</del> /ft.	\$1.55	
50'+ Multihull: 15+ Days	<del>\$2.25</del> <del>\$2.00</del> /ft.	\$2.06	
Commercial	<del>\$0.90</del> <del>\$0.60</del> /ft.	\$0.62	
<b>OTHER VISITOR SERVICES</b>			
Catamaran Overnight Storage	\$5.00*	\$5.16	*Storage on beach only
End-Tie full length (Regattas, Cruises, Etc.)	<del>\$270.00</del> <del>\$250.00</del>	\$258.00	
End-Tie half length (Regattas, Cruises, Etc.)	<del>\$160.00</del> <del>\$150.00</del>	\$154.80	
Winter End-Tie Berthing Program: Recreational**	<del>\$27.90</del> <del>\$23.25</del> /ft./mo.*	\$23.99	*1 month occupancy; paid in advance
Winter End-Tie Berthing Program: Commercial**	<del>\$18.00</del> <del>\$15.00</del> /ft./mo.*	\$15.48	**Winter: October 31 - March 1
<b>EVENTS</b>			
Event Application Fee	\$75.00*	\$77.40	*Cost recovery for administrative services
Harbor Beach: 0-100 people	<del>\$325.00</del> <del>\$300.00</del> /day	\$309.60	
Harbor Beach: add 'l 50 people	<del>\$125.00</del> <del>\$100.00</del> /day	\$103.20	
Harbor Beach Plaza	\$250.00 /day	\$258.00	
Mariner Park Lawn: 0-100 people	\$250.00 /day	\$258.00	
Mariner Park Lawn: add 'l 50 people	\$100.00 /day	\$103.20	
JG Townsend Maritime Plaza	\$150.00 /day	\$154.80	
Walton Lighthouse: 0-6 people	\$500.00 /hour*	\$516.00	* Staff service charges for standby may apply
West Jetty	<del>\$275.00</del> <del>\$250.00</del> /day	\$258.00	
Wiki's Island	\$150.00 /day	\$154.80	
Information Booth	<del>\$50.00</del> <del>\$40.00</del> /day	\$41.28	
Event Deposit	\$500.00 /day*	\$516.00	*Minimum
Live Music /DJ	<del>\$175.00</del> <del>\$165.00</del> /day	\$170.28	
Stereo System	<del>\$75.00</del> <del>\$65.00</del> /day	\$67.08	
Volleyball Court	<del>\$60.00</del> <del>\$50.00</del> /court/4-hours*	\$51.60	*Limit 2 courts
On-water Event Permit Inner Harbor	\$50.00 /hour*	\$51.60	*Plus safety staffing & vessels
Electrical Service Use	\$40.00	\$41.28	
Mariner Park Lawn Camping	\$10.00 /night/tent*	\$10.32	*Harbormaster approval required
Public Meeting Room	<del>\$40.00</del> <del>\$25.00</del> /hour	\$25.80	
<b>DEPOSITS</b>			
Dry Storage & Rack Storage	2 months' rent		
Slips	1 month's rent		
Dort Tie	2 months' rent		
<b>STAFF SERVICES*</b>			
Facilities Maintenance Manager	<del>\$114.86</del> <del>\$99.76</del> /hour		
Supervising Maintenance Worker	<del>\$80.26</del> <del>\$70.35</del> /hour		
Maintenance Worker	<del>\$76.51</del> <del>\$65.83</del> /hour		
Supervising Dredge Worker	<del>\$83.07</del> <del>\$74.73</del> /hour		
Harbormaster	<del>\$114.86</del> <del>\$99.76</del> /hour		*Hourly Labor charges for services outside of routine, for benefit of individual or group. Ex: Hazmat response & cleanup, damage repairs, event setup, security, etc..
Assistant Harbormaster	<del>\$88.89</del> <del>\$78.01</del> /hour		
Senior Deputy Harbormaster	<del>\$81.79</del> <del>\$71.62</del> /hour		
Deputy Harbormaster	<del>\$76.51</del> <del>\$65.83</del> /hour		*Commensurate with 2019 salaries. 2-hour minimum.
Reserve Deputy Harbormaster	<del>\$45.00</del> <del>\$44.00</del> /hour		
Customer Service Representative	<del>\$69.50</del> <del>\$63.13</del> /hour		
Accounting Technician	<del>\$76.51</del> <del>\$69.84</del> /hour		
Administrative Assistant	<del>\$70.56</del> <del>\$64.21</del> /hour		
Parking Coordinator	<del>\$67.79</del> <del>\$56.73</del> /hour		
Parking Control	<del>\$35.36</del> <del>\$33.68</del> /hour		
All Vehicles	\$75.00**		**1-hour minimum
<b>MISCELLANEOUS CHARGES</b>			
Credit Card Convenience Fee	3%		
Appeals to the Board of Port Commissioners	\$25.00 filing fee		
Credit Card Phone-in Fee	\$10.00		
Fuel Service Call Back	\$10.00		
Dewatering	\$125.00+*		*Actual cost + admin overhead or \$125.00 minimum
Dock Box Sale	<del>\$475.00</del> <del>\$450.00</del>		
Ice Sales	\$20.00 /tote up to 500lbs.		
Returned Check Fee	\$40.00		
Discount for Advance Payment of Slip Fees	2% annually		
Postage/Mailing	Actual cost + 25%, \$10.00 minimum		
Late Payments: one-time fee	\$25.00 fee, plus .833% interest on aged bal.		
Late Payments: interest on aged balance	0.833%		
Police/Incident Reports Copies	\$25.00		
Miscellaneous Landside Storage (including impound)	\$150.00 initial impound fee +\$10.00 /day up to 100 SF*		*\$0.10/SF/day additional space. Initial impound fee not applicable to misc. storage

<p>Temporary Non-Secure Trailer Storage  Crab Pot Storage: max 2 weeks / paid in advance  Crab Pot Storage: per add 1 day  Cleat Installation  Towing: inner-harbor at slip licensee request  Towing: tow rescued vessel to harbor  Citation Signoff  Launch Area Rinse/Flush  Charter Fee: Small (6 Pak)  Charter Fee: Medium (7-48 Pak)  Charter Fee: Large (49+ Pak)  Charter Application Fee:  Liveaboard Monthly/Per Person  Liveaboard Variable Fee  Liveaboard Application Fee  Unattended Electrical Use: 30 AMP  Unattended Electrical Use: 50 AMP  Partnership Fee: 3-Partners/2-Partners/1-Partner  Electronic Key Fob: first 3  Electronic Key Fob: add 1 over 3  Sublease Fee: South Harbor  Sublease Fee: North Harbor  Waiting List  Waiting List Bypass Fee: South Harbor  Waiting List Bypass Fee: North Harbor  Slip Leave Option  Encroachment Permit Fee</p>	<p>\$75.00 /month*  \$35.00 /week/parking space or 200 SF of pier  \$10.00 /day/space or 200 SF of pier*  \$200.00 minimum  \$150.00  \$250.00 minimum for 2 hours max  \$15.00  <del>\$2.25</del> <del>\$2.00</del> /5-minutes  \$119 x passenger capacity/12-month*  \$119 x 2 x passenger capacity/12-month*  \$2.00 /per passenger (base fee may apply)*  \$250.00 + deposit, if required  \$100.00 /month  30% of slip fees  \$250.00  \$35.00 /month  \$50.00 /month  15.00%/10.00%/5.00% of slip rent*  \$20.00 /each  \$80.00 /each  30% of slip fees  15% of slip fees  \$100.00 /year  \$6,000.00 +1.5 x slip*  \$2,000.00 +1.5 x slip*  \$250.00 /year  \$150.00</p>	<p>*Requires Harbormaster approval; requires current vessel registration  *Harbormaster approval required    *Fees for guidance only. Charter approvals &amp; fees are set by Port Commission.    *Fee structure to be reviewed with FY23 budget  *Approved partnerships eligible for first 4 at \$20/fob.    *Applicable to business use only</p>
--	---	--



TO: Port Commission  
 FROM: Holland MacLaurie, Port Director  
 DATE: April 18, 2022  
 SUBJECT: Approval of FY23 Boatyard Fee Schedule

**Recommendation:** *Approve the FY23 Boatyard fee schedule and authorize the Port Director to waive or adjust fees as deemed appropriate.*

**BACKGROUND**

The Boatyard assesses a variety of fees for products and services. In January 2014, the Commission reviewed and approved an operating plan for the Boatyard, including a budget and rate schedule. A subsequent review of the Boatyard’s rate schedule was last performed in April 2021. As a result of that review, fee adjustments were made to the contractor renewal fee and a fee was added for trailerable vessel pressure washes.

**ANALYSIS**

The proposed FY23 Boatyard fee schedule is included for review as Attachment A. Proposed fee changes for FY23 are outlined below:

Fee	Current Rate	Proposed Change	Comments
HAULOUT RATE: Monohull: 2-Strap Monohull: 4-Strap Multihull: 2-Strap Multihull: 4-Strap	\$12.00 / ft., \$250 minimum \$15.00 / ft., \$250 minimum \$15.00 / ft., \$300 minimum \$18.00 / ft., \$300 minimum	\$13.00 / ft., \$300 minimum \$16.00 / ft., \$300 minimum \$16.00 / ft., \$350 minimum \$19.00 / ft., \$350 minimum	Original rate (FY14).
HOLD IN STRAPS / SURVEY HAUL: Haul, Hang, and Relaunch ONLY	\$10.00 / ft., \$250 minimum, 1-hour maximum	\$12.00 / ft., \$275 minimum, 1-hour maximum	Original rate (FY14).
ONE-WAY HAUL: Haul and Load onto Trailer; Offload from Trailer and Launch	\$15.00 / ft., \$250 minimum, 1-hour maximum	\$16.00 / ft., \$300 minimum, 1-hour maximum	Haul & Load is original FY14 rate. Offload from trailer rate was increased from \$12/ft. to \$15/ft. circa FY19.
Environmental Surcharge	\$5.00 / day	\$6.00 / day	Original rate (FY14).
Contractor Renewal Fee	\$125 / year	\$150 / year	Last increase FY22.

Proposed fee adjustments align with neighboring boatyards providing similar services.



## **IMPACT ON PORT DISTRICT RESOURCES**

There is no impact on Port District resources associated with adopting the fee schedule. Staff estimates additional revenue will be generated as a result of adjusting the fees.

ATTACHMENT:      A. FY23 Draft Boatyard Fee Schedule (redline)

# Santa Cruz Harbor BOATYARD

## FY23 RATE SCHEDULE

### HAULOUT RATE\*

- Monohull: 2-Strap ..... \$~~132~~.00 / ft., \$~~300250~~.00 minimum
- Monohull: 4-Strap ..... \$~~165~~.00 / ft., \$~~300250~~.00 minimum
- Multihull: 2-Strap ..... \$~~165~~.00 / ft., \$~~350300~~.00 minimum
- Multihull: 4-Strap ..... \$~~198~~.00 / ft., \$~~350300~~.00 minimum

\*Haulout rate includes 2-strap haul, high pressure wash, and shoring. Haulout and launch day not charged as lay days. Excessive marine growth subject to additional fee.

### HOLD IN STRAPS / SURVEY HAUL

- Haul, Hang, and Relaunch ONLY ..... \$~~120~~.00 / ft., \$~~275250~~.00 minimum, 1-hour maximum
- Additional Time Charge ..... \$250.00 / hour charged in ¼ hour increments
- High Pressure Wash ..... \$1.50 / ft. add'l. charge

### ONE-WAY HAUL

- Haul and Load onto Trailer ..... \$~~165~~.00 / ft., \$~~300250~~.00 minimum, 1-hour maximum
- Offload from Trailer and Launch ..... \$~~165~~.00 / ft., \$~~300250~~.00 minimum, 1-hour maximum
- High Pressure Wash ..... \$1.50 / ft. add'l. charge

### LAY DAYS / YARD DAYS\*

- Haul and Launch Days ..... No charge
- Days 1-14 ..... \$1.50 / ft. / day
- Days 15-30 ..... \$2.00 / ft. / day
- Days 31+ ..... \$5.00 / ft. / day
- Mast / Engine Storage ..... \$15.00 / day when available

\*Fee applies to vessels trailered in on per space basis. No free days for delays in ordering parts, hiring contractors, etc.

### WET SLIPS

- Current Visitor Berthing Rates ..... Reference Marina Fee Schedule

### MISCELLANEOUS FEES

- Environmental Surcharge ..... \$~~65~~.00 / day
- Hazardous Materials Disposal Fee\* ..... \$20.00
- Uninsured Vessel Fee ..... \$10.00 / day
- Travelift and Crew ..... \$250.00 / hour, \$250.00 min., add'l. time charged in ¼ hour increments
- Staff Services ..... \$65.00 / hour
- Interior Bay Rental ..... \$50.00 / day, as scheduled by boatyard personnel
- Contractor Registration Fee ..... \$250.00 (non-refundable)
- Contractor Renewal Fee ..... \$125.00 / yr.
- Pressure Wash for Trailerable Vessel - Self Service ..... \$2.00 / ft., \$50.00 minimum
- Pressure Wash for Trailerable Vessel - Full Service ..... \$4.00 / ft., \$100.00 minimum

\*Small quantities of paint, solvents, & used oil only - large quantities of hazardous materials to be disposed of by vessel owner or contractor.





TO: Port Commission

FROM: Holland MacLaurie, Port Director

DATE: April 13, 2022

SUBJECT: Award of Contract for Preliminary Engineering and Conceptual Design of West Side Seawall (NTE \$100,000)

**Recommendation:** *Authorize the Port Director to execute a contract with Mesiti-Miller Engineering for preliminary engineering and conceptual design of the west side seawall (A-Dock to FF-Dock) in an amount not to exceed \$100,000.*

## BACKGROUND

The section of west side seawall that extends from A-Dock to FF-Dock was constructed in 1963, and remains original to the harbor. Given the age of the existing seawall, a preliminary engineering assessment is needed to determine its current condition and develop cost estimates sufficiently detailed to assist with long-range planning for repair and/or replacement.

## ANALYSIS

As part of this two-phased contract, Mesiti-Miller Engineering (MME) will provide preliminary engineering services and conceptual design services as outlined in their proposal dated April 8, 2022 (Attachment A).

At the conclusion of work, MME will present a report comparing the various design concepts for Commission review and deliberation.

## IMPACT ON PORT DISTRICT RESOURCES

The South Harbor Revetment and Seawall Fund Balance (F022) totaled \$98,499.29 as of April 1, 2022. A reallocation of \$1,500.71 from the Unallocated CIP (F099) to the South Harbor Revetment and Seawall Fund (F021) is recommended to provide adequate funding for the project. The Unallocated CIP (F099) will be reduced from \$17,208.44 to \$15,707.73.

ATTACHMENT: A. Proposal from Mesiti-Miller Engineering dated April 8, 2022



April 8, 2022

**Holland MacLaurie, Port Director**  
**Santa Cruz Port District**  
135 5<sup>th</sup> Avenue  
Santa Cruz, CA 95062

**Re: West Side Seawall Replacement**  
**Preliminary Engineering, Conceptual Design and Cost Estimate**  
MME Project No: 18132

Dear Ms. MacLaurie,

We understand the Santa Cruz Port District proposes to replace a 1,200 foot long section of existing sheet pile seawall located on the west side of the South Harbor. The work is likely to occur within the next five years. To facilitate budgeting for the proposed work, the Port District will need cost estimates for replacement options. Mesiti-Miller Engineering has previously assisted the Port District with studying the condition of this particular seawall and evaluating repair/replacement options. We would be pleased to provide further assistance to the Port District as needed to develop conceptual designs and construction cost estimates for this project.

The following is our proposed scope of services for preliminary engineering, conceptual design and preparation of detailed construction cost estimates for replacement of the seawall.

### **Project Objectives**

The section of seawall to be replaced begins at A Dock and extends north to its ending point north of FF Dock. The seawall was constructed in 1963, and consists of cantilevered sheet piles with a reinforced concrete pile cap, and steel tie rods connected to concrete deadmen. Our Preliminary Engineering, Conceptual Design and Cost Estimate will include the following:

1. Alternative approaches to replacing the seawall efficiently while minimizing impacts to the harbor to the extent possible.
2. Two alternative approaches to constructing a new seawall in substantially the same location and configuration as the existing seawall.
3. Conceptual plans and elevation for each alternative. Plans will be sufficient to depict the location of the existing seawall and proposed replacement.
4. Cost Estimates for each alternative, including costs for obtaining agency permits.
5. Timelines for obtaining agency permits and construction.
6. Final Report to summarize findings, including costs and timelines.

ATTACHMENT A



## Approach

The following outlines our anticipated approach to the work based on our extensive previous experience on both the Aldo's Seawall, the West Side Seawalls and other similar projects completed at Santa Cruz Harbor. Our approach is broken in to two main parts, Preliminary Engineering and Conceptual Design.

### ***Phase One – Preliminary Engineering***

1. Meeting - Attend an initial meeting with you to gather information and confirm the direction we will take in developing the preliminary concepts. Our Principal in Charge, Dale Hendsbee, and our Project Manager, Phil Doody, will attend this meeting as well as our Geotechnical Engineer. Discussion items will include project priorities, future plans, design challenges, schedule, goals and key objectives.
2. Site Visit - We will then visit this site with our key team members, to gain familiarity with the setting, opportunities and constraints, and limits of work so we can thoughtfully develop several different concepts sensitive to the existing conditions and future development.
3. Geotechnical and Coastal Engineering Investigation – We will assist and coordinate with Haro Kasunich & Associates (HKA) to review all previous studies to further document the type, extent and condition of existing subsurface materials, and alternatives to address existing and future site conditions. As you know, HKA has extensive files related to the land and water side subsurface conditions of the project site. Together we will carefully review their records pertinent to this site for field and laboratory data. Additional field operations and limited drilled borings to collect more data will be provided in the areas with less existing data. No new water side probes will be performed at this time. Using the available and new information, HKA will develop geotechnical design parameters suitable for the preliminary design and construction cost study of a replacement sea wall. A geotechnical engineering report will be prepared and submitted summarizing their investigation, findings and recommendations.
4. Survey – We will assist and coordinate with Ifland Survey to obtain topographic survey and mapping of the project site, extending approximately 40-50 feet landward of the seawall and 10 feet seaward of the seawall. The Survey will not locate utilities. It will establish GPS control to place the project on CA state plane coordinates and NAVD 88 elevations and make ties to a couple nearby benchmarks to confirm elevation data. It will include orthophoto-mosaic image (CAD background) for the area and develop surface data and extract 1' contours and 25' point grid on the ground surface (parking lot area, etc). The survey will take conventional survey shots along the top edge of the existing seawall at 30'-40' intervals. Some will be on the original concrete top, others on the concrete deck above that now covers the original top. They will measure down to the under-water surface at each data point location. They will perform



a series of mobile lidar scans\* of the seawall face. This will allow them to plot the wall face and corrugated wall in plan view to see bulges, etc. Ifland Survey will perform additional conventional ground survey under the Murray Street bridge and along the parking lot/walk for precise grades for interfacing with parking lot (these are in addition to the extracted spot elevations on 25' grid and 1' contours from UAV data).

5. Investigate Alternatives - Based on our past work at Aldo's, revisit the prior scenarios explored and select two to develop further for this project. We will also review new systems and advanced repair methods to ensure we have considered all viable options to provide the preferred solutions. We will work closely with our sub-consultant, BK Cooper, to explore constructability and cost related characteristics of the alternatives. We will also collaborate with HKA on site and soil parameters that influence the suitability of each alternative to this site. The end goal is to short list two systems for detailed analysis.
6. Preliminary Engineering - Provide preliminary structural analysis to refine the sizes, depths, and major components of the alternative systems.
7. Select Final Alternatives - Based on the process described above, select two final alternatives. Document selection criteria and rationale for final selections.

### ***Phase Two – Conceptual Design***

1. Conceptual Design – We will develop, prepare and deliver two concepts illustrating preferred options for replacement of the existing seawall and addressing the relevant design issues for use in evaluating alternatives, determining the best value, and the environmental impacts of each. The options will consider sea level rise, requirements for access to docks, and maintaining the existing wall configuration. Concepts will be presented in plan, elevation and section with sufficient details to fully illustrate the configuration, limits and allow meaningful estimates of construction cost to be prepared. The drawings will clearly indicate the existing construction and the proposed new systems.
2. Construction Costs – We will assist and coordinate with BK Cooper to develop and provide construction cost estimates and timelines for the final concepts.
3. Report – We will prepare, deliver and present a report comparing the various design concepts, their pros and cons, the cost estimates and recommendations for moving forward. The report will also include a proposed timeline for each option including anticipated schedules for planning, permitting, demolition, and finished construction time allowances.
4. Public Meeting - attendance at a public meeting to present and discuss our report, conceptual design documents, and cost estimates. The meeting may be with the Board of Port Commissioners.



## Time Schedule

Based on our present workload, we could begin work on this project within two weeks of receiving a notice to proceed. The work will be completed pursuant to a mutually agreed upon schedule.

## Compensation for Services

Compensation for all services rendered in connection with this project will be based on time and expenses charged in accordance with our Schedule of Standard Billing Rates. Based on information available to us at this time, it is our opinion the estimated cost of our services will not exceed **\$100,000** without your written authorization. (Please see the attached Engineering Fee Estimate for more information.)

Thank you for the opportunity to prepare this proposal. As always, we look forward to working with you on another exciting Santa Cruz Port District project. Should you have any questions please call me.

Respectfully yours,

A handwritten signature in blue ink that reads "Dale Hendsbee". The signature is fluid and cursive.

Dale Hendsbee, S.E.  
Principal

Enclosure

cc: Addressee  
Contract file

*i:\18132 scpd - se for westside seawall evaluation (ref 14205)\proposal\18132 mmepro\_scpd westside seawall eval 2022 03 17.docx*





## Schedule of Standard Billing Rates

Effective through December 31, 2022

### Professional Services

Engineer I	\$ 120 / hour
Engineer II	\$ 140 / hour
Engineer III	\$ 161 / hour
Engineer IV	\$ 187 / hour
Engineer V	\$ 208 / hour
Principal Engineer	\$ 218 / hour
Expert Witness Services Deposition, court appearance and preparation	\$ 360 / hour
Administrative Assistant	\$ 90 / hour
CAD Technician I	\$ 85 / hour
CAD Technician II	\$ 105 / hour
Field Technician I	\$ 110 / hour
Field Technician II	\$ 130 / hour
Minimum Consultation Fee	\$ 1,000

### Reimbursable Expenses

<b>Sub-Consultants</b>	Direct Billing x 1.10
<b>Outside Services</b>	Direct Cost x 1.15
Printing, delivery, equipment rental and other direct project expenses	
<b>In-House Services</b>	
Photocopies	\$ 0.10 sheet
Plotting -internal check plots / plots on bond	\$ 2.00 sheet
-final plots on mylar	\$ 10.00 sheet
<b>Travel</b>	
Automobile mileage	\$ 0.59 mile
Airfare, Car Rental, etc.	Direct Cost x 1.15
Per Diem Allowance (varies by location)	\$ 150/day





## Detailed Breakdown of Engineering Resource Allocations for the Preliminary Engineering of West Side Seawall Replacement

MME Project No: 18132

Prepared 4/8/2022

Item	Description	Hours	Avg Rate	Extension
<b>Phase One - Preliminary Engineering</b>				
1	Attend kick-off meeting	4	200	\$800
2	Meetings, telecons and correspondence	16	200	\$3,200
3	Review available documents	12	190	\$2,280
4	Site meetings	8	200	\$1,600
5	Sub-Consultant Coordination	8	190	\$1,520
6	Preliminary Engineering	48	170	\$8,160
7	Develop replacement concepts	32	170	\$5,440
8	Attend briefing	4	200	\$800
9	Administrative support	8	90	\$720
<b>Subtotal:</b>		<b>140</b>		<b>\$24,520</b>
<b>Phase Two - Cost Estimating</b>				
1	Telecons and Correspondence	8	200	\$1,600
2	Develop conceptual designs	40	170	\$6,800
3	Prepare Construction Cost Estimate	16	190	\$3,040
4	Prepare written report summarizing findings	32	190	\$6,080
5	Attend final meeting	4	200	\$800
6	Administrative support	6	90	\$540
<b>Subtotal:</b>		<b>106</b>		<b>\$18,860</b>
<b>Total Prime (MME):</b>				<b>\$43,380</b>
<b>Project Sub-Consultants</b>				
1	Haro, Kasunich & Associates - Geotechnical	LS		\$23,020
2	Ifland Survey - topographic	LS		\$18,500
3	BK Cooper & Associates - Costs/Constructibility	60	165	\$9,900
<b>Subtotal:</b>		<b>60</b>		<b>\$51,420</b>
<b>Sub-Consultants Markup:</b>				x 1.1
<b>Sub-Consultants Total:</b>				<b>\$56,562</b>
<b>Grand Total:</b>				<b>\$99,942</b>
<p><i>The above breakdown represents our best estimate at this time and may change subject to future developments during the project. It is possible that some of the estimated quantities or costs for specific items may increase, while others may decrease. This provides us a greater degree of confidence in the overall project estimate, rather than in any given item.</i></p>				

Santa Cruz Port District  
**Accounts Payable Monthly Check Register**  
 March 2021

<b>Date</b>	<b>No.</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
3/3/2022	56348	Citi Cards	Breakroom Supplies, Cleaning Supplies, Drinking Water, Flood Remediation Consultation, State Waterboard Emergency Tsunami Pile Repair Permits	\$ 3,495.22
3/3/2022	56349	McDermott, Dick	497 Lake Avenue Installment Payment	\$ 4,535.45
3/3/2022	56350	Parker Diving Service	<i>Twin Lakes</i> Hull Inspection (Tsunami)	\$ 4,965.00
3/14/2022	56351	Allied Administrators for Delta Dental	Dental Insurance	\$ 3,158.58
3/14/2022	56352	Amerigas	Ancillary Equipment Fuel	\$ 152.52
3/14/2022	56353	AT&T	Telephone	\$ 1,216.86
3/14/2022	56354	Azzies Storage	790 Mariner Park Way Temporary Office Rental (Tsunami)	\$ 230.00
3/14/2022	56355	Bay Building Janitorial, Inc.	Janitorial Services, Refuse Collection	\$ 9,192.00
3/14/2022	56356	Bay Plumbing Supply, Inc.	Flush Valve Kits, Boatyard Paint Shaker Fittings	\$ 41.48
3/14/2022	56357	Bay Power Equipment, Inc.	Beach Valve Packing Scraping Tool	\$ 1,085.83
3/14/2022	56358	Big Creek	790 Mariner Park Way Office Molding, 345 Lake Avenue Railing	\$ 185.43
3/14/2022	56359	California Association of Harbor Masters & Port Captains	Annual Membership	\$ 350.00
3/14/2022	56360	Carpi & Clay	Washington Representation	\$ 800.00
3/14/2022	56361	Carson, Scott	Security Deposit Refund	\$ 52.65
3/14/2022	56362	Central Coast Systems	2222 East Cliff Drive Alarm System Repair	\$ 442.50
3/14/2022	56363	Central Home Supply	Landscaping Mulch	\$ 363.77
3/14/2022	56364	Comcast	Business Internet	\$ 329.20
3/14/2022	56365	Core & Main LP	Dredge Pipe, Pipe Stands	\$ 17,531.37
3/14/2022	56366	County of Santa Cruz Auditor	Citation Tax (January)	\$ 1,211.50
3/14/2022	56367	County of Santa Cruz DPW	Hazardous Waste Disposal	\$ 30.00
3/14/2022	56368	County Specialty Gases	Welding Gas	\$ 95.02
3/14/2022	56369	Crow's Nest Restaurant	1/2 Concession Lot Garbage (Tenant Reimbursable)	\$ 2,457.18
3/14/2022	56370	Darco Printing & Paper	Visitor Parking Passes	\$ 197.20
3/14/2022	56371	Data Ticket, Inc.	Citation Processing (January)	\$ 300.00
3/14/2022	56372	Ecosystems West Consulting Group	Annual Dredge Monitor Training	\$ 950.00
3/14/2022	56373	Ewing Irrigation Products, Inc.	790 Mariner Park Way Tsunami Damage Repair Supplies: Fittings, Sand Bags, Hose Bibs, Nozzle, Valve (Tsunami)	\$ 255.99
3/14/2022	56374	Ferguson Enterprises, Inc.	North Harbor Restroom Replacement Water Heaters: I-Dock & J-Dock (Tsunami)	\$ 1,624.96
3/14/2022	56375	Flyers Energy, LLC	Ancillary Equipment Fuel	\$ 761.74
3/14/2022	56376	Ghisletta, Renee	Mileage Expense Reimbursement	\$ 159.83
3/14/2022	56377	Grainger	Batteries, Sockets, Pliers, Painting Supplies, Office Supplies, Tie Down Straps, Moisture Meter, Anti-Slip Tape, Disposable Gloves	\$ 1,190.85
3/14/2022	56378	Gsolutionz	Telephone System Maintenance	\$ 263.15
3/14/2022	56379	Hampton, Charlotte	Security Deposit Refund	\$ 84.57
3/14/2022	56380	Henderson Marine Supply, Inc.	Pile Ring (Tsunami)	\$ 231.29
3/14/2022	56381	Hose Shop	Forklift Hose Adapter, Fire Hose Assembly	\$ 888.36

Santa Cruz Port District  
**Accounts Payable Monthly Check Register**  
 March 2021

Date	No.	Vendor	Description	Amount
3/14/2022	56382	Kelly-Moore Paint Company, Inc.	Painting Supplies	\$ 85.48
3/14/2022	56383	Kevin King	Security Deposit Refund	\$ 258.82
3/14/2022	56384	Laubach, Robert	Security Deposit Refund	\$ 101.94
3/14/2022	56385	Lawson	Screws, Nuts, Washers, <i>Twin Lakes</i> Hydraulic Fittings	\$ 2,420.47
3/14/2022	56386	Linde Gas & Equipment, Inc.	Welding Gas	\$ 307.11
3/14/2022	56387	McMaster-Carr Supply Company	<i>Twin Lakes</i> Door Holders, , Screws, Washers, Nuts, Threaded Rod, Studs, <i>Twin Lakes</i> Low Pressure Y-Strainers, <i>Twin Lakes</i> Exhaust Pipe Cap, Electrical Tape	\$ 2,963.73
3/14/2022	56388	Michael K. Nunley & Associates, Inc.	Lift Station Assessment	\$ 154.50
3/14/2022	56389	Mid County Auto Supply	Distilled Water, Oil, Oil Filter, Windshield Washer Fluid	\$ 120.16
3/14/2022	56390	Mission Uniform Service	Uniform Service	\$ 904.10
3/14/2022	56391	Operating Engineers Local Union No. 3	Union Dues (Payroll Deduction)	\$ 335.00
3/14/2022	56392	Pacific Gas & Electric Company	Utilities	\$ 14,278.40
3/14/2022	56393	PDM Steel Service Centers, Inc.	<i>Squirt</i> Roof Steel, <i>Twin Lakes</i> Coolant & Inlet Screens	\$ 5,801.71
3/14/2022	56394	Red Wing Shoe Store	Dredge Staff Work Boots	\$ 258.90
3/14/2022	56395	Riverside Lighting & Electric	Light Switches, D-Dock 50AMP Breakers, Light Timer	\$ 180.05
3/14/2022	56396	ROI Safety Services	Biennial Hazmat Report	\$ 3,500.00
3/14/2022	56397	San Lorenzo	Boatyard Paint Shaker Table Plywood, Joist Hanger, Gauge Pins	\$ 207.43
3/14/2022	56398	Santa Cruz Fire Equipment Company	Annual Fire Extinguisher Inspection & Replacement, Semi-Annual Hazmat Shed Inspection	\$ 1,887.62
3/14/2022	56399	Santa Cruz Tire & Auto Care	Patrol Vehicle Maintenance & Repair	\$ 510.74
3/14/2022	56400	Scheidt & Bachmann	Monthly Concession Lot Parking Equipment Warranty	\$ 2,554.12
3/14/2022	56401	Santa Cruz Municipal Utilities	Utilities	\$ 6,404.09
3/14/2022	56402	Slowikowski, Tadeusz	Security Deposit Refund	\$ 296.50
3/14/2022	56403	The Home Depot Pro Institutional	Janitorial Supplies	\$ 3,171.90
3/14/2022	56404	Triton Construction	Fuel Pump Repair	\$ 2,333.49
3/14/2022	56405	U.S. Bank Equipment Finance	Copier Lease	\$ 151.31
3/14/2022	56406	US Relay	Webcam Service	\$ 484.00
3/14/2022	56407	Verizon Wireless	Cell Phone & Tablet Service	\$ 341.39
3/14/2022	56408	Mark Larsen DBA: Viking	Harbor Office Window Cleaning	\$ 30.00
3/14/2022	56409	West Coast Wire Rope	<i>Twin Lakes</i> Wire Rope	\$ 21,869.04
3/14/2022	56410	West Marine Pro	Patrol Boat Towing Assembly	\$ 73.56
3/14/2022	56411	Whitson Engineers	Engineering Services: Concession Lot ADA Improvements	\$ 534.22
3/25/2022	56412	Ace Portable Services	O-Dock Portable Toilet Rental	\$ 205.93
3/25/2022	56413	AmeriDyn	Annual Software Maintenance	\$ 979.74
3/25/2022	56414	Atchison Barisone Condotti & Kovacevich	Legal Consultation	\$ 26,824.58
3/25/2022	56415	CIT	Telephone System Lease	\$ 323.09
3/25/2022	56416	B AND B Small Engine	Generator Maintenance	\$ 74.14

Santa Cruz Port District  
**Accounts Payable Monthly Check Register**  
 March 2021

<b>Date</b>	<b>No.</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
3/25/2022	56417	Bayside Oil II, Inc.	Boatyard Hazardous Waste Disposal, Waste Oil & Used Filter Disposal	\$ 1,782.50
3/25/2022	56418	Big Creek	Yamaha Engine Crate Hardware, 333 Lake Avenue Exterior Trim	\$ 294.33
3/25/2022	56419	Bow Wow Pet Waste Products	Pet Waste Station Bags	\$ 340.01
3/25/2022	56420	Burke, Williams & Sorensen, LLP	Legal Consultation	\$ 428.00
3/25/2022	56421	Cale America, Inc.	CALE Parking Machine Monthly Service	\$ 832.00
3/25/2022	56422	Citi Cards	Breakroom Supplies	\$ 116.62
3/25/2022	56423	Comcast	Business Internet	\$ 366.37
3/25/2022	56424	Complete Mailing Service	Monthly Statements Mailing & Postage	\$ 658.29
3/25/2022	56425	Computer Technical Specialists, Inc.	E-mail Scanning & Backup, Annual Calyptix License	\$ 2,403.75
3/25/2022	56426	Conte's Generator Service	Twin Lakes Standby Generator Service Call	\$ 768.00
3/25/2022	56427	County of Santa Cruz DPW	7th & Brommer Overflow Parking (October 2021)	\$ 1,200.00
3/25/2022	56428	County of Santa Cruz DPW	7th & Brommer Overflow Parking (April 2022)	\$ 1,200.00
3/25/2022	56429	County Specialty Gases	Welding Discs	\$ 67.47
3/25/2022	56430	Crow's Nest Restaurant	1/2 Concession Lot Garbage (Tenant Reimbursable)	\$ 2,457.18
3/25/2022	56431	Crystal Springs Water Co.	Boatyard Drinking Water	\$ 67.50
3/25/2022	56432	Domenik, Steve	Security Deposit Refund	\$ 1,126.75
3/25/2022	56433	Elevator Service Company	Monthly Service (\$223.60 Tenant Reimbursable)	\$ 430.00
3/25/2022	56434	FedEx Office	Shipping	\$ 292.33
3/25/2022	56435	Frog Environmental	Boatyard Stormwater System Filters	\$ 1,840.36
3/25/2022	56436	Garda CL West, Inc.	Deposit Courier Service	\$ 495.09
3/25/2022	56437	Goering, Bryce	Training Expense Reimbursement	\$ 423.62
3/25/2022	56438	Gottlieb, Landon	Training Expense Reimbursement (\$2,301.18 Grant Reimbursable)	\$ 2,633.93
3/25/2022	56439	Grainger	Parking Signage	\$ 51.10
3/25/2022	56440	Guy, Parker	Training Expense Reimbursement (\$2,284.38 Grant Reimbursable)	\$ 2,709.04
3/25/2022	56441	Haro Kasunich & Associates, Inc.	Engineering Services (Geotechnical): Embankment Damage Assessment (Tsunami)	\$ 315.00
3/25/2022	56442	Horizon Water and Environment, LLC	Consulting Services: Regional General Permit	\$ 368.75
3/25/2022	56443	Hose Shop	Cat Forklift Hydraulic Fittings	\$ 65.25
3/25/2022	56444	King's Paint & Paper, Inc.	Painting Supplies	\$ 18.85
3/25/2022	56445	Large's Metal Fabrication, Inc.	Pile Ring Steel	\$ 284.38
3/25/2022	56446	Lockton Insurance Brokers, LLC	Fiscal Year 2023 Public Officials Insurance Premium	\$ 19,951.00
3/25/2022	56447	Marina Ware	Harbor Security System Updates	\$ 1,100.00
3/25/2022	56448	Mark Eldridge	Mileage Expense Reimbursement	\$ 193.03
3/25/2022	56449	Markley's	Range Rental	\$ 900.00
3/25/2022	56450	Matheson Tri-Gas, Inc.	Welding Gas	\$ 65.63
3/25/2022	56451	McDermott, Dick	497 Lake Ave Installment Payment	\$ 4,535.45

Santa Cruz Port District  
**Accounts Payable Monthly Check Register**  
 March 2021

Date	No.	Vendor	Description	Amount
3/25/2022	56452	Melrose, Peter	Training Expense Reimbursement (\$2,292.22 Grant Reimbursable)	\$ 2,823.54
3/25/2022	56453	Mesiti-Miller Engineering, Inc.	Engineering Services: Tsunami Damage Assessment	\$ 697.60
3/25/2022	56454	Mid County Auto Supply	CAT Forklift Oil, Oil Filter, Spark Plugs, Dredge Monitor Vehicle Door Spring	\$ 208.31
3/25/2022	56455	Mission Uniform Service	Uniform Service	\$ 167.80
3/25/2022	56456	Monterey Bay Analytical Services	Boatyard Stormwater Testing	\$ 1,685.00
3/25/2022	56457	Pacific Gas & Electric Company	Utilities	\$ 33,212.77
3/25/2022	56458	Palace Business Solutions	Office Supplies	\$ 211.74
3/25/2022	56459	Playstead, Mark	Credit Balance Refund	\$ 309.85
3/25/2022	56460	Peace Officers Research Association of California	Association Dues (Payroll Deduction)	\$ 228.00
3/25/2022	56461	PORAC Legal Defense Fund	Association Dues (Payroll Deduction)	\$ 294.00
3/25/2022	56462	Ramos Oil Inc.	<i>Twin Lakes</i> Fuel	\$ 38,513.97
3/25/2022	56463	Santa Cruz Auto Parts	Maintenance Vehicle Light Bulb	\$ 18.92
3/25/2022	56464	Santa Cruz Municipal Utilities	Utilities	\$ 14,117.00
3/25/2022	56465	Simoni, Danny	Training Expense Reimbursement	\$ 145.78
3/25/2022	56466	Staples Credit Plan	Office Supplies	\$ 308.30
3/25/2022	56467	The Home Depot Pro Institutional	Janitorial Supplies	\$ 138.35
3/25/2022	56468	WEX Bank	Fleet Fuel	\$ 1,751.42
3/25/2022	56469	West Marine Pro	Dock Electrical Receptacles	\$ 242.79
3/1/2022	EFT	Merchant Services	Online Billpay Credit Card Fees	\$ 280.45
3/1/2022	EFT	Merchant Services	Parking Machine Credit Card Fees	\$ 961.73
3/1/2022	EFT	Merchant Services	Boatyard Credit Card Fees	\$ 560.21
3/1/2022	EFT	Gravity Payments	Front Desk Credit Card Fees	\$ 2,016.11
3/1/2022	EFT	Windcave, Inc.	Concession Lot Credit Card Fees	\$ 2,595.10
3/1/2022	EFT	ElectronicPayments	Fuel Dock Credit Card Fees	\$ 226.37
3/1/2022	EFT	Transaction Express	Online Billpay ACH Fees	\$ 476.67
3/2/2022	EFT	Windcave, Inc.	Concession Lot Credit Card Fees	\$ 607.12
3/4/2022	EFT	CalPERS	Health Insurance	\$ 45,451.38
3/4/2022	EFT	CalPERS	Retirement Contributions (Employee & Employer)	\$ 7,206.99
3/4/2022	EFT	CalPERS	Retirement Contributions (Employee & Employer)	\$ 6,245.92
3/4/2022	EFT	CalPERS	Retirement Contributions (Employee & Employer)	\$ 2,288.51
3/4/2022	EFT	Empower Retirement	457 Contributions (Payroll Deduction)	\$ 2,969.57
3/4/2022	EFT	PAYCHEX	Payroll Service Fees	\$ 309.48

Santa Cruz Port District  
**Accounts Payable Monthly Check Register**  
 March 2021

<b>Date</b>	<b>No.</b>	<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
3/7/2022	EFT	Comerica Commercial Card Services	Parking Machine Repair Parts, Harbor Office AED Battery & Pads, Office Space Advertisement, Zoom Subscription, Web Builder License, Recruitment Advertising, Hand Truck Wheels, Rescue Ladder Supplies, Workplace App Subscription, Prosper Forms Subscription, Domain Renewal, Boatyard Retail Items, HAZWOPER Training, Travelift Oil, Fire Hoses, <i>Twin Lakes</i> Leak Test, <i>Twin Lakes</i> Solar Safety Lights, Equipment Bag, Crane Training, Office Supplies, Hyster Forklift Relay, Circular Saw, Maintenance Vehicle Decals, Stabilized Fuel, Radar Mounting Hardware, Grappling Hook, Radio Microphone, Degreaser, Welding Supplies, <i>Dauntless</i> Dock Lines, <i>Twin Lakes</i> Air Horn	\$ 7,596.78
3/9/2022	EFT	Comerica Bank	Service Charges	\$ 613.64
3/10/2022	EFT	Gravity Payments	Front Desk Credit Card Fees	\$ 18.34
3/18/2022	EFT	Empower Retirement	457 Contributions (Payroll Deduction)	\$ 4,065.51
3/18/2022	EFT	PAYCHEX	Payroll Service Fees	\$ 369.48
3/20/2022	EFT	PAYCHEX	Time & Attendance Fees	\$ 109.00
3/22/2022	EFT	CalPERS	Unfunded Accrued Liability	\$ 29,384.50
3/22/2022	EFT	CalPERS	Unfunded Accrued Liability	\$ 3,169.17
3/22/2022	EFT	CalPERS	Unfunded Accrued Liability	\$ 601.17
3/22/2022	EFT	CalPERS	Retirement Contributions (Employee & Employer)	\$ 7,176.41
3/22/2022	EFT	CalPERS	Retirement Contributions (Employee & Employer)	\$ 6,244.37
3/22/2022	EFT	CalPERS	Retirement Contributions (Employee & Employer)	\$ 2,370.90
3/30/2022	EFT	Windcave, Inc.	Concession Lot Credit Card Fees	\$ 762.40
3/4/2022	Various	Various Employees	2/16/22-2/28/22 Payroll	\$ 9,642.65
3/4/2022	EFT	PAYCHEX	2/16/22-2/28/22 Payroll Direct Deposit	\$ 61,447.80
3/4/2022	EFT	PAYCHEX	2/16/22-2/28/22 Payroll Taxes	\$ 30,077.11
3/18/2022	Various	Various Employees	3/1/22-3/15/22 Payroll	\$ 9,695.40
3/18/2022	EFT	PAYCHEX	3/1/22-3/15/22 Payroll	\$ 63,289.79
3/18/2022	EFT	PAYCHEX	3/1/22-3/15/22 Payroll	\$ 31,156.49
<b>Total March 2022 Disbursements</b>				<b>\$ 645,600.00</b>



TO: Port Commission  
FROM: Blake Anderson, Harbormaster  
DATE: April 15, 2022  
SUBJECT: Harbormaster's Report

Commercial Dungeness Crab Closure

The CA Department of Fish and Wildlife announced the early closure of the commercial Dungeness crab season in Zones 3 - 6 (Mendocino County to US/Mexico Border) on April 8, 2022, due to confirmed whale entanglements. Once the entanglements were announced in late March, the fleet voluntarily started to remove fishing gear in an effort to mitigate further risk. Hopefully, the entanglements do not affect the 2022/2023 fishery.

Salmon Season

The recreational salmon season opened on April 2, 2022. North harbor end-ties were rafted 2-3 boats deep over the opening weekend. The fishing has been hit-and-miss, with wind and weather factors keeping anglers off the water.

The commercial salmon season was finalized by the Pacific Fisheries Management Council on March 8, 2022. The dates for the Monterey Management Zone are:

<b>May</b> 1-5,10-15, 20-24	<b>June</b> 1-12	<b>July</b> 8-12, 23-27	<b>August</b> 1-12
-----------------------------	------------------	-------------------------	--------------------

It is noteworthy that the San Francisco Management Zone (Pigeon Point to Cape Mendocino) does not open until July 8, 2022, thus making the Monterey Zone the only open fishery from May through June. Staff has been fielding berthing inquiries from vessels up and down the coast and expects heavy visitation, similar to the 2021 season.

Crow's Nest Thursday Night Beach Barbeques

The Crow's Nest Restaurant has indicated that the Thursday night beach BBQs will resume in May, pending final permit approval from the California Coastal Commission. The events were postponed in 2020 and 2021 due to COVID-19 safety guidelines. Staff is currently working with restaurant management to ensure smooth operation of the events, which bring thousands of visitors to the southeast harbor.

Surrendered and Abandoned Vessel Exchange (SAVE) Grant Update

The District's FY2021/22 SAVE Grant has approximately \$26,000 in available funds remaining. Thirteen vessels are scheduled for demolition at the boatyard on April 27, 2022, and any remaining funds after the disposal day will have to be used by September 30, 2022. Staff is currently working on its FY2022/23 Division of Boating and Waterways grant application to ensure funding for the next grant term of October 1, 2022, through September 30, 2023.

Mental Health Evaluation Training

Deputy Harbormaster staff participated in a mental health evaluation training on March 25, 2022, at

the Watsonville Police Department. The training was provided by the County of Santa Cruz and is required for peace officers that write mental health (W&I 5150) holds.

Hobie Fleet 240 Safety Talk

Deputy Harbormaster staff presented a safety talk to members of Hobie Fleet 240 during their annual meeting on April 9, 2022, at Harbor Beach. The presentation covered weather patterns, beach launching, and required and recommended safety equipment. The presentation was followed by a self-righting demonstration performed by Fleet 240 members.

Fisheries Report

The fisheries report consists of data from two sources: the Department of Fish and Wildlife (DFW) and H&H Fresh Fish (resident fish buyer). The data from DFW is partially redacted in accordance with federal fisheries laws. Data is considered confidential when less than three separate vessels land species at any one port. For species landed by three or more separate vessels, the full data is made public and includes weight and value. For other data, the species landed is shown with no weight data.

**March 2022 – Total Port Landings:**

<i>Species</i>	<i>Weight (lbs.)</i>	<i>Ex-Vessel (per lbs.)</i>	<i>Approx. Value</i>
Dungeness Crab	17,767.85	\$7.56	\$134,393.22
Rock Crab	2,969.25	\$2.12	\$6,285.05
<b>Total Reported:</b>	<b>20,737.10 lbs.</b>	<b>Total Ex-Vessel:</b>	<b>\$140,678.27</b>

Species also landed\* - Halibut, Rock Crab, Lingcod, Rockfish (various)

\*Weight and value data redacted by Fish and Wildlife pursuant to Fish and Game Code, Section 8022.

**March 2022 – Resident Buyer Landings:**

<i>Species</i>	<i>Weight (lbs.)</i>	<i>Ex-Vessel (per lbs.)</i>	<i>Approx. Value</i>
Dungeness Crab	14,728.03	\$7.50	\$110,460.22
Rock Fish	360.00	\$3.00	\$1,080.00
Lingcod	14.10	\$3.00	\$42.30
Rock Crab	2,681.30	\$3.00	\$8,043.90
<b>Total Reported:</b>	<b>17,783.43 lbs.</b>	<b>Total Ex-Vessel:</b>	<b>\$119,626.42</b>



Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
831.475.6161  
831.475.9558 Fax  
www.santacruzharbor.org



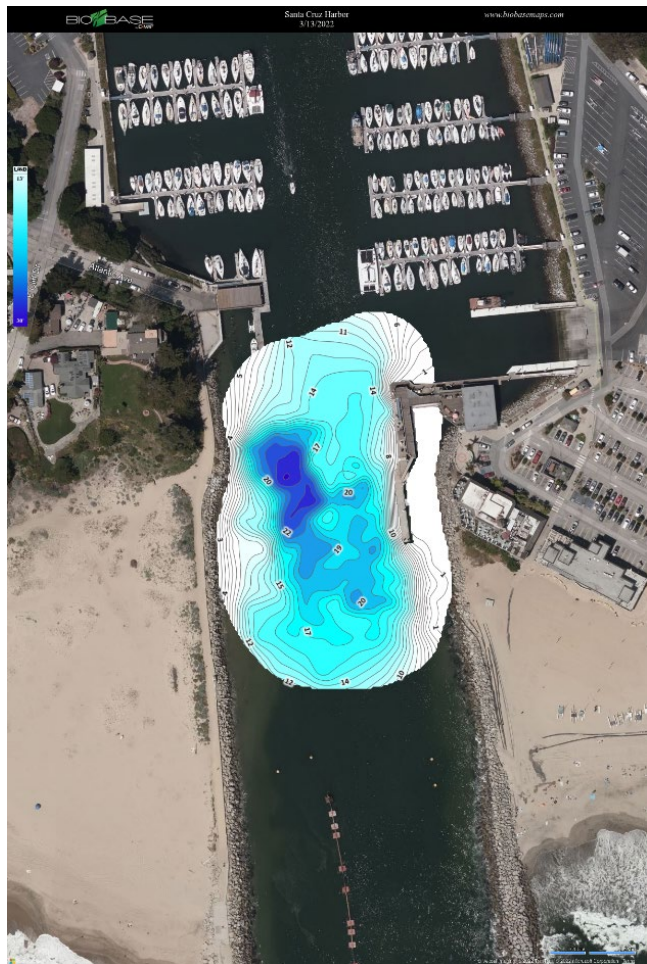
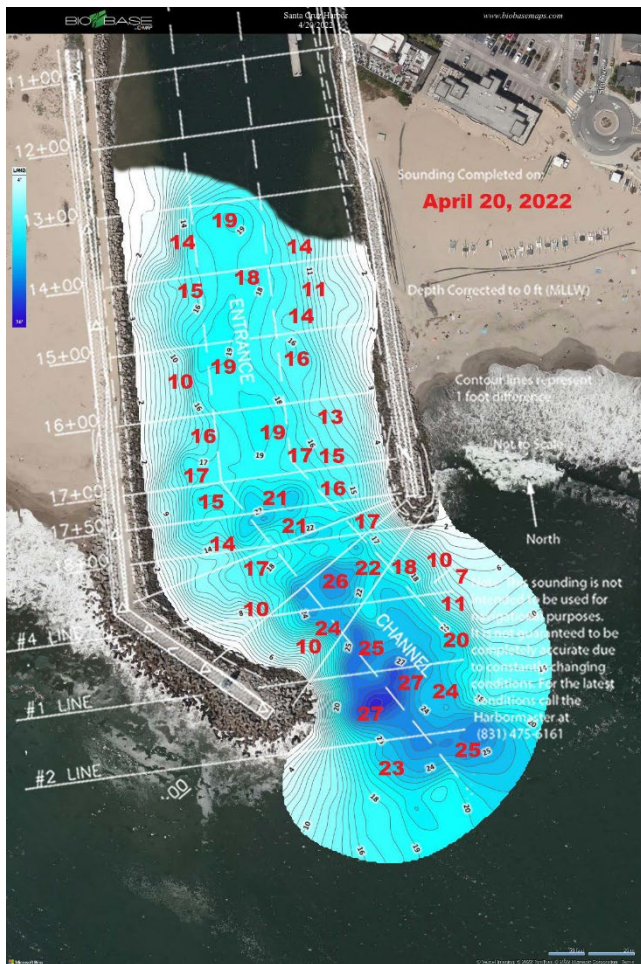
PORT COMMISSIONERS:  
Toby Goddard  
Dennis Smith  
Reed Geisreiter  
Stephen Reed  
Darren Gertler

TO: Port Commission  
FROM: Carl Wulf, Facilities Maintenance Engineering Manager  
DATE: April 26, 2022  
SUBJECT: Facilities Maintenance & Engineering Report

### Dredging Operations:

#### Twin Lakes

The 2021-22 dredge season will conclude on April 30, 2022. Crews continue to make progress digging in the south harbor, with depths exceeding 20' in some areas. Kudos to the crew for a job well done. Staff is planning on moving *Twin Lakes* to her off-season mooring on May 20, 2022.



### Squirt

Extended maintenance continues on *Squirt* as time allows, including the fabrication of a replacement suction pipe.

### Crane Certification Training

Two dredge crew members recently completed a crane certification training program in Sacramento.

### **Maintenance:**

#### Aerators

Maintenance staff has reinstalled the aerators throughout the harbor in preparation for any increased anchovy activity.

#### 333 Lake Avenue – Electrical Upgrades Project

The final specifications for the electrical work at 333 Lake Avenue were submitted to the City Building Department for review and permit issuance. The timeline for issuance of the necessary permits is unknown, as the Department reports a backlog due to being short-staffed.

#### Concession Parking Lot Repairs

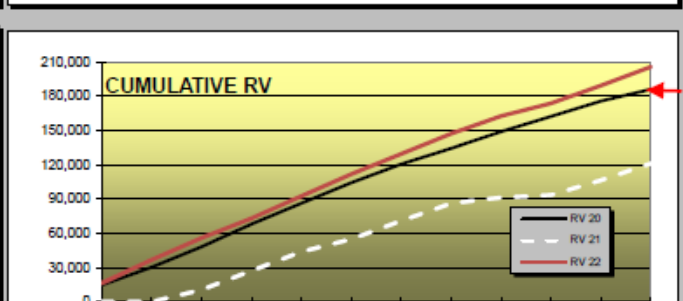
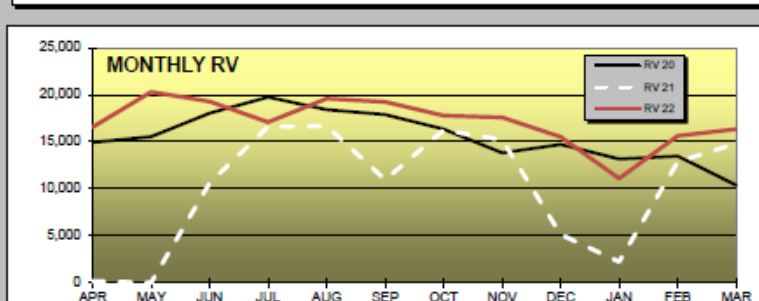
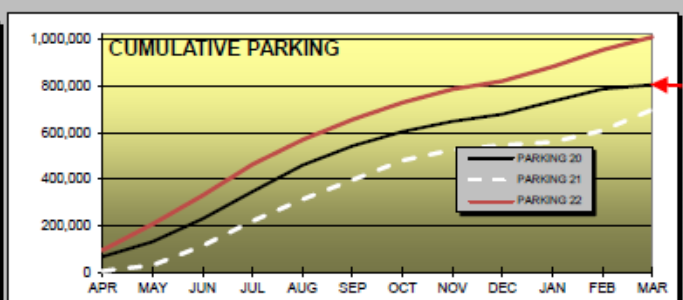
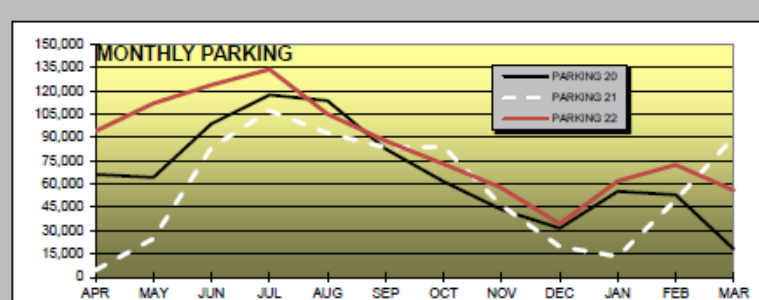
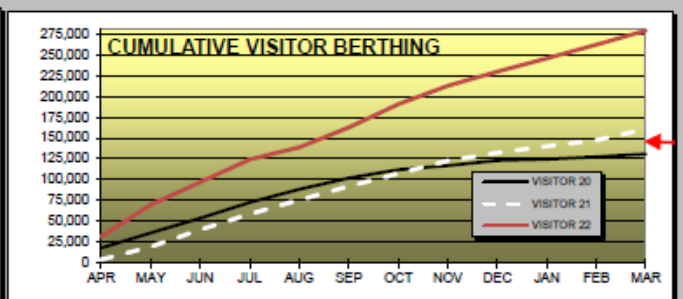
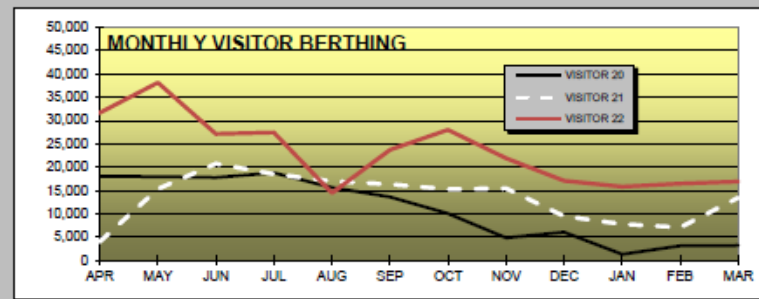
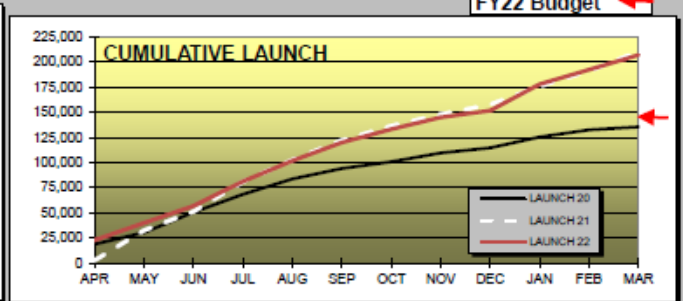
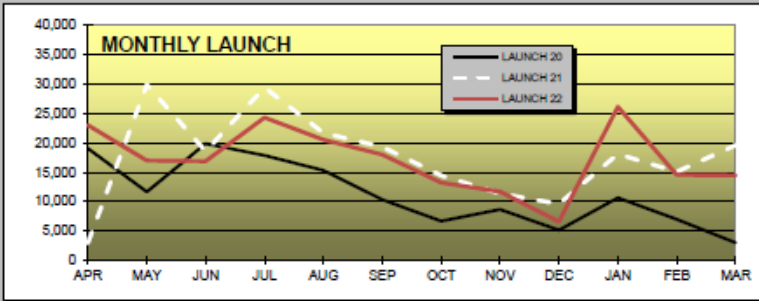
Maintenance staff has replaced a damaged bollard near the concession lot entry gate after it was inadvertently struck by a vehicle. The driver of the vehicle has reimbursed the District for damages.

#### Security / Safety Lighting

Maintenance staff performed the electrical work needed to repair the security / safety lighting in the area of the fishery.

## SEASONAL INCOME

FY22 Budget ←



Santa Cruz Port District  
**Employee Count**  
as of March 31, 2022

Department	Employee Name	Regular FTE%	Unrepresented	Job Title
ADMIN	Eldridge, Mark	100%		Accounting Technician II
ADMIN	Ghisletta, Renee	100%		Administrative Assistant I
ADMIN	MacLaurie, Holland	100%		Port Director
ADMIN	Ritter, Jillian	100%		Administrative Services Manager
FACILITIES	Acevedo, Arturo	100%		Maintenance Worker III
FACILITIES	Goering, Bryce	100%		Harbor Dredge Worker II
FACILITIES	Gullo, Nicholas	100%		Supervising Maint. Worker
FACILITIES	Laine, Jason	100%		Harbor Dredge Worker III
FACILITIES	Lopez, Jorge	100%		Maintenance Worker III
FACILITIES	Marty, Randy	100%		Maintenance Worker III
FACILITIES	Ramos, Brenda	100%		Facilities Coordinator
FACILITIES	Rodriguez, Brian		var	Weekend Janitorial
FACILITIES	Simoni, Daniel	100%		Harbor Dredge Worker II
FACILITIES	Stipanovich, Rory	100%		Supervising Dredge Worker
FACILITIES	Tandoi, Steven	100%		Harbor Dredge Worker III
FACILITIES	Vera, Jose	100%		Maintenance Worker III
FACILITIES	Wagoner, Joshua	100%		Harbor Dredge Worker III
FACILITIES	Wulf, Carl	100%		Facilities, Maintenance, & Engineering Manager
OPERATIONS	Anderson, Blake	100%		Harbormaster
OPERATIONS	Ash, Jaylene		var	Parking Control
OPERATIONS	Butensky, Sonali		var	Parking Control
OPERATIONS	Chausse, Kurt		var	Parking Control & Boatyard Crew
OPERATIONS	Gitler, Mark		var	Operations Assistant & Dredge Monitor
OPERATIONS	Gottlieb, Landon	100%		Deputy Harbormaster
OPERATIONS	Guy, Parker	100%		Deputy Harbormaster
OPERATIONS	Hann, Alfred		var	Operations Assistant
OPERATIONS	Haynes, John	100%		Senior Deputy Harbormaster
OPERATIONS	Henning, Nicholas	100%		Boatyard Crew
OPERATIONS	Hill, David	100%		Deputy Harbormaster
OPERATIONS	Kurrle, Madison		var	Parking Control
OPERATIONS	Kusaba-Kusumoto, Kalee		var	Parking Control
OPERATIONS	Loelhoeffel, Katrin		var	Operations Assistant
OPERATIONS	Long, John		var	Parking Control
OPERATIONS	Mangus, Stephanie		var	Parking Control
OPERATIONS	Manley, Shelby		var	Parking Control
OPERATIONS	Melrose, Kevin	100%		Boatyard Supervisor
OPERATIONS	Melrose, Peter	100%		Deputy Harbormaster
OPERATIONS	Melrose, Richard	100%		Parking Coordinator
OPERATIONS	Nelson, Michael		var	Parking Control & Dredge Monitor
OPERATIONS	Nowak, Chris		var	Parking Control
OPERATIONS	Chausse, Kurt		var	Parking Control & Boatyard Crew
OPERATIONS	Rothwell, Niki	100%		Customer Service Rep.
OPERATIONS	Rothwell, Sean	100%		Assistant Harbormaster
OPERATIONS	Simon, Harry		var	Parking Control
OPERATIONS	Stelter, Richard		var	Parking Control
<b>Total FTEs</b>		<b>28</b>		

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
<b>OPERATING INCOME</b>						
000-000-000-0000-4000	Slip Rent Permanent	\$387,164	\$4,690,200	\$4,668,000	\$22,200	100%
000-000-000-0000-4002	Slip Rent Visitors	\$16,949	\$278,879	\$145,000	\$133,879	192%
000-000-000-0000-4003	Annual Slip Rent Discount	(\$293)	(\$2,812)	(\$1,225)	(\$1,587)	230%
000-000-000-0000-4006	Tenant Concession Rent	\$157,406	\$1,939,184	\$1,685,000	\$254,184	115%
000-000-000-0000-4008	Misc. Tenant Rent (Sewer)	\$5,564	\$121,931	\$140,000	(\$18,069)	87%
000-000-000-0000-4010	Launch Fees	\$14,461	\$206,773	\$140,000	\$66,773	148%
000-000-000-0000-4012	Liveaboard	\$6,850	\$76,548	\$70,000	\$6,548	109%
000-000-000-0000-4014	Catamaran Storage	\$2,248	\$29,658	\$25,500	\$4,158	116%
000-000-000-0000-4016	North Harbor Dry Storage	\$15,647	\$187,730	\$185,000	\$2,730	101%
000-000-000-0000-4018	7th Ave Dry Storage	\$9,547	\$117,333	\$115,500	\$1,833	102%
000-000-000-0000-4020	Waiting List	(\$9,752)	\$138,526	\$120,000	\$18,526	115%
000-000-000-0000-4024	Slip Leave Option	(\$250)	\$4,250	\$2,500	\$1,750	170%
000-000-000-0000-4026	Partnership Fees	\$2,579	\$29,876	\$27,250	\$2,626	110%
000-000-000-0000-4028	Sublease Fees	\$3,163	\$35,902	\$28,000	\$7,902	128%
000-000-000-0000-4030	Variable/Utility Fees	\$18,696	\$205,023	\$195,000	\$10,023	105%
000-000-000-0000-4032	Late Fees	\$1,110	\$47,216	\$50,000	(\$2,784)	94%
000-000-000-0000-4036	Citations	\$9,895	\$99,422	\$92,500	\$6,922	107%
000-000-000-0000-4040	Credit Card Convenience Charges	\$2,099	\$24,045	\$20,000	\$4,045	120%
000-000-000-0000-4100	Parking - Concession Lot	\$35,436	\$566,389	\$800,000	(\$233,611)	71%
000-000-000-0000-4102	Parking - Launch Area	\$100	\$25,780		\$25,780	0%
000-000-000-0000-4104	Parking - Westside	\$9,337	\$185,490		\$185,490	0%
000-000-000-0000-4118	Meter Permits & Coin	\$7,467	\$191,530		\$191,530	0%
000-000-000-0000-4120	Slip Renter Parking Permits	\$3,500	\$41,690	\$36,500	\$5,190	114%
000-000-000-0000-4122	RV Parking	\$16,337	\$205,914	\$185,000	\$20,914	111%
000-000-000-0000-4200	Fuel Sales Gasoline	\$6,848	\$362,393	\$265,000	\$97,393	137%
000-000-000-0000-4202	Fuel Sales Diesel	\$23,504	\$517,860	\$400,000	\$117,860	129%
000-000-000-0000-4204	Fuel Service Call Back Charges	\$0	\$10		\$10	0%
000-000-000-0000-4210	Wash Rack	\$276	\$9,064	\$6,250	\$2,814	145%
000-000-000-0000-4220	Boatyard Retail	\$2,067	\$18,578	\$10,500	\$8,078	177%
000-000-000-0000-4225	Boatyard Labor	\$0	\$813	\$1,000	(\$188)	81%
000-000-000-0000-4230	Boatyard Rental	\$540	\$4,290	\$2,500	\$1,790	172%
000-000-000-0000-4235	Boatyard Misc.	\$7,359	\$40,266	\$30,000	\$10,266	134%
000-000-000-0000-4240	Lay Days/Storage	\$21,326	\$196,485	\$115,000	\$81,485	171%
000-000-000-0000-4245	Vessel Haulout	\$18,862	\$171,495	\$125,000	\$46,495	137%
000-000-000-0000-4250	Vessel Berthing	\$2,133	\$35,492	\$30,000	\$5,492	118%
<b>OPERATING INCOME</b>		<b>\$798,171</b>	<b>\$10,803,222</b>	<b>\$9,714,775</b>	<b>\$1,088,447</b>	<b>111%</b>
<b>EXPENSE SUMMARY BY PROGRAM</b>						
	Administrative Services (110)	\$64,838	\$852,985	\$764,483	(\$88,502)	112%
	Finance & Purchasing (120)	\$10,695	\$184,479	\$209,575	\$25,096	88%
	Property Management (130)	\$53,596	\$650,290	\$546,648	(\$103,642)	119%
	Environmental & Permitting (140)	\$12,940	\$95,358	\$195,175	\$99,817	49%
	Port Commission Support (190)	\$4,898	\$107,947	\$57,089	(\$50,858)	189%
	Harbor Patrol (210)	\$58,926	\$699,435	\$721,534	\$22,099	97%
	Marina Management (220)	\$51,519	\$495,729	\$512,134	\$16,405	97%
	Rescue Services (230)	\$6,668	\$105,264	\$122,463	\$17,199	86%
	Parking Services (240)	\$18,933	\$345,730	\$323,993	(\$21,737)	107%
	Events (250)	\$407	\$13,313	\$35,344	\$22,031	38%
	Fuel Services (280)	\$35,004	\$741,287	\$491,444	(\$249,843)	151%
	Docks, Piers, Marine Structures (310)	\$22,112	\$305,922	\$297,927	(\$7,995)	103%
	Utilities (320)	\$3,403	\$105,479	\$95,943	(\$9,536)	110%
	Buildings (330)	\$21,072	\$334,530	\$395,252	\$60,722	85%
	Grounds (340)	\$64,309	\$781,803	\$786,798	\$4,995	99%
	Aeration (350)	\$5,320	\$49,988	\$57,340	\$7,352	87%
	Fishery Support (360)	\$753	\$8,612	\$16,322	\$7,710	53%
	Capital Projects (390)	\$3,167	\$416,973	\$417,797	\$824	100%
	Dredging Operations (400)	\$133,207	\$1,342,180	\$1,487,426	\$145,246	90%
	Boatyard Operations (500)	\$22,009	\$315,697	\$324,636	\$8,939	97%
<b>OPERATING EXPENSES</b>		<b>\$593,778</b>	<b>\$7,953,000</b>	<b>\$7,859,323</b>	<b>(\$93,677)</b>	<b>101%</b>



Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
<b>OPERATING PROFIT</b>		<b>\$204,393</b>	<b>\$2,850,222</b>	<b>\$1,855,452</b>	<b>(\$994,770)</b>	<b>154%</b>
<b>NON OPERATING INCOME/(EXPENSE)</b>						
000-000-000-0000-4300	Harbor Services Charge	\$0	\$4,374	\$10,000	(\$5,626)	44%
000-000-000-0000-4308	Interest Income	\$17	\$21,479	\$79,500	(\$58,021)	27%
000-000-000-0000-4310	Other Income	\$2,403	\$77,878	\$50,000	\$27,878	156%
000-000-000-0000-4375	USACE Reimbursement	\$0	\$665,000		\$665,000	0%
000-000-000-0000-4400	Grants - State	\$0	\$71,364		\$71,364	0%
000-000-000-0000-4405	Grants - DBAW	\$0	\$15,873	\$30,000	(\$14,127)	53%
000-000-000-0000-4406	County Rescue Contribution	\$0	\$50,000	\$50,000	\$0	100%
000-000-000-0000-4407	PG&E Easement	\$0	\$26,953		\$26,953	0%
000-000-000-0000-4408	Waste Oil Grant	\$0	\$11,480	\$12,000	(\$520)	96%
000-000-000-0000-4500	Gain/(Loss) on Asset Disposal	\$0	\$4,745		\$4,745	0%
000-000-000-0000-4600	Cash Over/Under	(\$0)	(\$74)		(\$74)	0%
	Principal Debt Payments	(\$1,369)	(\$1,264,381)	(\$1,260,274)	(\$4,107)	100%
	Capital Improvement Program	(\$7,900)	(\$479,989)	(\$500,000)	\$20,011	96%
	Capitalized Expenses	\$0	(\$503,186)	(\$294,762)	(\$208,424)	171%
	Depreciation	(\$140,002)	(\$1,680,018)	\$0	(\$1,680,018)	0%
<b>NET INCOME/(LOSS)</b>		<b>\$57,543</b>	<b>(\$128,279)</b>	<b>\$31,916</b>	<b>(\$160,195)</b>	<b>(402%)</b>
<b>ADMINISTRATIVE SERVICES DEPT.</b>						
	Salaries - Regular	\$33,994	\$340,557	\$403,166	\$62,609	84%
	Salaries - Overtime	\$798	\$1,549	\$5,000	\$3,451	31%
	Wages - Part Time/Temporary	\$5,237	\$25,620	\$48,000	\$22,380	53%
	Salaries - Vacation Pay	\$0	\$27,625	\$5,000	(\$22,625)	552%
	Salaries - Holiday Pay	\$0	\$1,020	\$0	(\$1,020)	0%
	Salaries - Sick Pay	\$240	\$400	\$0	(\$400)	0%
	Unemployment Insurance (SUI)	\$89	\$1,556	\$3,725	\$2,169	42%
	FICA Medicare/Social Security	\$3,133	\$30,780	\$34,030	\$3,250	90%
	Auto Allowance	\$200	\$1,900	\$2,400	\$500	79%
	Workers' Compensation	\$1,128	\$11,841	\$17,608	\$5,767	67%
	CalPERS Employer Share	\$3,638	\$40,645	\$46,129	\$5,484	88%
	CalPERS Unfunded Accrued Liability	\$6,890	\$79,693	\$79,692	(\$1)	100%
	Health Insurance	\$483	\$82,967	\$79,275	(\$3,692)	105%
	Dental Insurance	\$474	\$5,414	\$5,862	\$448	92%
	Long Term Disability/Life/AD&D	\$171	\$1,806	\$1,283	(\$523)	141%
	Printing & Newsletter	\$227	\$12,081	\$14,000	\$1,919	86%
	Legal Notices	\$0	\$0	\$1,000	\$1,000	0%
	Advertising	\$0	\$4,975	\$4,500	(\$475)	111%
	Postage	\$750	\$8,287	\$10,000	\$1,713	83%
	Promotional Expense	\$0	\$1,374	\$4,000	\$2,627	34%
	Office Supplies	\$1,173	\$11,166	\$14,950	\$3,784	75%
	Supplies	\$0	\$574	\$2,100	\$1,526	27%
	Vehicle & Equipment Fuel	\$0	\$0	\$500	\$500	0%
	Miscellaneous Employee Training	\$0	\$147	\$2,000	\$1,853	7%
	Pre-Employment Physicals	\$0	\$265	\$1,000	\$735	27%
	Equipment Rental	\$0	\$0	\$1,000	\$1,000	0%
	Insurance Premiums	\$12,063	\$143,319	\$133,000	(\$10,319)	108%
	Insurance Claims	\$0	\$1,510	\$6,000	\$4,490	25%
	Memberships, Dues, Subscriptions	\$0	\$9,382	\$7,500	(\$1,882)	125%
	Meetings & Training	\$0	\$3,236	\$14,250	\$11,014	23%
	Books	\$0	\$0	\$400	\$400	0%
	Software	\$0	\$0	\$500	\$500	0%
	Permit Fees	\$0	\$9,979	\$8,000	(\$1,979)	125%
	Bank Service Charges	\$584	\$13,083	\$16,000	\$2,917	82%
	Credit Card Fees	\$2,792	\$36,288	\$40,000	\$3,712	91%
	Data Storage	\$0	\$0	\$3,000	\$3,000	0%
	Employee Recognition	\$0	\$5,374	\$3,000	(\$2,374)	179%
	Miscellaneous Expenses	\$50	\$5,738	\$5,000	(\$738)	115%
	Commission Expenses	\$0	\$0	\$500	\$500	0%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
	Interest Expense	\$0	\$0	\$2,000	\$2,000	0%
	Gas & Electricity	\$7,530	\$84,346	\$82,500	(\$1,846)	102%
	Water, Sewer, Garbage	\$11,589	\$165,976	\$184,000	\$18,024	90%
	Telephone & Alarms	\$1,685	\$14,745	\$39,500	\$24,755	37%
	Sanitary Dist. Charges	\$0	\$93,330	\$122,000	\$28,670	77%
	Miscellaneous Professional Services	\$800	\$9,975	\$12,000	\$2,025	83%
	Legal Consultation	\$23,139	\$181,821	\$46,000	(\$135,821)	395%
	Technical Services	\$5,226	\$47,255	\$113,000	\$65,745	42%
	Contract Services	\$2,373	\$15,305	\$12,000	(\$3,305)	128%
	Uniform Cleaning/Laundry	\$0	\$89	\$250	\$161	36%
	Other Services	\$0	\$23,788	\$10,000	(\$13,788)	238%
	Accounting & Auditing	\$788	\$46,256	\$46,000	(\$256)	101%
	Software License & Application	\$4,923	\$25,601	\$28,500	\$2,899	90%
	LAFCO Assessment	\$0	\$11,609	\$14,000	\$2,391	83%
	Mileage Reimbursement	\$353	\$353	\$1,650	\$1,297	21%
	Meetings & Seminars	\$0	\$0	\$3,000	\$3,000	0%
	Signage	\$0	\$0	\$200	\$200	0%
	Office Equipment R&M	\$0	\$0	\$12,000	\$12,000	0%
	Vehicle Maintenance	\$60	\$465	\$2,000	\$1,535	23%
	Permits & Inspections	\$0	\$452	\$2,500	\$2,048	18%
	Equipment/Equipment R&M	\$3,982	\$9,443	\$16,500	\$7,057	57%
	COVID-19 Related Expenses	\$0	\$2,004	\$0	(\$2,004)	0%
	CVRA Related Expenses	\$0	\$52,541	\$0	(\$52,541)	0%
	2022 Tsunami Related Expenses	\$10,405	\$185,553	\$0	(\$185,553)	0%
	Capitalized Equip. Transfer to 1100	\$0	\$252,983	\$0	(\$252,983)	0%
	<b>TOTAL ADMIN. SERVICES DEPT.</b>	<b>\$146,968</b>	<b>\$2,091,500</b>	<b>\$1,772,970</b>	<b>(\$318,530)</b>	<b>118%</b>

**ADMINISTRATIVE SERVICES (110)**

100-100-110-0000-5000	Salaries - Regular	\$21,585	\$201,629	\$247,000	\$45,371	82%
100-100-110-0000-5005	Salaries - Overtime			\$500	\$500	0%
100-100-110-0000-5010	Wages - Part Time/Temporary			\$1,000	\$1,000	0%
100-100-110-0000-5020	Salaries - Vacation Pay	\$0	\$27,625	\$5,000	(\$22,625)	552%
100-100-110-0000-5025	Salaries - Holiday Pay	\$0	\$1,020		(\$1,020)	0%
100-100-110-0000-5055	Unemployment Insurance (SUI)	\$0	\$641	\$1,500	\$859	43%
100-100-110-0000-5060	FICA Medicare/Social Security	\$1,697	\$18,022	\$18,627	\$605	97%
100-100-110-0000-5075	Auto Allowance	\$200	\$1,900	\$2,400	\$500	79%
100-100-110-0000-5105	Workers' Compensation	\$652	\$6,845	\$10,178	\$3,333	67%
100-100-110-0000-5110	CalPERS Employer Share	\$2,329	\$26,014	\$29,524	\$3,510	88%
100-100-110-0000-5112	CalPERS Unfunded Liability	\$4,410	\$51,006	\$51,006	(\$0)	100%
100-100-110-0000-5115	Health Insurance	\$392	\$49,254	\$46,307	(\$2,947)	106%
100-100-110-0000-5120	Dental Insurance	\$274	\$3,130	\$3,389	\$259	92%
100-100-110-0000-5125	Long Term Disability/Life/AD&D	\$110	\$1,148	\$752	(\$396)	153%
100-100-110-0000-5200	Printing & Newsletter	\$227	\$12,081	\$14,000	\$1,919	86%
100-100-110-0000-5202	Legal Notices			\$1,000	\$1,000	0%
100-100-110-0000-5204	Advertising	\$0	\$3,796	\$3,000	(\$796)	127%
100-100-110-0000-5206	Postage	\$750	\$8,287	\$10,000	\$1,713	83%
100-100-110-0000-5208	Promotional Expense	\$0	\$1,374	\$4,000	\$2,627	34%
100-100-110-0000-5214	Office Supplies	\$1,173	\$10,986	\$14,000	\$3,014	78%
100-100-110-0000-5217	Supplies	\$0	\$426	\$1,000	\$574	43%
100-100-110-0000-5240	Miscellaneous Employee Training	\$0	\$147	\$2,000	\$1,853	7%
100-100-110-0000-5242	Pre-Employment Physicals	\$0	\$265	\$1,000	\$735	27%
100-100-110-0000-5256	Equipment Rental			\$1,000	\$1,000	0%
100-100-110-0000-5262	Insurance Premiums	\$1,971	\$23,655	\$21,000	(\$2,655)	113%
100-100-110-0000-5264	Insurance Claims	\$0	\$1,510	\$6,000	\$4,490	25%
100-100-110-0000-5266	Memberships, Dues, Subscriptions	\$0	\$9,112	\$7,000	(\$2,112)	130%
100-100-110-0000-5268	Meetings & Training	\$0	\$1,209	\$5,000	\$3,791	24%
100-100-110-0000-5270	Books			\$300	\$300	0%
100-100-110-0000-5282	Bank Service Charges	\$584	\$13,083	\$16,000	\$2,917	82%
100-100-110-0000-5284	Credit Card Fees	\$2,792	\$36,288	\$40,000	\$3,712	91%
100-100-110-0000-5286	Data Storage			\$3,000	\$3,000	0%
100-100-110-0000-5288	Employee Recognition	\$0	\$5,374	\$3,000	(\$2,374)	179%
100-100-110-0000-5290	Miscellaneous Expenses	\$50	\$905	\$1,000	\$96	90%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
100-100-110-0000-5298	Interest Expense			\$2,000	\$2,000	0%
100-100-110-0000-5310	Telephone & Alarms	\$1,405	\$12,292	\$31,000	\$18,708	40%
100-100-110-0000-5415	Miscellaneous Professional Services	\$800	\$9,975	\$12,000	\$2,025	83%
100-100-110-0000-5416	Legal Consultation	\$0	\$26,879	\$40,000	\$13,121	67%
100-100-110-0000-5420	Technical Services	\$1,596	\$15,552	\$21,000	\$5,448	74%
100-100-110-0000-5425	Contract Services	\$2,373	\$15,305	\$12,000	(\$3,305)	128%
100-100-110-0000-5450	Other Services	\$0	\$23,788	\$10,000	(\$13,788)	238%
100-100-110-0000-5465	Software License & Application	\$4,923	\$25,601	\$28,000	\$2,399	91%
100-100-110-0000-5470	LAFCO Assessment	\$0	\$11,609	\$14,000	\$2,391	83%
100-100-110-0000-5500	Mileage Reimbursement	\$160	\$160	\$1,000	\$840	16%
100-100-110-0000-5510	Meetings & Seminars			\$3,000	\$3,000	0%
100-100-110-0000-5694	Office Equipment R&M			\$12,000	\$12,000	0%
100-100-110-0000-5698	Equipment/Equipment R&M	\$3,982	\$7,536	\$8,000	\$464	94%
100-100-110-CO19-5000	COVID-19 Labor	\$0	\$1,899		(\$1,899)	0%
100-100-110-CO19-6300	COVID-19 Expenses	\$0	\$105		(\$105)	0%
100-100-110-TSUN-5000	2022 Tsunami Labor	\$957	\$53,083		(\$53,083)	0%
100-100-110-TSUN-6300	2022 Tsunami Expenses	\$9,449	\$132,471		(\$132,471)	0%
100-100-110-0000-6100	Capitalized Equip Xfer to 1100	\$0	\$252,983		(\$252,983)	0%
<b>TOTAL ADMINISTRATIVE SERVICES</b>		<b>\$64,838</b>	<b>\$852,985</b>	<b>\$764,483</b>	<b>(\$88,502)</b>	<b>112%</b>

**FINANCE & PURCHASING (120)**

100-100-120-0000-5000	Salaries - Regular	\$7,002	\$85,864	\$97,165	\$11,301	88%
100-100-120-0000-5005	Salaries - Overtime			\$500	\$500	0%
100-100-120-0000-5010	Wages - Part Time/Temporary			\$1,000	\$1,000	0%
100-100-120-0000-5055	Unemployment Insurance (SUI)	\$0	\$293	\$1,000	\$707	29%
100-100-120-0000-5060	FICA Medicare/Social Security	\$536	\$6,561	\$8,138	\$1,577	81%
100-100-120-0000-5105	Workers' Compensation	\$276	\$2,893	\$4,301	\$1,408	67%
100-100-120-0000-5110	CalPERS Employer Share	\$606	\$6,768	\$7,681	\$913	88%
100-100-120-0000-5112	CalPERS Unfunded Liability	\$1,147	\$13,269	\$13,269	(\$0)	100%
100-100-120-0000-5115	Health Insurance	\$4	\$19,531	\$19,382	(\$149)	101%
100-100-120-0000-5120	Dental Insurance	\$116	\$1,323	\$1,432	\$109	92%
100-100-120-0000-5125	Long Term Disability/Life/AD&D	\$29	\$311	\$307	(\$4)	101%
100-100-120-0000-5214	Office Supplies	\$0	\$87	\$750	\$663	12%
100-100-120-0000-5266	Memberships, Dues, Subscriptions	\$0	\$270	\$500	\$230	54%
100-100-120-0000-5268	Meetings & Training	\$0	\$150	\$2,000	\$1,850	8%
100-100-120-0000-5272	Software			\$500	\$500	0%
100-100-120-0000-5290	Miscellaneous Expenses	\$0	\$616	\$1,000	\$384	62%
100-100-120-0000-5420	Technical Services	\$0	\$95	\$2,000	\$1,906	5%
100-100-120-0000-5460	Accounting & Auditing	\$788	\$46,256	\$46,000	(\$256)	101%
100-100-120-0000-5465	Software License & Application			\$500	\$500	0%
100-100-120-0000-5500	Mileage Reimbursement	\$193	\$193	\$150	(\$43)	129%
100-100-120-0000-5698	Equipment/Equipment R&M			\$2,000	\$2,000	0%
<b>TOTAL FINANCE &amp; PURCHASING</b>		<b>\$10,695</b>	<b>\$184,479</b>	<b>\$209,575</b>	<b>\$25,096</b>	<b>88%</b>

**PROPERTY MANAGEMENT (130)**

100-100-130-0000-5000	Salaries - Regular	\$365	\$14,507	\$15,764	\$1,257	92%
100-100-130-0000-5055	Unemployment Insurance (SUI)	\$0	\$34	\$125	\$91	28%
100-100-130-0000-5060	FICA Medicare/Social Security	\$28	\$1,115	\$1,755	\$640	64%
100-100-130-0000-5105	Workers' Compensation	\$29	\$302	\$449	\$147	67%
100-100-130-0000-5110	CalPERS Employer Share	\$179	\$1,995	\$2,264	\$269	88%
100-100-130-0000-5112	CalPERS Unfunded Liability	\$338	\$3,912	\$3,912	\$0	100%
100-100-130-0000-5115	Health Insurance	\$7	\$2,094	\$1,948	(\$146)	108%
100-100-130-0000-5120	Dental Insurance	\$12	\$138	\$149	\$11	93%
100-100-130-0000-5125	Long Term Disability/Life/AD&D	\$8	\$86	\$32	(\$54)	268%
100-100-130-0000-5204	Advertising	\$0	\$1,180	\$1,500	\$320	79%
100-100-130-0000-5262	Insurance Premiums	\$10,092	\$119,664	\$112,000	(\$7,664)	107%
100-100-130-0000-5268	Meetings & Training			\$750	\$750	0%
100-100-130-0000-5290	Miscellaneous Expenses	\$0	\$4,217	\$3,000	(\$1,217)	141%
100-100-130-0000-5300	Gas & Electricity	\$7,530	\$84,346	\$82,500	(\$1,846)	102%
100-100-130-0000-5305	Water, Sewer & Garbage	\$11,589	\$165,976	\$184,000	\$18,024	90%
100-100-130-0000-5310	Telephone & Alarms	\$280	\$2,453	\$8,500	\$6,047	29%



Santa Cruz Port District  
**Monthly Budget Report**  
 For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
100-100-130-0000-5315	Sanitary Dist Charges	\$0	\$93,330	\$122,000	\$28,670	77%
100-100-130-0000-5416	Legal Consultation	\$23,139	\$154,941	\$6,000	(\$148,941)	2582%
<b>TOTAL PROPERTY MANAGEMENT</b>		<b>\$53,596</b>	<b>\$650,290</b>	<b>\$546,648</b>	<b>(\$103,642)</b>	<b>119%</b>

**ENVIRONMENTAL & PERMITTING (140)**

100-100-140-0000-5000	Salaries - Regular	\$1,410	\$4,482	\$14,117	\$9,635	32%
100-100-140-0000-5005	Salaries - Overtime	\$798	\$1,549	\$3,500	\$1,951	44%
100-100-140-0000-5010	Wages - Part Time/Temporary	\$5,237	\$25,620	\$45,000	\$19,380	57%
100-100-140-0000-5030	Salaries - Sick Pay	\$240	\$400		(\$400)	0%
100-100-140-0000-5055	Unemployment Insurance (SUI)	\$89	\$533	\$1,000	\$467	53%
100-100-140-0000-5060	FICA Medicare/Social Security	\$589	\$2,458	\$3,226	\$768	76%
100-100-140-0000-5105	Workers' Compensation	\$85	\$889	\$1,323	\$434	67%
100-100-140-0000-5110	CalPERS Employer Share	\$254	\$2,836	\$3,219	\$383	88%
100-100-140-0000-5112	CalPERS Unfunded Liability	\$481	\$5,561	\$5,561	\$0	100%
100-100-140-0000-5115	Health Insurance	\$19	\$5,847	\$5,744	(\$103)	102%
100-100-140-0000-5120	Dental Insurance	\$36	\$407	\$440	\$33	92%
100-100-140-0000-5125	Long Term Disability/Life/AD&D	\$12	\$127	\$95	(\$32)	133%
100-100-140-0000-5217	Supplies	\$0	\$148	\$1,000	\$852	15%
100-100-140-0000-5235	Vehicle & Equipment Fuel			\$500	\$500	0%
100-100-140-0000-5268	Meetings & Training			\$500	\$500	0%
100-100-140-0000-5276	Permit Fees	\$0	\$9,979	\$8,000	(\$1,979)	125%
100-100-140-0000-5292	Uniform Cleaning/Laundry	\$0	\$89	\$250	\$161	36%
100-100-140-0000-5420	Technical Services	\$3,630	\$31,608	\$90,000	\$58,392	35%
100-100-140-0000-5500	Mileage Reimbursement			\$500	\$500	0%
100-100-140-0000-5625	Signage			\$200	\$200	0%
100-100-140-0000-5665	Vehicle Maintenance	\$60	\$465	\$2,000	\$1,535	23%
100-100-140-0000-5696	Permits & Inspections	\$0	\$452	\$2,500	\$2,048	18%
100-100-140-0000-5698	Equipment/Equipment R&M	\$0	\$1,907	\$6,500	\$4,593	29%
<b>TOTAL ENVIRONMENTAL &amp; PERMITTING</b>		<b>\$12,940</b>	<b>\$95,358</b>	<b>\$195,175</b>	<b>\$99,817</b>	<b>49%</b>

**PORT COMMISSION SUPPORT (190)**

100-100-190-0000-5000	Salaries - Regular	\$3,633	\$34,075	\$29,120	(\$4,955)	117%
100-100-190-0000-5005	Salaries - Overtime			\$500	\$500	0%
100-100-190-0000-5010	Wages - Part Time/Temporary			\$1,000	\$1,000	0%
100-100-190-0000-5055	Unemployment Insurance (SUI)	\$0	\$54	\$100	\$46	54%
100-100-190-0000-5060	FICA Medicare/Social Security	\$283	\$2,625	\$2,284	(\$341)	115%
100-100-190-0000-5105	Workers' Compensation	\$87	\$913	\$1,357	\$444	67%
100-100-190-0000-5110	CalPERS Employer Share	\$271	\$3,032	\$3,441	\$409	88%
100-100-190-0000-5112	CalPERS Unfunded Liability	\$514	\$5,944	\$5,944	(\$0)	100%
100-100-190-0000-5115	Health Insurance	\$61	\$6,240	\$5,894	(\$346)	106%
100-100-190-0000-5120	Dental Insurance	\$37	\$417	\$452	\$35	92%
100-100-190-0000-5125	Long Term Disability/Life/AD&D	\$13	\$135	\$97	(\$38)	139%
100-100-190-0000-5214	Office Supplies	\$0	\$93	\$200	\$107	47%
100-100-190-0000-5217	Supplies			\$100	\$100	0%
100-100-190-0000-5268	Meetings & Training	\$0	\$1,877	\$6,000	\$4,123	31%
100-100-190-0000-5270	Books			\$100	\$100	0%
100-100-190-0000-5294	Commission Expenses			\$500	\$500	0%
100-100-190-CVRA-5000	CVRA Labor	\$0	\$714		(\$714)	0%
100-100-190-CVRA-6300	CVRA Expenses	\$0	\$51,827		(\$51,827)	0%
<b>TOTAL PORT COMMISSION SUPPORT</b>		<b>\$4,898</b>	<b>\$107,947</b>	<b>\$57,089</b>	<b>(\$50,858)</b>	<b>189%</b>

**OPERATIONS DEPT.**

Salaries - Regular	\$63,121	\$724,932	\$802,495	\$77,563	90%
Salaries - Overtime	\$1,617	\$19,342	\$14,000	(\$5,342)	138%
Wages - Part Time/Temporary	\$10,865	\$149,948	\$173,000	\$23,052	87%
Salaries - Comp. Time	\$0	\$1,757	\$300	(\$1,457)	586%
Salaries - Vacation Pay	\$0	\$20,533	\$5,000	(\$15,533)	411%
Salaries - Holiday Pay	\$0	\$9,198	\$7,500	(\$1,698)	123%
Salaries - Sick Pay	\$240	\$1,296	\$1,300	\$4	100%
Salaries - Call Back	\$214	\$3,404	\$5,750	\$2,346	59%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
	Salaries - Call Ready	\$1,783	\$20,119	\$21,500	\$1,381	94%
	Salaries - Night Differential	\$82	\$2,725	\$7,500	\$4,775	36%
	Unemployment Insurance (SUI)	\$196	\$6,925	\$11,054	\$4,129	63%
	FICA Medicare/Social Security	\$5,926	\$72,992	\$79,989	\$6,997	91%
	Uniform Allowance	\$0	\$6,359	\$6,500	\$141	98%
	Workers' Compensation	\$2,830	\$29,700	\$44,161	\$14,461	67%
	CalPERS Employer Share	\$8,163	\$91,187	\$99,051	\$7,864	92%
	CalPERS Unfunded Accrued Liability	\$15,457	\$178,790	\$171,120	(\$7,670)	104%
	Health Insurance	(\$461)	\$197,899	\$198,812	\$913	100%
	Dental Insurance	\$1,189	\$13,580	\$14,704	\$1,124	92%
	Long Term Disability/Life/AD&D	\$368	\$3,924	\$3,132	(\$792)	125%
	Advertising	\$0	\$0	\$525	\$525	0%
	Hazmat Supplies	\$0	\$0	\$500	\$500	0%
	Safety Supplies	\$0	\$2,379	\$3,000	\$621	79%
	Supplies	\$3,003	\$18,179	\$28,700	\$10,521	63%
	Tools	\$0	\$2,250	\$2,200	(\$50)	102%
	Harbor Patrol Supplies	\$200	\$2,505	\$3,000	\$495	84%
	Scout Maintenance	\$4,840	\$10,311	\$5,000	(\$5,311)	206%
	Almar Maintenance	\$2,431	\$8,738	\$12,000	\$3,262	73%
	Fuel - Travelift	\$216	\$1,899	\$1,500	(\$399)	127%
	Boat Fuel - HBI	\$531	\$6,224	\$7,000	\$776	89%
	Boat Fuel - Free Ride	\$0	\$305	\$1,000	\$695	30%
	Vehicle & Equipment Fuel	\$830	\$9,870	\$10,500	\$630	94%
	Harbor Patrol Training	\$6,622	\$13,213	\$19,000	\$5,787	70%
	Harbor Patrol Misc. Expense	\$0	\$10,486	\$7,500	(\$2,986)	140%
	Misc. Employee Training	\$0	\$1,345	\$2,400	\$1,055	56%
	Background Investigations	\$0	\$2,935	\$3,000	\$65	98%
	Fuel Dock Gasoline	\$9,265	\$321,678	\$195,000	(\$126,678)	165%
	Fuel Dock Diesel	\$22,028	\$352,967	\$225,000	(\$127,967)	157%
	Fuel Dock Equipment & Supplies	\$0	\$66	\$1,000	\$934	7%
	Underground Storage Tank Maintenance	\$472	\$9,402	\$5,000	(\$4,402)	188%
	Rent & Leases	\$0	\$8,550	\$8,000	(\$550)	107%
	Equipment Rental	\$0	\$0	\$1,000	\$1,000	0%
	Insurance Premiums	\$2,302	\$26,976	\$22,425	(\$4,551)	120%
	Permit Fees	\$0	\$5,001	\$6,400	\$1,399	78%
	Booking Fees	\$0	\$0	\$2,000	\$2,000	0%
	Bad Debt Expense	\$7,987	\$7,987	\$12,000	\$4,013	67%
	Lien Sale Expense	\$0	\$9,713	\$2,500	(\$7,213)	389%
	Credit Card Fees	\$5,467	\$84,601	\$63,300	(\$21,301)	134%
	Uniform Cleaning/Laundry	\$0	\$2,235	\$1,100	(\$1,135)	203%
	Hazmat Disposal	\$0	\$3,460	\$4,000	\$540	87%
	Contract Services	\$112	\$56,047	\$62,780	\$6,733	89%
	Engineering Services	\$0	\$0	\$500	\$500	0%
	Other Services	\$6,959	\$85,229	\$51,500	(\$33,729)	165%
	Software License & Application	\$0	\$0	\$4,000	\$4,000	0%
	Mileage Reimbursement	\$1,545	\$2,101	\$2,300	\$199	91%
	Meetings & Seminars	\$0	\$35	\$2,000	\$1,965	2%
	Boatyard Gas & Electricity	\$2,017	\$19,373	\$16,250	(\$3,123)	119%
	Boatyard Water, Sewer, Garbage	\$736	\$10,537	\$13,000	\$2,463	81%
	Boatyard Telephone & Alarms	\$78	\$681	\$2,000	\$1,319	34%
	Miscellaneous Professional Services	\$85	\$1,670	\$1,000	(\$670)	167%
	Fueling Equipment R&M	\$0	\$4,079	\$2,500	(\$1,579)	163%
	Water Taxi Maintenance	\$0	\$2,071	\$3,000	\$930	69%
	Signage	\$0	\$2,090	\$1,750	(\$340)	119%
	Parking Meters R&M	\$0	\$2,432	\$1,800	(\$632)	135%
	Vehicle Maintenance	\$1,228	\$4,290	\$7,000	\$2,710	61%
	Boatyard Cost of Goods Sold	\$2,925	\$13,432	\$10,000	(\$3,432)	134%
	Boatyard Filtration System R&M	\$0	\$6,504	\$4,000	(\$2,504)	163%
	Boatyard Filtration Supplies	\$0	\$4,867	\$4,000	(\$867)	122%
	Office Equipment R&M	\$0	\$0	\$250	\$250	0%
	Equipment/Equipment R&M	\$0	\$22,093	\$11,500	(\$10,593)	192%
	Communications Maintenance	\$0	\$96	\$2,000	\$1,904	5%
	Misc. Expenses	\$0	\$947	\$5,000	\$4,053	19%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
	Capitalized Equip. Transfer to 1100	\$0	\$52,188	\$0	(\$52,188)	0%
	<b>TOTAL OPERATIONS DEPT.</b>	<b>\$193,467</b>	<b>\$2,716,455</b>	<b>\$2,530,548</b>	<b>(\$185,907)</b>	<b>107%</b>
<b>HARBOR PATROL (210)</b>						
100-200-210-0000-5000	Salaries - Regular	\$28,586	\$316,405	\$342,000	\$25,595	93%
100-200-210-0000-5005	Salaries - Overtime	\$899	\$12,293	\$10,000	(\$2,293)	123%
100-200-210-0000-5010	Wages - Part Time/Temporary	\$0	\$2,034	\$16,000	\$13,966	13%
100-200-210-0000-5015	Salaries - Comp. Time	\$0	\$1,708		(\$1,708)	0%
100-200-210-0000-5020	Salaries - Vacation Pay	\$0	\$10,187	\$5,000	(\$5,187)	204%
100-200-210-0000-5025	Salaries - Holiday Pay	\$0	\$7,322	\$5,000	(\$2,322)	146%
100-200-210-0000-5040	Salaries - Call Back	\$107	\$1,434	\$1,500	\$66	96%
100-200-210-0000-5045	Salaries - Call Ready	\$321	\$6,078	\$3,000	(\$3,078)	203%
100-200-210-0000-5050	Salaries - Night Differential	\$82	\$2,722	\$7,500	\$4,778	36%
100-200-210-0000-5055	Unemployment Insurance (SUI)	\$0	\$1,670	\$3,607	\$1,937	46%
100-200-210-0000-5060	FICA Medicare/Social Security	\$2,267	\$27,675	\$31,900	\$4,225	87%
100-200-210-0000-5100	Uniform Allowance	\$0	\$6,359	\$6,500	\$141	98%
100-200-210-0000-5105	Workers' Compensation	\$1,105	\$11,601	\$17,250	\$5,649	67%
100-200-210-0000-5110	CalPERS Employer Share	\$3,262	\$36,440	\$41,911	\$5,471	87%
100-200-210-0000-5112	CalPERS Unfunded Liability	\$6,177	\$71,447	\$72,406	\$959	99%
100-200-210-0000-5115	Health Insurance	(\$363)	\$78,034	\$80,527	\$2,493	97%
100-200-210-0000-5120	Dental Insurance	\$465	\$5,305	\$5,744	\$439	92%
100-200-210-0000-5125	Long Term Disability/Life/AD&D	\$156	\$1,650	\$1,189	(\$461)	139%
100-200-210-0000-5217	Supplies	\$0	\$2,074	\$2,500	\$426	83%
100-200-210-0000-5218	Tools	\$0	\$1,113	\$1,000	(\$113)	111%
100-200-210-0000-5220	Harbor Patrol Supplies	\$200	\$2,505	\$3,000	\$495	84%
100-200-210-0000-5224	Almar Maintenance	\$0	\$1,118	\$2,500	\$1,382	45%
100-200-210-0000-5235	Vehicle & Equipment Fuel	\$676	\$7,640	\$8,000	\$360	96%
100-200-210-0000-5236	Harbor Patrol Training	\$6,622	\$13,213	\$12,000	(\$1,213)	110%
100-200-210-0000-5238	Harbor Patrol Misc. Expense	\$0	\$9,062	\$6,500	(\$2,562)	139%
100-200-210-0000-5244	Background Investigations	\$0	\$2,935	\$3,000	\$65	98%
100-200-210-0000-5262	Insurance Premiums	\$250	\$4,070	\$3,500	(\$570)	116%
100-200-210-0000-5278	Booking Fees			\$2,000	\$2,000	0%
100-200-210-0000-5415	Miscellaneous Professional Services	\$85	\$1,670	\$1,000	(\$670)	167%
100-200-210-0000-5450	Other Services	\$6,486	\$49,395	\$16,000	(\$33,395)	309%
100-200-210-0000-5500	Mileage Reimbursement	\$1,545	\$2,013	\$1,500	(\$513)	134%
100-200-210-0000-5510	Meetings & Seminars	\$0	\$35	\$2,000	\$1,965	2%
100-200-210-0000-5665	Vehicle Maintenance	\$0	\$2,133	\$4,000	\$1,867	53%
100-200-210-0000-5692	Communications Maintenance	\$0	\$96	\$2,000	\$1,904	5%
	<b>TOTAL HARBOR PATROL</b>	<b>\$58,926</b>	<b>\$699,435</b>	<b>\$721,534</b>	<b>\$22,099</b>	<b>97%</b>
<b>MARINA MANAGEMENT (220)</b>						
100-200-220-0000-5000	Salaries - Regular	\$20,919	\$245,002	\$264,817	\$19,815	93%
100-200-220-0000-5005	Salaries - Overtime	\$27	\$2,131	\$500	(\$1,631)	426%
100-200-220-0000-5010	Wages - Part Time/Temporary	\$0	\$19,518	\$26,000	\$6,482	75%
100-200-220-0000-5020	Salaries - Vacation Pay	\$0	\$7,826		(\$7,826)	0%
100-200-220-0000-5025	Salaries - Holiday Pay	\$0	\$1,773	\$2,500	\$727	71%
100-200-220-0000-5030	Salaries - Sick Pay	\$0	\$114		(\$114)	0%
100-200-220-0000-5050	Salaries - Night Differential	\$0	\$2		(\$2)	0%
100-200-220-0000-5055	Unemployment Insurance (SUI)	\$0	\$1,048	\$2,125	\$1,077	49%
100-200-220-0000-5060	FICA Medicare/Social Security	\$1,605	\$21,259	\$17,725	(\$3,534)	120%
100-200-220-0000-5105	Workers' Compensation	\$609	\$6,396	\$9,511	\$3,115	67%
100-200-220-0000-5110	CalPERS Employer Share	\$3,129	\$34,953	\$39,669	\$4,716	88%
100-200-220-0000-5112	CalPERS Unfunded Liability	\$5,925	\$68,532	\$68,532	(\$0)	100%
100-200-220-0000-5115	Health Insurance	\$40	\$44,145	\$41,309	(\$2,836)	107%
100-200-220-0000-5120	Dental Insurance	\$256	\$2,925	\$3,167	\$242	92%
100-200-220-0000-5125	Long Term Disability/Life/AD&D	\$147	\$1,512	\$679	(\$833)	223%
100-200-220-0000-5217	Supplies	\$2,970	\$5,916	\$6,000	\$84	99%
100-200-220-0000-5222	HBI Maintenance	\$4,840	\$4,926	\$2,500	(\$2,426)	197%
100-200-220-0000-5224	Almar Maintenance	\$2,431	\$2,431	\$5,000	\$2,569	49%
100-200-220-0000-5262	Insurance Premiums	\$635	\$7,620	\$6,000	(\$1,620)	127%
100-200-220-0000-5279	Bad Debt Expense	\$7,987	\$7,987	\$12,000	\$4,013	67%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
100-200-220-0000-5280	Lien Sale Expenses	\$0	\$9,713	\$2,500	(\$7,213)	389%
100-200-220-0000-5465	Software License & Application			\$1,000	\$1,000	0%
100-200-220-0000-5500	Mileage Reimbursement			\$600	\$600	0%
<b>TOTAL MARINA MANAGEMENT</b>		<b>\$51,519</b>	<b>\$495,729</b>	<b>\$512,134</b>	<b>\$16,405</b>	<b>97%</b>
<b>RESCUE SERVICES (230)</b>						
100-200-230-0000-5000	Salaries - Regular	\$2,744	\$23,452	\$24,684	\$1,232	95%
100-200-230-0000-5005	Salaries - Overtime	\$116	\$1,338	\$1,000	(\$338)	134%
100-200-230-0000-5010	Wages - Part Time/Temporary			\$1,000	\$1,000	0%
100-200-230-0000-5040	Salaries - Call Back	\$107	\$1,797	\$3,750	\$1,953	48%
100-200-230-0000-5045	Salaries - Call Ready	\$1,462	\$14,041	\$18,500	\$4,459	76%
100-200-230-0000-5055	Unemployment Insurance (SUI)	\$0	\$130	\$200	\$70	65%
100-200-230-0000-5060	FICA Medicare/Social Security	\$333	\$3,077	\$4,079	\$1,002	75%
100-200-230-0000-5105	Workers' Compensation	\$127	\$1,330	\$1,978	\$648	67%
100-200-230-0000-5110	CalPERS Employer Share	\$191	\$2,132	\$2,420	\$288	88%
100-200-230-0000-5112	CalPERS Unfunded Liability	\$361	\$4,180	\$4,180	(\$0)	100%
100-200-230-0000-5115	Health Insurance	(\$79)	\$8,312	\$8,592	\$280	97%
100-200-230-0000-5120	Dental Insurance	\$53	\$608	\$659	\$51	92%
100-200-230-0000-5125	Long Term Disability/Life/AD&D	\$9	\$102	\$141	\$39	73%
100-200-230-0000-5212	Safety Supplies	\$0	\$1,955	\$2,000	\$45	98%
100-200-230-0000-5217	Supplies	\$0	\$506	\$500	(\$6)	101%
100-200-230-0000-5222	Scout Maintenance	\$0	\$5,385	\$2,500	(\$2,885)	215%
100-200-230-0000-5224	Almar Maintenance	\$0	\$5,189	\$4,500	(\$689)	115%
100-200-230-0000-5226	Boat Fuel - Patrol Boats	\$531	\$6,224	\$7,000	\$776	89%
100-200-230-0000-5236	Harbor Patrol Training			\$7,000	\$7,000	0%
100-200-230-0000-5238	Harbor Patrol Miscellaneous Expense	\$0	\$1,424	\$1,000	(\$424)	142%
100-200-230-0000-5262	Insurance Premiums	\$712	\$6,825	\$4,500	(\$2,325)	152%
100-200-230-0000-5425	Contract Services	\$0	\$17,255	\$22,280	\$5,025	77%
100-200-230-0000-6100	Capitalized Equipment Xfer to 1100	\$0	\$22,144		(\$22,144)	0%
<b>TOTAL RESCUE SERVICES</b>		<b>\$6,668</b>	<b>\$105,264</b>	<b>\$122,463</b>	<b>\$17,199</b>	<b>86%</b>
<b>PARKING SERVICES (240)</b>						
100-200-240-0000-5000	Salaries - Regular	\$590	\$28,696	\$25,075	(\$3,621)	114%
100-200-240-0000-5005	Salaries - Overtime	\$461	\$868	\$500	(\$368)	174%
100-200-240-0000-5010	Wages - Part Time/Temporary	\$7,756	\$89,499	\$95,000	\$5,501	94%
100-200-240-0000-5030	Salaries - Sick Pay	\$240	\$1,182	\$1,000	(\$182)	118%
100-200-240-0000-5055	Unemployment Insurance (SUI)	\$101	\$2,473	\$3,500	\$1,027	71%
100-200-240-0000-5060	FICA Medicare/Social Security	\$690	\$9,182	\$11,071	\$1,889	83%
100-200-240-0000-5105	Workers' Compensation	\$128	\$1,346	\$2,001	\$655	67%
100-200-240-0000-5110	CalPERS Employer Share	\$774	\$8,645	\$4,817	(\$3,828)	179%
100-200-240-0000-5112	CalPERS Unfunded Liability	\$1,465	\$16,951	\$8,322	(\$8,629)	204%
100-200-240-0000-5115	Health Insurance	(\$25)	\$8,568	\$8,691	\$123	99%
100-200-240-0000-5120	Dental Insurance	\$54	\$615	\$666	\$51	92%
100-200-240-0000-5125	Long Term Disability/Life/AD&D	\$18	\$190	\$250	\$60	76%
100-200-240-0000-5212	Safety Supplies	\$0	\$347	\$500	\$153	69%
100-200-240-0000-5217	Supplies	\$33	\$7,889	\$12,000	\$4,111	66%
100-200-240-0000-5218	Tools	\$0	\$167	\$100	(\$67)	167%
100-200-240-0000-5231	Boat Fuel - Free Ride	\$0	\$305	\$1,000	\$695	30%
100-200-240-0000-5235	Vehicle & Equipment Fuel	\$154	\$2,230	\$2,500	\$270	89%
100-200-240-0000-5240	Miscellaneous Employee Training	\$0	\$390	\$1,200	\$810	33%
100-200-240-0000-5254	Rent & Leases	\$0	\$8,550	\$8,000	(\$550)	107%
100-200-240-0000-5284	Credit Card Fees	\$4,680	\$69,526	\$50,000	(\$19,526)	139%
100-200-240-0000-5292	Uniform Cleaning/Laundry	\$0	\$1,663	\$500	(\$1,163)	333%
100-200-240-0000-5425	Contract Services	\$112	\$38,372	\$40,000	\$1,628	96%
100-200-240-0000-5450	Other Services	\$472	\$33,499	\$32,000	(\$1,499)	105%
100-200-240-0000-5465	Software License & Application			\$1,500	\$1,500	0%
100-200-240-0000-5610	Water Taxi Maintenance	\$0	\$2,071	\$3,000	\$930	69%
100-200-240-0000-5625	Signage	\$0	\$1,972	\$1,000	(\$972)	197%
100-200-240-0000-5635	Parking Meters R&M	\$0	\$2,432	\$1,800	(\$632)	135%
100-200-240-0000-5665	Vehicle Maintenance	\$1,228	\$2,157	\$3,000	\$843	72%
100-200-240-0000-5698	Equipment/Equipment R&M	\$0	\$5,945	\$5,000	(\$945)	119%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
<b>TOTAL PARKING SERVICES</b>		<b>\$18,933</b>	<b>\$345,730</b>	<b>\$323,993</b>	<b>(\$21,737)</b>	<b>107%</b>
<b>EVENTS (250)</b>						
100-200-250-0000-5000	Salaries - Regular	\$0	\$1,236	\$9,204	\$7,968	13%
100-200-250-0000-5005	Salaries - Overtime			\$1,000	\$1,000	0%
100-200-250-0000-5010	Wages - Part Time/Temporary			\$3,000	\$3,000	0%
100-200-250-0000-5055	Unemployment Insurance (SUI)			\$44	\$44	0%
100-200-250-0000-5060	FICA Medicare/Social Security	\$0	\$95	\$700	\$605	14%
100-200-250-0000-5105	Workers' Compensation	\$102	\$1,067	\$1,587	\$520	67%
100-200-250-0000-5110	CalPERS Employer Share	\$89	\$998	\$1,132	\$134	88%
100-200-250-0000-5112	CalPERS Unfunded Liability	\$169	\$1,956	\$1,956	\$0	100%
100-200-250-0000-5115	Health Insurance	\$0	\$6,926	\$6,893	(\$33)	100%
100-200-250-0000-5120	Dental Insurance	\$43	\$488	\$528	\$40	92%
100-200-250-0000-5125	Long Term Disability/Life/AD&D	\$4	\$53	\$100	\$47	53%
100-200-250-0000-5217	Supplies			\$4,200	\$4,200	0%
100-200-250-0000-5256	Equipment Rental			\$1,000	\$1,000	0%
100-200-250-0000-5290	Misc. Expenses	\$0	\$495	\$3,500	\$3,005	14%
100-200-250-0000-5625	Signage			\$500	\$500	0%
<b>TOTAL EVENTS</b>		<b>\$407</b>	<b>\$13,313</b>	<b>\$35,344</b>	<b>\$22,031</b>	<b>38%</b>
<b>FUEL SERVICES (280)</b>						
100-200-280-0000-5000	Salaries - Regular	\$287	\$4,879	\$9,140	\$4,261	53%
100-200-280-0000-5005	Salaries - Overtime	\$45	\$77		(\$77)	0%
100-200-280-0000-5010	Wages - Part Time/Temporary	\$1,913	\$20,981	\$22,000	\$1,019	95%
100-200-280-0000-5030	Salaries - Sick Pay			\$300	\$300	0%
100-200-280-0000-5055	Unemployment Insurance (SUI)	\$59	\$333	\$328	(\$5)	102%
100-200-280-0000-5060	FICA Medicare/Social Security	\$172	\$1,981	\$2,342	\$361	85%
100-200-280-0000-5105	Workers' Compensation	\$89	\$936	\$1,392	\$456	67%
100-200-280-0000-5110	CalPERS Employer Share	\$84	\$939	\$1,066	\$127	88%
100-200-280-0000-5112	CalPERS Unfunded Liability	\$159	\$1,841	\$1,841	\$0	100%
100-200-280-0000-5115	Health Insurance	(\$2)	\$6,032	\$6,044	\$12	100%
100-200-280-0000-5120	Dental Insurance	\$37	\$428	\$463	\$35	92%
100-200-280-0000-5125	Long Term Disability/Life/AD&D	\$4	\$49	\$28	(\$21)	175%
100-200-280-0000-5217	Supplies	\$0	\$0	\$1,000	\$1,000	0%
100-200-280-0000-5218	Tools			\$100	\$100	0%
100-200-280-0000-5245	Fuel Dock Gasoline	\$9,265	\$321,678	\$195,000	(\$126,678)	165%
100-200-280-0000-5246	Fuel Dock Diesel	\$22,028	\$352,967	\$225,000	(\$127,967)	157%
100-200-280-0000-5250	Fuel Dock Equipment & Supplies	\$0	\$66	\$1,000	\$934	7%
100-200-280-0000-5252	Underground Storage Tank Maintenance	\$472	\$9,402	\$5,000	(\$4,402)	188%
100-200-280-0000-5262	Insurance Premiums	\$165	\$1,980	\$4,000	\$2,020	50%
100-200-280-0000-5276	Permit Fees	\$0	\$4,119	\$3,900	(\$219)	106%
100-200-280-0000-5284	Credit Card Fees	\$226	\$8,519	\$8,000	(\$519)	106%
100-200-280-0000-5465	Software License & Application			\$1,000	\$1,000	0%
100-200-280-0000-5607	Fueling Equipment R&M	\$0	\$4,079	\$2,500	(\$1,579)	163%
100-200-280-0000-6100	Capitalized Equipment Xfer to 1100	\$0	\$21,840	\$22,000	\$160	99%
<b>TOTAL FUEL SERVICES</b>		<b>\$35,004</b>	<b>\$741,287</b>	<b>\$491,444</b>	<b>(\$249,843)</b>	<b>151%</b>
<b>FACILITIES DEPARTMENT</b>						
	Salaries - Regular	\$83,854	\$897,264	\$894,550	(\$2,714)	100%
	Salaries - Overtime	\$10,242	\$41,773	\$33,500	(\$8,273)	125%
	Wages - Part Time/Temporary	\$720	\$42,178	\$44,000	\$1,822	96%
	Salaries - Comp. Time	\$0	\$0	\$3,950	\$3,950	0%
	Salaries - Vacation	\$0	\$10,905	\$4,500	(\$6,405)	242%
	Salaries - Holiday Pay	\$0	\$3,793	\$1,500	(\$2,293)	253%
	Salaries - Sick Pay	\$0	\$6,339	\$250	(\$6,089)	2536%
	Salaries - Call Back	\$102	\$5,790	\$3,000	(\$2,790)	193%
	Salaries - Call Ready	\$1,084	\$15,041	\$12,500	(\$2,541)	120%
	Unemployment Insurance (SUI)	\$22	\$4,042	\$12,321	\$8,279	33%
	FICA Medicare/Social Security	\$7,269	\$78,211	\$79,209	\$998	99%
	Workers' Compensation	\$3,411	\$35,802	\$53,235	\$17,433	67%



Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
	CalPERS Employer Share	\$5,708	\$63,764	\$76,809	\$13,045	83%
	CalPERS Unfunded Accrued Liability	\$10,808	\$125,023	\$132,693	\$7,670	94%
	Health Insurance	(\$750)	\$239,798	\$241,021	\$1,223	99%
	Dental Insurance	\$1,434	\$16,370	\$17,723	\$1,353	92%
	Long Term Disability/Life/AD&D	\$285	\$3,181	\$3,785	\$604	84%
	Hazmat Supplies	\$0	\$5,802	\$10,500	\$4,698	55%
	Safety Supplies	\$0	\$16,094	\$15,375	(\$719)	105%
	Office Supplies	\$0	\$528	\$250	(\$278)	211%
	Janitorial Supplies	\$38	\$30,865	\$30,000	(\$865)	103%
	Supplies	\$775	\$13,978	\$19,000	\$5,022	74%
	Tools	\$0	\$13,611	\$17,500	\$3,889	78%
	Boat Fuel - Odd Job	\$19	\$124	\$500	\$376	25%
	Boat Fuel - Dredge Skiff	\$56	\$239	\$1,200	\$961	20%
	Boat Fuel - Twin Lakes	\$38,514	\$98,276	\$105,000	\$6,724	94%
	Boat Fuel - Dauntless	\$1,394	\$4,927	\$10,000	\$5,073	49%
	Vehicle & Equipment Fuel	\$2,148	\$21,353	\$20,750	(\$603)	103%
	Misc. Employee Training	\$2,094	\$6,175	\$23,500	\$17,325	26%
	Equipment Rental	\$206	\$7,219	\$37,000	\$29,781	20%
	Insurance Premiums	\$13,887	\$171,698	\$161,775	(\$9,923)	106%
	Memberships, Dues, Subscriptions	\$0	\$2,422	\$1,250	(\$1,172)	194%
	Meetings & Training	\$1,795	\$2,295	\$4,000	\$1,705	57%
	Books	\$0	\$0	\$100	\$100	0%
	Permit Fees	\$0	\$5,527	\$15,000	\$9,473	37%
	Miscellaneous Expenses	\$0	\$2,715	\$7,500	\$4,785	36%
	Uniform Cleaning/Laundry	\$525	\$10,732	\$14,300	\$3,568	75%
	Interest Expense	\$3,167	\$416,919	\$407,559	(\$9,360)	102%
	Gas & Electricity	\$22,589	\$253,038	\$230,000	(\$23,038)	110%
	Water, Sewer, Garbage	\$12,428	\$162,708	\$151,000	(\$11,708)	108%
	Hazmat Disposal	\$2,215	\$10,728	\$18,500	\$7,772	58%
	Landscaping	\$207	\$4,606	\$10,000	\$5,394	46%
	Custodial Contract	\$5,292	\$61,554	\$65,000	\$3,446	95%
	Freight	\$0	\$547	\$2,500	\$1,953	22%
	Legal Consultation	\$0	\$0	\$2,000	\$2,000	0%
	Contract Services	\$0	\$0	\$5,000	\$5,000	0%
	Engineering Services	\$0	\$0	\$8,000	\$8,000	0%
	Environmental Services	\$0	\$539	\$10,000	\$9,461	5%
	Dredge Consulting	\$0	\$5,515	\$15,000	\$9,485	37%
	Other Services	\$768	\$2,580	\$6,500	\$3,920	40%
	Mileage Reimbursement	\$271	\$271	\$2,200	\$1,929	12%
	Building Repairs & Maintenance	\$58	\$39,531	\$38,000	(\$1,531)	104%
	Piers & Marine Structures R&M	\$1,973	\$12,450	\$15,000	\$2,550	83%
	Maintenance Workboat R&M	\$0	\$2,136	\$1,000	(\$1,136)	214%
	Paint & Supplies	\$842	\$9,939	\$18,000	\$8,061	55%
	Signage	\$0	\$1,980	\$6,000	\$4,020	33%
	Parking Lot R&M	\$335	\$1,553	\$10,000	\$8,447	16%
	Street Maintenance	\$0	\$129	\$2,500	\$2,371	5%
	Storm Drain Maintenance	\$0	\$6,238	\$5,000	(\$1,238)	125%
	Street Light Maintenance	\$0	\$40	\$2,500	\$2,460	2%
	Vehicle Maintenance	\$114	\$9,633	\$19,500	\$9,867	49%
	Utility Maintenance	\$0	\$13,452	\$12,000	(\$1,452)	112%
	Other Repairs & Maintenance	\$1,234	\$8,154	\$5,000	(\$3,154)	163%
	Ice Machine R&M	\$0	\$9	\$3,500	\$3,491	0%
	Safety Equipment R&M	\$0	\$2,027	\$1,500	(\$527)	135%
	Permits & Inspections	\$0	\$1,888	\$2,500	\$612	76%
	Equipment/Equipment R&M	\$12,433	\$49,898	\$79,500	\$29,602	63%
	Maint/Lube Inner Harbor Dredge	\$159	\$10,970	\$20,000	\$9,030	55%
	Maint/Lube Twin Lakes	\$1,461	\$137,224	\$115,000	(\$22,224)	119%
	Maint/Lube Ancillary Equipment	\$23	\$58,217	\$65,000	\$6,783	90%
	Maint/Lube Dauntless	\$1,233	\$22,236	\$30,000	\$7,764	74%
	Dredge Paint/Coatings	\$0	\$17,550	\$17,500	(\$50)	100%
	Booster Pump R&M	\$0	\$0	\$10,000	\$10,000	0%
	Welding Supplies	\$599	\$12,558	\$14,000	\$1,442	90%
	Fish Removal Expenses	\$0	\$0	\$2,500	\$2,500	0%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
	Waste Oil Disposal/Recycle	\$302	\$4,819	\$12,500	\$7,681	39%
	Capitalized Equip. Transfer to 1100	\$0	\$176,175	\$272,762	\$96,587	65%
	Principal Debt Payments	\$1,369	\$1,264,381	\$1,260,274	(\$4,107)	100%
	<b>TOTAL FACILITIES DEPARTMENT</b>	<b>\$253,343</b>	<b>\$3,345,487</b>	<b>\$3,550,305</b>	<b>\$204,818</b>	<b>94%</b>
<b>DOCKS, PIERS, MARINE STRUCTURES (310)</b>						
100-300-310-0000-5000	Salaries - Regular	\$6,136	\$97,169	\$65,775	(\$31,394)	148%
100-300-310-0000-5005	Salaries - Overtime			\$2,000	\$2,000	0%
100-300-310-0000-5010	Wages - Part Time/Temporary			\$4,000	\$4,000	0%
100-300-310-0000-5055	Unemployment Insurance (SUI)	\$0	\$417	\$750	\$333	56%
100-300-310-0000-5060	FICA Medicare/Social Security	\$458	\$7,320	\$7,830	\$510	93%
100-300-310-0000-5105	Workers' Compensation	\$189	\$1,988	\$2,956	\$968	67%
100-300-310-0000-5110	CalPERS Employer Share	\$499	\$5,575	\$8,547	\$2,972	65%
100-300-310-0000-5112	CalPERS Unfunded Liability	\$945	\$10,930	\$14,765	\$3,835	74%
100-300-310-0000-5115	Health Insurance	(\$150)	\$12,600	\$13,537	\$937	93%
100-300-310-0000-5120	Dental Insurance	\$80	\$909	\$984	\$75	92%
100-300-310-0000-5125	Long Term Disability/Life/AD&D	\$32	\$332	\$183	(\$149)	182%
100-300-310-0000-5212	Safety Supplies	\$0	\$935	\$1,000	\$65	93%
100-300-310-0000-5214	Office Supplies	\$0	\$528	\$250	(\$278)	211%
100-300-310-0000-5217	Supplies	\$334	\$742	\$1,000	\$258	74%
100-300-310-0000-5218	Tools	\$0	\$521	\$2,500	\$1,979	21%
100-300-310-0000-5230	Boat Fuel - Odd Job	\$19	\$124	\$500	\$376	25%
100-300-310-0000-5235	Vehicle & Equipment Fuel	\$80	\$3,537	\$2,500	(\$1,037)	141%
100-300-310-0000-5240	Miscellaneous Employee Training			\$5,000	\$5,000	0%
100-300-310-0000-5256	Equipment Rental			\$2,000	\$2,000	0%
100-300-310-0000-5262	Insurance Premiums	\$11,487	\$136,122	\$126,000	(\$10,122)	108%
100-300-310-0000-5268	Meetings & Training			\$1,000	\$1,000	0%
100-300-310-0000-5290	Miscellaneous Expenses	\$0	\$423	\$750	\$327	56%
100-300-310-0000-5292	Uniform Cleaning/Laundry	\$0	\$27	\$600	\$573	5%
100-300-310-0000-5430	Engineering Services			\$3,000	\$3,000	0%
100-300-310-0000-5500	Mileage Reimbursement			\$500	\$500	0%
100-300-310-0000-5605	Piers & Marine Structures R&M	\$1,973	\$12,450	\$15,000	\$2,550	83%
100-300-310-0000-5615	Maintenance Work Boat R&M	\$0	\$2,136	\$1,000	(\$1,136)	214%
100-300-310-0000-5620	Paint & Supplies	\$0	\$1,609	\$3,000	\$1,391	54%
100-300-310-0000-5625	Signage	\$0	\$346	\$1,000	\$654	35%
100-300-310-0000-5665	Vehicle Maintenance	\$30	\$1,407	\$3,000	\$1,593	47%
100-300-310-0000-5698	Equipment/Equipment R&M	\$0	\$5,309	\$4,500	(\$809)	118%
100-300-310-0000-5725	Welding Supplies	\$0	\$2,466	\$2,500	\$34	99%
	<b>TOTAL DOCKS, PIERS, MARINE STRUCTURES</b>	<b>\$22,112</b>	<b>\$305,922</b>	<b>\$297,927</b>	<b>(\$7,995)</b>	<b>103%</b>
<b>UTILITIES (320)</b>						
100-300-320-0000-5000	Salaries - Regular	\$1,692	\$41,705	\$24,500	(\$17,205)	170%
100-300-320-0000-5005	Salaries - Overtime	\$0	\$379	\$1,000	\$621	38%
100-300-320-0000-5010	Wages - Part Time/Temporary			\$1,000	\$1,000	0%
100-300-320-0000-5055	Unemployment Insurance (SUI)	\$0	\$147	\$750	\$603	20%
100-300-320-0000-5060	FICA Medicare/Social Security	\$129	\$3,179	\$1,422	(\$1,757)	224%
100-300-320-0000-5105	Workers' Compensation	\$218	\$2,289	\$3,404	\$1,115	67%
100-300-320-0000-5110	CalPERS Employer Share	\$432	\$4,831	\$5,483	\$652	88%
100-300-320-0000-5112	CalPERS Unfunded Liability	\$819	\$9,473	\$9,473	\$0	100%
100-300-320-0000-5115	Health Insurance	\$0	\$14,327	\$14,785	\$458	97%
100-300-320-0000-5120	Dental Insurance	\$92	\$1,047	\$1,133	\$86	92%
100-300-320-0000-5125	Long Term Disability/Life/AD&D	\$20	\$224	\$243	\$19	92%
100-300-320-0000-5212	Safety Supplies	\$0	\$1,373	\$3,000	\$1,627	46%
100-300-320-0000-5217	Supplies	\$0	\$482	\$1,000	\$518	48%
100-300-320-0000-5240	Miscellaneous Employee Training			\$3,500	\$3,500	0%
100-300-320-0000-5290	Miscellaneous Expenses			\$250	\$250	0%
100-300-320-0000-5650	Storm Drain Maintenance	\$0	\$6,238	\$5,000	(\$1,238)	125%
100-300-320-0000-5665	Vehicle Maintenance	\$0	\$1,796	\$3,000	\$1,204	60%
100-300-320-0000-5670	Utility Maintenance	\$0	\$13,452	\$12,000	(\$1,452)	112%
100-300-320-0000-5698	Equipment/Equipment R&M	\$0	\$4,538	\$5,000	\$462	91%
	<b>TOTAL UTILITIES</b>	<b>\$3,403</b>	<b>\$105,479</b>	<b>\$95,943</b>	<b>(\$9,536)</b>	<b>110%</b>

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
<b>BUILDINGS (330)</b>						
100-300-330-0000-5000	Salaries - Regular	\$5,913	\$50,953	\$62,127	\$11,174	82%
100-300-330-0000-5005	Salaries - Overtime	\$577	\$2,462	\$1,000	(\$1,462)	246%
100-300-330-0000-5010	Wages - Part Time/Temporary			\$5,000	\$5,000	0%
100-300-330-0000-5015	Salaries - Comp. Time			\$1,000	\$1,000	0%
100-300-330-0000-5020	Salaries - Vacation Pay	\$0	\$2,038	\$1,000	(\$1,038)	204%
100-300-330-0000-5025	Salaries - Holiday Pay	\$0	\$1,506		(\$1,506)	0%
100-300-330-0000-5040	Salaries - Call Back	\$0	\$1,464	\$500	(\$964)	293%
100-300-330-0000-5045	Salaries - Call Ready	\$242	\$6,233	\$5,000	(\$1,233)	125%
100-300-330-0000-5055	Unemployment Insurance (SUI)	\$0	\$290	\$896	\$606	32%
100-300-330-0000-5060	FICA Medicare/Social Security	\$475	\$4,829	\$5,728	\$899	84%
100-300-330-0000-5105	Workers' Compensation	\$218	\$2,289	\$3,404	\$1,115	67%
100-300-330-0000-5110	CalPERS Employer Share	\$382	\$4,264	\$7,059	\$2,795	60%
100-300-330-0000-5112	CalPERS Unfunded Liability	\$723	\$8,360	\$12,195	\$3,835	69%
100-300-330-0000-5115	Health Insurance	(\$518)	\$14,334	\$18,985	\$4,651	75%
100-300-330-0000-5120	Dental Insurance	\$92	\$1,047	\$1,133	\$86	92%
100-300-330-0000-5125	Long Term Disability/Life/AD&D	\$26	\$282	\$250	(\$32)	113%
100-300-330-0000-5212	Safety Supplies	\$0	\$1,619	\$2,000	\$381	81%
100-300-330-0000-5216	Janitorial Supplies	\$38	\$30,865	\$30,000	(\$865)	103%
100-300-330-0000-5217	Supplies	\$88	\$2,270	\$4,000	\$1,730	57%
100-300-330-0000-5218	Tools	\$0	\$1,850	\$2,500	\$650	74%
100-300-330-0000-5235	Vehicle & Equipment Fuel	\$383	\$3,129	\$2,750	(\$379)	114%
100-300-330-0000-5240	Miscellaneous Employee Training	\$0	\$77	\$2,500	\$2,423	3%
100-300-330-0000-5256	Equipment Rental			\$500	\$500	0%
100-300-330-0000-5262	Insurance Premiums	\$1,392	\$23,486	\$23,775	\$289	99%
100-300-330-0000-5266	Memberships, Dues, Subscriptions			\$250	\$250	0%
100-300-330-0000-5268	Meetings & Training			\$1,000	\$1,000	0%
100-300-330-0000-5290	Miscellaneous Expenses	\$0	\$873	\$1,000	\$127	87%
100-300-330-0000-5292	Uniform Cleaning/Laundry	\$96	\$2,028	\$3,200	\$1,172	63%
100-300-330-0000-5305	Water, Sewer & Garbage	\$4,481	\$59,927	\$61,000	\$1,073	98%
100-300-330-0000-5308	Hazmat Disposal	\$0	\$175	\$3,500	\$3,325	5%
100-300-330-0000-5412	Custodial Contract	\$5,292	\$61,554	\$65,000	\$3,446	95%
100-300-330-0000-5430	Engineering Services			\$5,000	\$5,000	0%
100-300-330-0000-5450	Other Services	\$0	\$1,542	\$1,500	(\$42)	103%
100-300-330-0000-5600	Building Repairs & Maintenance	\$58	\$39,531	\$38,000	(\$1,531)	104%
100-300-330-0000-5620	Paint & Supplies	\$85	\$445	\$5,000	\$4,555	9%
100-300-330-0000-5625	Signage	\$0	\$50	\$1,000	\$950	5%
100-300-330-0000-5645	Street Maintenance			\$4,000	\$4,000	0%
100-300-330-0000-5660	Street Light Maintenance	\$0	\$40	\$2,500	\$2,460	2%
100-300-330-0000-5665	Vehicle Maintenance	\$0	\$805	\$3,500	\$2,695	23%
100-300-330-0000-5698	Equipment/Equipment R&M	\$430	\$3,211	\$5,000	\$1,789	64%
100-300-330-0000-5725	Welding Supplies	\$599	\$701	\$1,500	\$799	47%
	<b>TOTAL BUILDINGS</b>			<b>\$395,252</b>	<b>\$60,722</b>	<b>85%</b>
<b>GROUPS (340)</b>						
100-300-340-0000-5000	Salaries - Regular	\$19,910	\$187,223	\$187,659	\$436	100%
100-300-340-0000-5005	Salaries - Overtime	\$27	\$6,728	\$4,500	(\$2,228)	150%
100-300-340-0000-5010	Wages - Part Time/Temporary	\$720	\$11,498	\$14,000	\$2,503	82%
100-300-340-0000-5015	Salaries - Comp. Time			\$450	\$450	0%
100-300-340-0000-5020	Salaries - Vacation Pay	\$0	\$5,909	\$1,500	(\$4,409)	394%
100-300-340-0000-5025	Salaries - Holiday Pay	\$0	\$2,287		(\$2,287)	0%
100-300-340-0000-5030	Salaries - Sick Pay	\$0	\$3,555	\$250	(\$3,305)	1422%
100-300-340-0000-5040	Salaries - Call Back	\$102	\$4,223	\$2,500	(\$1,723)	169%
100-300-340-0000-5045	Salaries - Call Ready	\$843	\$8,807	\$7,500	(\$1,307)	117%
100-300-340-0000-5055	Unemployment Insurance (SUI)	\$22	\$967	\$1,800	\$833	54%
100-300-340-0000-5060	FICA Medicare/Social Security	\$1,643	\$17,574	\$15,477	(\$2,097)	114%
100-300-340-0000-5105	Workers' Compensation	\$936	\$9,822	\$14,605	\$4,783	67%
100-300-340-0000-5110	CalPERS Employer Share	\$1,453	\$16,234	\$18,425	\$2,191	88%
100-300-340-0000-5112	CalPERS Unfunded Liability	\$2,752	\$31,831	\$31,831	\$0	100%
100-300-340-0000-5115	Health Insurance	(\$119)	\$65,342	\$63,438	(\$1,904)	103%



Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
100-300-340-0000-5120	Dental Insurance	\$393	\$4,491	\$4,863	\$372	92%
100-300-340-0000-5125	Long Term Disability/Life/AD&D	\$68	\$776	\$1,000	\$224	78%
100-300-340-0000-5210	Hazmat Supplies	\$0	\$5,802	\$7,500	\$1,698	77%
100-300-340-0000-5212	Safety Supplies	\$0	\$3,094	\$3,000	(\$94)	103%
100-300-340-0000-5217	Supplies	\$354	\$3,893	\$4,000	\$107	97%
100-300-340-0000-5218	Tools	\$0	\$2,820	\$2,500	(\$320)	113%
100-300-340-0000-5235	Vehicle & Equipment Fuel	\$242	\$5,206	\$4,500	(\$706)	116%
100-300-340-0000-5240	Miscellaneous Employee Training	\$0	\$1,252	\$2,500	\$1,248	50%
100-300-340-0000-5256	Equipment Rental	\$206	\$2,513	\$3,000	\$487	84%
100-300-340-0000-5266	Memberships, Dues, Subscriptions	\$0	\$290	\$500	\$210	58%
100-300-340-0000-5276	Permit Fees	\$0	\$483	\$2,500	\$2,017	19%
100-300-340-0000-5292	Uniform Cleaning/Laundry	\$143	\$3,026	\$4,000	\$974	76%
100-300-340-0000-5300	Gas & Electricity	\$20,782	\$232,795	\$210,000	(\$22,795)	111%
100-300-340-0000-5305	Water, Sewer & Garbage	\$7,947	\$102,780	\$90,000	(\$12,780)	114%
100-300-340-0000-5308	Hazmat Disposal	\$2,078	\$7,362	\$10,000	\$2,639	74%
100-300-340-0000-5405	Landscaping	\$207	\$4,606	\$10,000	\$5,394	46%
100-300-340-0000-5425	Contract Services			\$5,000	\$5,000	0%
100-300-340-0000-5500	Mileage Reimbursement			\$500	\$500	0%
100-300-340-0000-5620	Paint & Supplies	\$756	\$2,196	\$5,000	\$2,804	44%
100-300-340-0000-5625	Signage	\$0	\$1,585	\$4,000	\$2,415	40%
100-300-340-0000-5630	Parking Lot R&M	\$335	\$1,553	\$10,000	\$8,447	16%
100-300-340-0000-5645	Street Maintenance	\$0	\$129	\$2,500	\$2,371	5%
100-300-340-0000-5665	Vehicle Maintenance	\$84	\$1,614	\$5,000	\$3,386	32%
100-300-340-0000-5672	Other Repairs & Maintenance	\$1,234	\$4,891	\$3,500	(\$1,391)	140%
100-300-340-0000-5696	Permits & Inspections	\$0	\$1,888	\$2,500	\$612	76%
100-300-340-0000-5698	Equipment/Equipment R&M	\$889	\$9,938	\$10,000	\$62	99%
100-300-340-0000-5800	Fish Removal Expenses			\$2,500	\$2,500	0%
100-300-340-0000-5805	Waste Oil Disposal/Recycle	\$302	\$4,819	\$12,500	\$7,681	39%
<b>TOTAL GROUNDS</b>		<b>\$64,309</b>	<b>\$781,803</b>	<b>\$786,798</b>	<b>\$4,995</b>	<b>99%</b>

**AERATION (350)**

100-300-350-0000-5000	Salaries - Regular	\$2,744	\$13,808	\$12,692	(\$1,116)	109%
100-300-350-0000-5040	Salaries - Call Back	\$0	\$103		(\$103)	0%
100-300-350-0000-5055	Unemployment Insurance (SUI)	\$0	\$14	\$250	\$236	5%
100-300-350-0000-5060	FICA Medicare/Social Security	\$202	\$1,053	\$1,471	\$418	72%
100-300-350-0000-5105	Workers' Compensation	\$56	\$588	\$874	\$286	67%
100-300-350-0000-5110	CalPERS Employer Share	\$200	\$2,230	\$2,531	\$301	88%
100-300-350-0000-5112	CalPERS Unfunded Liability	\$378	\$4,372	\$4,372	\$0	100%
100-300-350-0000-5115	Health Insurance	(\$100)	\$3,665	\$3,796	\$131	97%
100-300-350-0000-5120	Dental Insurance	\$24	\$269	\$291	\$22	92%
100-300-350-0000-5125	Long Term Disability/Life/AD&D	\$9	\$98	\$63	(\$35)	156%
100-300-350-0000-5217	Supplies	\$0	\$70	\$1,000	\$930	7%
100-300-350-0000-5300	Gas & Electricity	\$1,807	\$20,243	\$20,000	(\$243)	101%
100-300-350-0000-5698	Equipment/Equip. R&M	\$0	\$3,476	\$10,000	\$6,524	35%
<b>TOTAL AERATION</b>		<b>\$5,320</b>	<b>\$49,988</b>	<b>\$57,340</b>	<b>\$7,352</b>	<b>87%</b>

**FISHERY SUPPORT (360)**

100-300-360-0000-5000	Salaries - Regular	\$546	\$5,560	\$9,775	\$4,215	57%
100-300-360-0000-5055	Unemployment Insurance (SUI)	\$0	\$10		(\$10)	0%
100-300-360-0000-5060	FICA Medicare/Social Security	\$42	\$407	\$290	(\$117)	140%
100-300-360-0000-5105	Workers' Compensation	\$11	\$116	\$173	\$57	67%
100-300-360-0000-5110	CalPERS Employer Share	\$51	\$567	\$644	\$77	88%
100-300-360-0000-5112	CalPERS Unfunded Liability	\$96	\$1,112	\$1,112	(\$0)	100%
100-300-360-0000-5115	Health Insurance	\$0	\$753	\$749	(\$4)	101%
100-300-360-0000-5120	Dental Insurance	\$5	\$53	\$57	\$4	93%
100-300-360-0000-5125	Long Term Disability/Life/AD&D	\$2	\$25	\$22	(\$3)	112%
100-300-360-0000-5675	Ice Equipment R&M	\$0	\$9	\$3,500	\$3,491	0%
<b>TOTAL FISHERY SUPPORT</b>		<b>\$753</b>	<b>\$8,612</b>	<b>\$16,322</b>	<b>\$7,710</b>	<b>53%</b>

**CAPITAL PROJECTS (390)**

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
100-300-390-0000-5000	Salaries - Regular	\$0	\$51	\$4,785	\$4,734	1%
100-300-390-0000-5055	Unemployment Insurance (SUI)			\$75	\$75	0%
100-300-390-0000-5060	FICA Medicare/Social Security	\$0	\$4	\$178	\$174	2%
100-300-390-0000-5276	Permit Fees			\$2,500	\$2,500	0%
100-300-390-0000-5290	Miscellaneous Expenses			\$500	\$500	0%
100-300-390-0000-5298	Interest Expense	\$3,167	\$416,919	\$407,559	(\$9,360)	102%
100-300-390-0000-5416	Legal Consultation			\$2,000	\$2,000	0%
100-300-390-0000-5500	Mileage Reimbursement			\$200	\$200	0%
100-300-390-0000-6200	Principal Debt Payments	\$1,369	\$1,264,381	\$1,260,274	(\$4,107)	100%
<b>TOTAL CAPITAL PROJECTS</b>		<b>\$3,167</b>	<b>\$416,973</b>	<b>\$417,797</b>	<b>\$824</b>	<b>100%</b>

**DREDGING OPERATIONS (400)**

100-300-400-0000-5000	Salaries - Regular	\$46,912	\$500,795	\$527,237	\$26,442	95%
100-300-400-0000-5005	Salaries - Overtime	\$9,638	\$32,204	\$25,000	(\$7,204)	129%
100-300-400-0000-5010	Wages - Part Time/Temporary	\$0	\$30,681	\$20,000	(\$10,681)	153%
100-300-400-0000-5015	Salaries - Comp. Time			\$2,500	\$2,500	0%
100-300-400-0000-5020	Salaries - Vacation Pay	\$0	\$2,957	\$2,000	(\$957)	148%
100-300-400-0000-5025	Salaries - Holiday Pay			\$1,500	\$1,500	0%
100-300-400-0000-5030	Salaries - Sick Pay	\$0	\$2,784		(\$2,784)	0%
100-300-400-0000-5055	Unemployment Insurance (SUI)	\$0	\$2,197	\$7,800	\$5,603	28%
100-300-400-0000-5060	FICA Medicare/Social Security	\$4,319	\$43,846	\$46,813	\$2,967	94%
100-300-400-0000-5105	Workers' Compensation	\$1,782	\$18,709	\$27,819	\$9,110	67%
100-300-400-0000-5110	CalPERS Employer Share	\$2,691	\$30,063	\$34,120	\$4,057	88%
100-300-400-0000-5112	CalPERS Unfunded Liability	\$5,096	\$58,945	\$58,945	\$0	100%
100-300-400-0000-5115	Health Insurance	\$137	\$128,778	\$125,731	(\$3,047)	102%
100-300-400-0000-5120	Dental Insurance	\$749	\$8,555	\$9,262	\$707	92%
100-300-400-0000-5125	Long Term Disability/Life/AD&D	\$127	\$1,443	\$2,024	\$581	71%
100-300-400-0000-5210	Hazmat Supplies			\$3,000	\$3,000	0%
100-300-400-0000-5212	Safety Supplies	\$0	\$9,073	\$6,375	(\$2,698)	142%
100-300-400-0000-5217	Supplies	\$0	\$6,521	\$8,000	\$1,479	82%
100-300-400-0000-5218	Tools	\$0	\$8,420	\$10,000	\$1,580	84%
100-300-400-0000-5232	Boat Fuel - Dredge Skiff	\$56	\$239	\$1,200	\$961	20%
100-300-400-0000-5233	Boat Fuel - Twin Lakes	\$38,514	\$98,276	\$105,000	\$6,724	94%
100-300-400-0000-5234	Boat Fuel - Dauntless	\$1,394	\$4,927	\$10,000	\$5,073	49%
100-300-400-0000-5235	Vehicle & Equipment Fuel	\$1,444	\$9,481	\$11,000	\$1,519	86%
100-300-400-0000-5240	Miscellaneous Employee Training	\$2,094	\$4,846	\$10,000	\$5,154	48%
100-300-400-0000-5256	Equipment Rental	\$0	\$4,706	\$32,000	\$27,294	15%
100-300-400-0000-5262	Insurance Premiums	\$1,007	\$12,090	\$12,000	(\$90)	101%
100-300-400-0000-5266	Memberships, Dues, Subscriptions	\$0	\$2,132	\$500	(\$1,632)	426%
100-300-400-0000-5268	Meetings & Training	\$1,795	\$2,295	\$2,000	(\$295)	115%
100-300-400-0000-5270	Books			\$100	\$100	0%
100-300-400-0000-5276	Permit Fees	\$0	\$5,044	\$10,000	\$4,956	50%
100-300-400-0000-5290	Miscellaneous Expenses	\$0	\$1,419	\$5,000	\$3,581	28%
100-300-400-0000-5292	Uniform Cleaning/Laundry	\$287	\$5,651	\$6,500	\$849	87%
100-300-400-0000-5308	Hazmat Disposal	\$138	\$3,191	\$5,000	\$1,809	64%
100-300-400-0000-5418	Freight	\$0	\$547	\$2,500	\$1,953	22%
100-300-400-0000-5440	Environmental Services	\$0	\$539	\$10,000	\$9,461	5%
100-300-400-0000-5445	Dredge Consulting	\$0	\$5,515	\$15,000	\$9,485	37%
100-300-400-0000-5450	Other Services	\$768	\$1,038	\$5,000	\$3,962	21%
100-300-400-0000-5500	Mileage Reimbursement	\$271	\$271	\$1,000	\$729	27%
100-300-400-0000-5620	Paint & Supplies	\$0	\$5,689	\$5,000	(\$689)	114%
100-300-400-0000-5665	Vehicle Maintenance	\$0	\$4,012	\$5,000	\$988	80%
100-300-400-0000-5672	Other Repairs & Maintenance	\$0	\$3,263	\$1,500	(\$1,763)	218%
100-300-400-0000-5685	Safety Equipment R&M	\$0	\$2,027	\$1,500	(\$527)	135%
100-300-400-0000-5698	Equipment/Equipment R&M	\$11,115	\$23,425	\$45,000	\$21,575	52%
100-300-400-0000-5700	Maint/Lube Inner Harbor Dredge	\$159	\$10,970	\$20,000	\$9,030	55%
100-300-400-0000-5705	Maint/Lube Dredge Twin Lakes	\$1,461	\$137,224	\$115,000	(\$22,224)	119%
100-300-400-0000-5707	Maint/Lube - Ancilliary Equipment	\$23	\$58,217	\$65,000	\$6,783	90%
100-300-400-0000-5710	Maint/Lube Dredge Workboat Dauntless	\$1,233	\$22,236	\$30,000	\$7,764	74%
100-300-400-0000-5715	Dredge Paint/Coatings	\$0	\$17,550	\$17,500	(\$50)	100%
100-300-400-0000-5720	Booster Pump R&M			\$10,000	\$10,000	0%
100-300-400-0000-5725	Welding Supplies	\$0	\$9,391	\$10,000	\$609	94%

Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
100-300-400-0000-6105	Capitalized Equip Xfer to 1100	\$0	\$176,175	\$272,762	\$96,587	65%
	<b>TOTAL DREDGING OPERATIONS</b>	<b>\$133,207</b>	<b>\$1,342,180</b>	<b>\$1,487,426</b>	<b>\$145,246</b>	<b>90%</b>
	<b>BOATYARD OPERATIONS (500)</b>					
100-500-500-0000-5000	Salaries - Regular	\$9,995	\$105,261	\$127,575	\$22,314	83%
100-500-500-0000-5005	Salaries - Overtime	\$69	\$2,634	\$1,000	(\$1,634)	263%
100-500-500-0000-5010	Wages - Part Time/Temp.	\$1,196	\$17,916	\$10,000	(\$7,916)	179%
100-500-500-0000-5015	Salaries - Comp. Time	\$0	\$49	\$300	\$251	16%
100-500-500-0000-5020	Salaries - Vacation Pay	\$0	\$2,520		(\$2,520)	0%
100-500-500-0000-5025	Salaries - Holiday Pay	\$0	\$103		(\$103)	0%
100-500-500-0000-5040	Call Back	\$0	\$173	\$500	\$327	35%
100-500-500-0000-5055	Unemployment Insurance (SUI)	\$36	\$1,270	\$1,250	(\$20)	102%
100-500-500-0000-5060	FICA Medicare/Social Security	\$859	\$9,724	\$12,172	\$2,448	80%
100-500-500-0000-5105	Workers' Compensation	\$669	\$7,023	\$10,442	\$3,419	67%
100-500-500-0000-5110	CalPERS Employer Share	\$634	\$7,081	\$8,036	\$955	88%
100-500-500-0000-5112	CalPERS Unfunded Liability	\$1,200	\$13,883	\$13,883	\$0	100%
100-500-500-0000-5115	Health Insurance	(\$33)	\$45,883	\$46,756	\$873	98%
100-500-500-0000-5120	Dental Insurance	\$281	\$3,211	\$3,477	\$266	92%
100-500-500-0000-5125	Long Term Disability/Life/AD&D	\$30	\$368	\$745	\$377	49%
100-500-500-0000-5204	Advertising			\$525	\$525	0%
100-500-500-0000-5210	Hazmat Supplies			\$500	\$500	0%
100-500-500-0000-5212	Safety Supplies	\$0	\$76	\$500	\$424	15%
100-500-500-0000-5217	Supplies	\$0	\$1,794	\$2,500	\$706	72%
100-500-500-0000-5218	Tools	\$0	\$970	\$1,000	\$30	97%
100-500-500-0000-5235	Fuel - Travelift	\$216	\$1,899	\$1,500	(\$399)	127%
100-500-500-0000-5240	Miscellaneous Employee Training	\$0	\$955	\$1,200	\$245	80%
100-500-500-0000-5256	Equipment Rental			\$1,000	\$1,000	0%
100-500-500-0000-5262	Insurance Premiums	\$540	\$6,481	\$4,425	(\$2,056)	146%
100-500-500-0000-5276	Permit Fees	\$0	\$882	\$2,500	\$1,618	35%
100-500-500-0000-5284	Credit Card Fees	\$560	\$6,556	\$5,300	(\$1,256)	124%
100-500-500-0000-5290	Misc. Expenses	\$0	\$452	\$1,500	\$1,048	30%
100-500-500-0000-5292	Uniforms	\$0	\$571	\$600	\$29	95%
100-500-500-0000-5300	Gas & Electricity	\$2,017	\$19,373	\$16,250	(\$3,123)	119%
100-500-500-0000-5305	Water, Sewer, Garbage	\$736	\$10,537	\$13,000	\$2,463	81%
100-500-500-0000-5308	Hazmat Disposal	\$0	\$3,460	\$4,000	\$540	87%
100-500-500-0000-5310	Telephone & Alarms	\$78	\$681	\$2,000	\$1,319	34%
100-500-500-0000-5425	Contract Services	\$0	\$419	\$500	\$81	84%
100-500-500-0000-5430	Engineering Services			\$500	\$500	0%
100-500-500-0000-5450	Other Services	\$0	\$2,336	\$3,500	\$1,165	67%
100-500-500-0000-5465	Software License & Application			\$500	\$500	0%
100-500-500-0000-5500	Mileage Reimbursement	\$0	\$88	\$200	\$112	44%
100-500-500-0000-5625	Signage	\$0	\$119	\$250	\$131	47%
100-500-500-0000-5694	Office Equipment			\$250	\$250	0%
100-500-500-0000-5698	Equipment R&M	\$0	\$16,147	\$6,500	(\$9,647)	248%
100-500-500-0000-7000	Filtration System R&M	\$0	\$6,504	\$4,000	(\$2,504)	163%
100-500-500-0000-7005	Filtration System Supplies	\$0	\$4,867	\$4,000	(\$867)	122%
100-500-500-0000-7020	Cost of Goods Sold	\$2,925	\$13,432	\$10,000	(\$3,432)	134%
100-500-500-0000-6100	Capital Outlay	\$0	\$30,044		(\$30,044)	0%
	<b>TOTAL BOATYARD OPERATIONS</b>	<b>\$22,009</b>	<b>\$315,697</b>	<b>\$324,636</b>	<b>\$8,939</b>	<b>97%</b>
	<b>CAPITAL IMPROVEMENT PROGRAM (900)</b>					
100-900-900-F004-5000	Sewer Lift Station Upgrade Labor	\$0	\$1,736		(\$1,736)	0%
100-900-900-F004-6300	Sewer Lift Station Upgrade Budget	\$0	\$14,181		(\$14,181)	0%
100-900-900-F006-5000	Pavement Repairs Labor	\$0	\$975		(\$975)	0%
100-900-900-F006-6300	Pavement Repairs Budget	\$0	\$199,034	\$126,688	(\$72,346)	157%
100-900-900-F008-5000	Dock Upgrades Labor	\$0	\$9,228		(\$9,228)	0%
100-900-900-F008-5430	Dock Upgrades Engineering	\$0	\$11,327		(\$11,327)	0%
100-900-900-F008-6300	Dock Upgrades Budget	\$0	\$8,105	\$35,000	\$26,895	23%
100-900-900-F009-5000	Pier Rehabilitation Labor	\$0	\$188		(\$188)	0%
100-900-900-F009-5430	Pier Rehabilitation Engineering	\$0	\$17,200		(\$17,200)	0%
100-900-900-F009-6300	Pier Rehabilitation Budget			\$20,000	\$20,000	0%

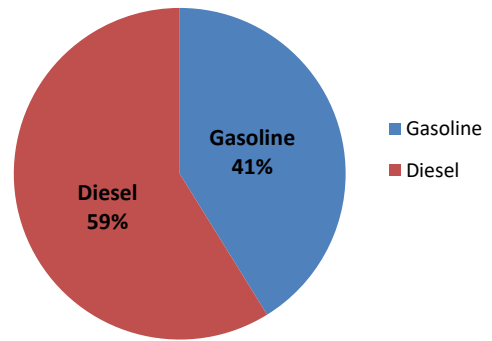
Santa Cruz Port District  
**Monthly Budget Report**  
For the Twelve Months Ending Thursday, March 31, 2022

Account	Description	MTD	YTD	FY22 BUDGET	REMAINING	% BUDGET
100-900-900-F011-5000	Building Restoration Labor	\$0	\$353		(\$353)	0%
100-900-900-F011-6300	Building Restoration Budget	\$0	\$65,480	\$126,605	\$61,125	52%
100-900-900-F012-6300	Restroom Building Rehab Budget			\$156,707	\$156,707	0%
100-900-900-F021-5000	7th & Brommer Labor	\$58	\$1,409		(\$1,409)	0%
100-900-900-F021-5430	7th & Brommer Engineering	\$0	\$31,429		(\$31,429)	0%
100-900-900-F021-6300	7th & Brommer Budget	\$0	\$17,025		(\$17,025)	0%
100-900-900-F024-5000	Murray St. Bridge Labor	\$154	\$8,720		(\$8,720)	0%
100-900-900-F024-6300	Murray St. Bridge Expenses	\$6,167	\$43,843		(\$43,843)	0%
100-900-900-F028-5000	Parking Upgrades	\$0	\$38		(\$38)	0%
100-900-900-F028-6300	Parking Upgrades	\$1,521	\$8,641	\$20,000	\$11,359	43%
100-900-900-F033-6300	Patrol Boat Budget	\$0	\$1,327		(\$1,327)	0%
100-900-900-F040-6300	Water Taxi Replacement Expenses	\$0	\$5,895		(\$5,895)	0%
100-900-900-F041-6300	Maint Work Boat Replacement Expenses	\$0	\$24,758		(\$24,758)	0%
100-900-900-F042-5430	Embankment Assessment Engineering	\$0	\$8,726		(\$8,726)	0%
100-900-900-F042-6300	Embankment Assessment Expenses			\$15,000	\$15,000	0%
100-900-900-H001-5000	Harbor Security Labor	\$0	\$370		(\$370)	0%
<b>TOTAL CAPITAL IMPROVEMENT PROGRAM</b>		<b>\$7,900</b>	<b>\$479,989</b>	<b>\$500,000</b>	<b>\$20,011</b>	<b>96%</b>
<b>DEPRECIATION</b>						
000-000-000-0000-6003	Depreciation - Docks	\$59,581	\$714,975		(\$714,975)	0%
000-000-000-0000-6005	Depreciation - Structures & Improvements	\$52,666	\$631,992		(\$631,992)	0%
000-000-000-0000-6027	Depreciation - Office Equipment	\$1,859	\$22,303		(\$22,303)	0%
000-000-000-0000-6030	Depreciation - Equipment	\$23,313	\$279,752		(\$279,752)	0%
000-000-000-0000-6040	Depreciation - Boatyard Sweeper	\$333	\$3,996		(\$3,996)	0%
000-000-000-0000-6045	Depreciation - Travelift	\$2,250	\$27,000		(\$27,000)	0%
<b>TOTAL DEPRECIATION</b>		<b>\$140,002</b>	<b>\$1,680,018</b>	<b>\$0</b>	<b>(\$1,680,018)</b>	<b>0%</b>

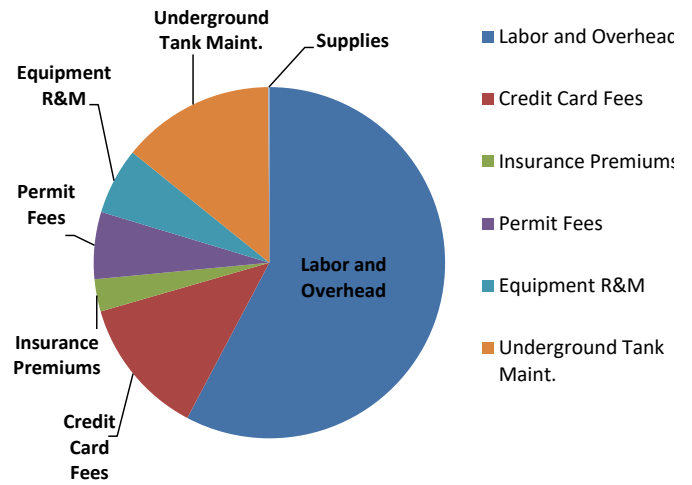
Santa Cruz Port District  
**Quarterly Fuel Dock Report**  
 For the Three Months Ended March 31, 2022

	FY 2022		% of Budget
	QTD Jan - Mar	YTD Apr - Mar	
<b>Fuel Dock Revenue</b>			
Gasoline	\$29,457	\$362,393	137%
Diesel	\$65,392	\$517,860	129%
<b>Total Revenue</b>	<b>\$94,848</b>	<b>\$880,253</b>	<b>132%</b>
<b>Cost of Sales</b>			
Gasoline	\$30,579	\$321,678	165%
Diesel	\$52,225	\$352,967	157%
<b>Total Cost of Sales</b>	<b>\$82,804</b>	<b>\$674,646</b>	<b>161%</b>
<b>Gross Profit</b>	<b>\$12,045</b>	<b>\$205,607</b>	
<b>Operating Expenses</b>			
Labor and Overhead	\$9,733	\$38,477	86%
Credit Card Fees	\$825	\$8,519	106%
Insurance Premiums	\$495	\$1,980	50%
Permit Fees	\$0	\$4,119	106%
Equipment R&M	\$0	\$4,079	117%
Underground Tank Maint.	\$872	\$9,402	188%
Supplies	\$66	\$66	3%
<b>Total Operating Expenses</b>	<b>\$11,991</b>	<b>\$66,641</b>	<b>93%</b>
<b>Net Profit / (Loss)</b>	<b>\$54</b>	<b>\$138,966</b>	
<b>Profit Margin</b>	<b>0%</b>	<b>16%</b>	

**Fuel Dock Revenue**

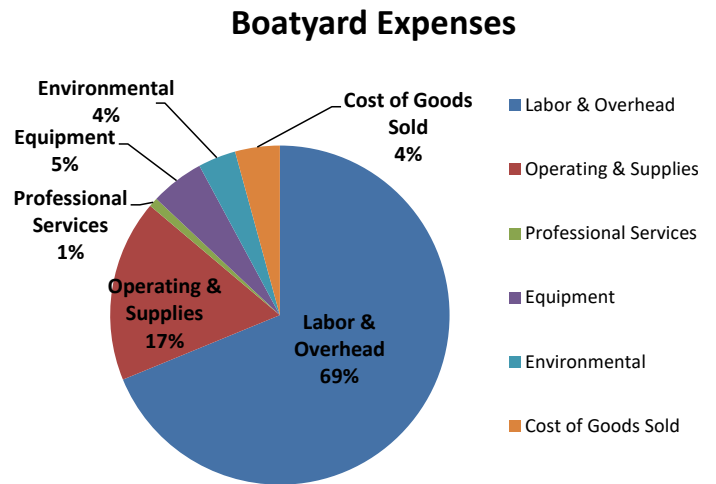
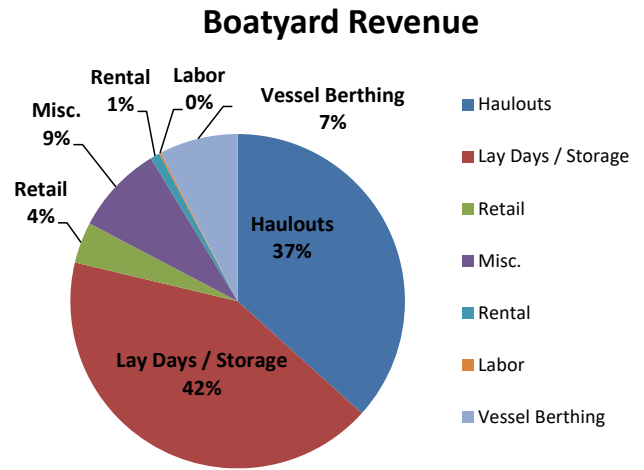


**Fuel Dock Expenses**



Santa Cruz Port District  
**Quarterly Boatyard Report**  
 For the Three Months Ended March 31, 2022

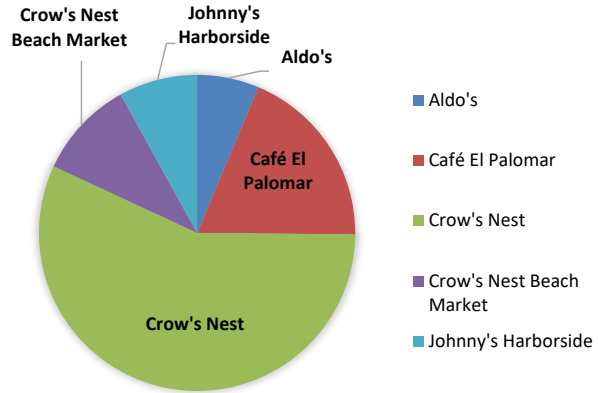
	QTD Jan - Mar	YTD Apr - Mar	% of Budget
<b>Boatyard Revenue</b>			
Haulouts	\$45,222	\$171,495	137%
Lay Days / Storage	\$62,350	\$196,485	171%
Retail	\$4,848	\$18,578	177%
Misc.	\$13,347	\$40,266	134%
Rental	\$1,190	\$4,290	172%
Labor	\$325	\$813	81%
Vessel Berthing	\$6,365	\$35,492	118%
<b>Total Revenue</b>	<b>\$133,647</b>	<b>\$467,419</b>	<b>149%</b>
<b>Boatyard Expenses</b>			
Labor & Overhead	\$57,570	\$217,099	92%
Operating & Supplies	\$14,935	\$54,774	94%
Professional Services	\$1,770	\$2,754	61%
Equipment	\$358	\$16,147	239%
Environmental	\$0	\$11,371	142%
Cost of Goods Sold	\$2,925	\$13,432	134%
<b>Total Operating Expenses</b>	<b>\$77,560</b>	<b>\$315,578</b>	<b>97%</b>
<b>Net Profit / (Loss)</b>	<b>\$56,087</b>	<b>\$151,840</b>	



Santa Cruz Port District  
**Quarterly Concession Rent Report**  
 For the Three Months Ended March 31, 2022

	FY 2022	
	QTD Jan - Mar	YTD Apr - Mar
<b>Base Rent</b>		
Aldo's	5,736	22,944
Café El Palomar	42,021	168,084
Crow's Nest	-	-
Crow's Nest Beach Market	18,219	72,876
Johnny's Harborside	22,827	86,538
<b>Total Base Rent</b>	<b>\$ 88,803</b>	<b>\$ 350,442</b>
<b>% Rent</b>		
Aldo's	13,032	45,398
Café El Palomar	5,078	34,571
Crow's Nest	124,407	611,693
Crow's Nest Beach Market	3,179	35,304
Johnny's Harborside	-	-
<b>Total % Rent</b>	<b>\$145,696</b>	<b>\$726,966</b>
<b>Total Rent</b>		
Aldo's	18,768	68,342
Café El Palomar	47,099	202,655
Crow's Nest	124,407	611,693
Crow's Nest Beach Market	21,398	108,180
Johnny's Harborside	22,827	86,538
<b>Total Rent</b>	<b>\$ 234,499</b>	<b>\$ 1,077,408</b>

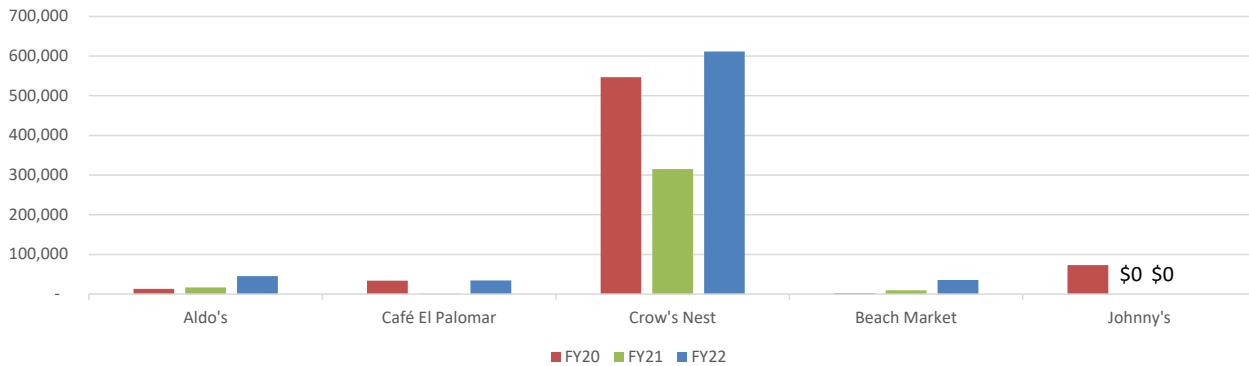
**TOTAL CONCESSION RENT YTD**



**YTD 3-Year Concession % Rent**

Tenant	FY20	FY21	FY22
Aldo's	13,010	16,895	45,398
Café El Palomar	34,065	1,224	34,571
Crow's Nest	546,594	315,155	611,693
Beach Market	2,123	9,794	35,304
Johnny's	73,343	-	-

**PERCENTAGE RENT YTD**



# California State Treasurer *Fiona Ma, CPA*



Local Agency Investment Fund  
P.O. Box 942809  
Sacramento, CA 94209-0001  
(916) 653-3001

April 06, 2022

[LAIF Home](#)  
[PMIA Average Monthly Yields](#)

SANTA CRUZ PORT DISTRICT

PORT DIRECTOR  
135 5TH AVENUE  
SANTA CRUZ, CA 95062

[Tran Type Definitions](#)

//

**Account Number:**

March 2022 Statement

**Account Summary**

Total Deposit:	0.00	Beginning Balance:	11,444,608.78
Total Withdrawal:	0.00	Ending Balance:	11,444,608.78





# PMIA/LAIF Performance Report as of 04/15/22



## PMIA Average Monthly Effective Yields<sup>(1)</sup>

Mar	0.365
Feb	0.278
Jan	0.234

## Quarterly Performance Quarter Ended 03/31/21

LAIF Apportionment Rate <sup>(2)</sup> :	0.32
LAIF Earnings Ratio <sup>(2)</sup> :	0.00000875657176851
LAIF Fair Value Factor <sup>(1)</sup> :	0.988753538
PMIA Daily <sup>(1)</sup> :	0.42%
PMIA Quarter to Date <sup>(1)</sup> :	0.29%
PMIA Average Life <sup>(1)</sup> :	310

## Pooled Money Investment Account Monthly Portfolio Composition <sup>(1)</sup> 03/31/22 \$207.9 billion

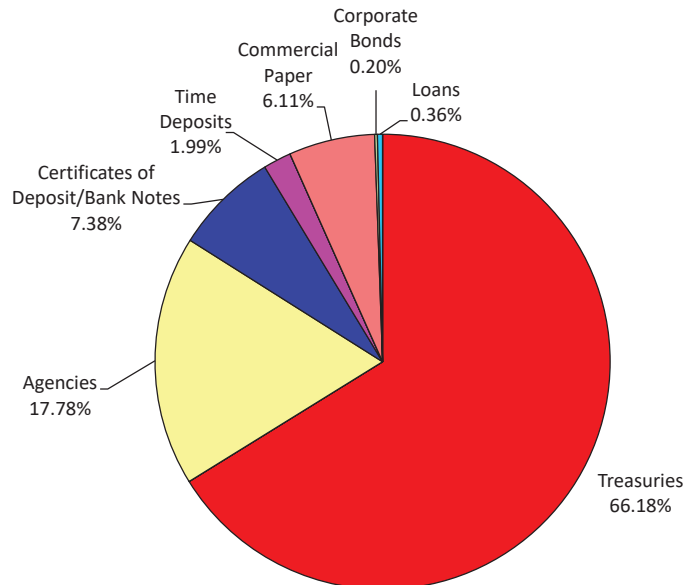


Chart does not include \$5,704,000.00 in mortgages, which equates to 0.003%. Percentages may not total 100% due to rounding.

Daily rates are now available here. [View PMIA Daily Rates](#)

Notes: The apportionment rate includes interest earned on the CalPERS Supplemental Pension Payment pursuant to Government Code 20825 (c)(1) and interest earned on the Wildfire Fund loan pursuant to Public Utility Code 3288 (a).

Source:

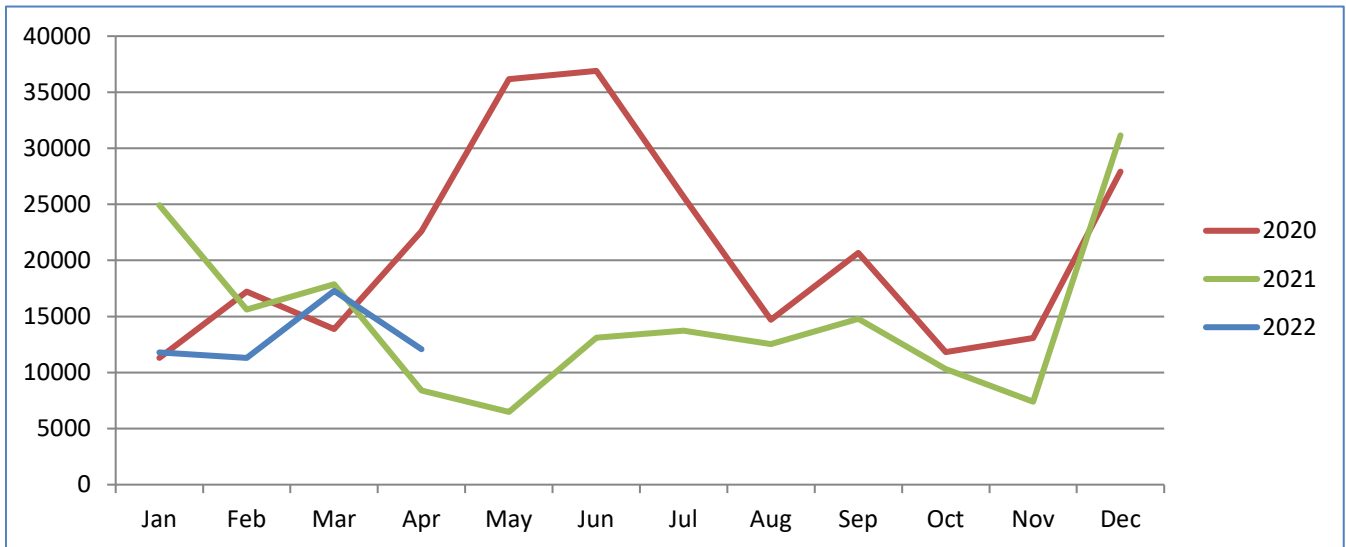
<sup>(1)</sup> State of California, Office of the Treasurer

<sup>(2)</sup> State of California, Office of the Controller

Santa Cruz Port District  
60 DAY DELINQUENT ACCOUNTS

The following accounts have balances 60 days delinquent as of April 19, 2022

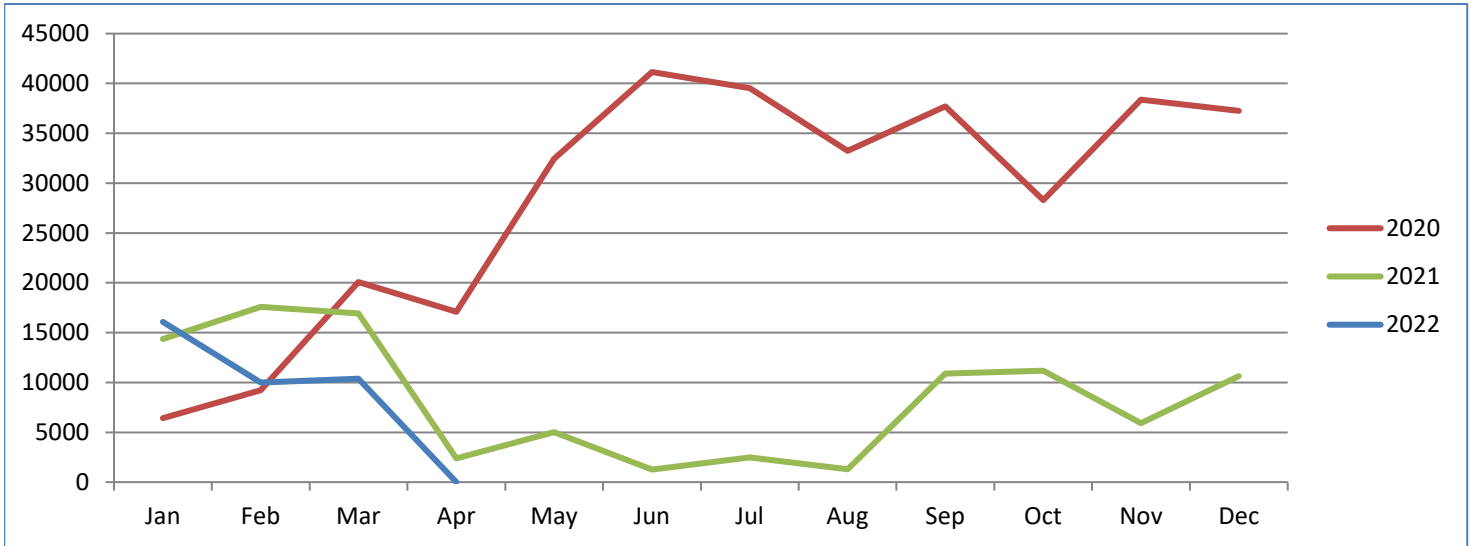
Account Number	Current Month	30 Day Balance	60 Day Balance	90 Day Balance	Total Balance
3330	742.69	701.12	631.28	0.00	2,075.09
55716	238.94	868.97	837.00	0.00	1,944.91
3375	572.96	559.16	432.04	0.00	1,564.16
56433	500.53	483.22	454.43	0.00	1,438.18
55494	397.82	520.35	15.36	0.00	933.53
58512	317.48	306.14	278.82	0.00	902.44
56297	377.47	366.05	61.18	0.00	804.70
47207	301.56	292.75	27.46	0.00	621.77
56995	155.00	149.99	123.96	0.00	428.95
58414	155.00	149.99	123.96	0.00	428.95
57736	256.99	0.00	32.87	0.00	289.86
58247	86.10	83.76	58.27	0.00	228.13
58612	86.03	83.68	49.43	0.00	219.14
59015	85.97	83.62	42.51	0.00	212.10
<b>Total:</b>	<b>4,274.54</b>	<b>4,648.80</b>	<b>3,168.57</b>	<b>0.00</b>	<b>12,091.91</b>



Santa Cruz Port District  
**90+ DAY DELINQUENT ACCOUNTS**

The following accounts have balances 90 days delinquent or greater as of April 19, 2022

Account Number	Current Month	30 Day Balance	60 Day Balance	90+ Day Balance	Total Balance	Commercial Slip	Action
<b>TOTAL:</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		





TO: Port Commission  
FROM: Sean Rothwell, Assistant Harbormaster  
DATE: April 13, 2022  
SUBJECT: Harbor Patrol Incident Response Report – March 2022

***Search and Rescue, Patrol Boat Response***

- 3/6/22 Harbor Patrol responded to a report of a surfer in distress in the area of Steamer Lane. Prior to arrival, Central Fire reported that a Good Samaritan had assisted the victim to shore. Harbor Patrol returned to the harbor without incident
- 3/6/22 Harbor Patrol responded to a report of a windsurfer in distress in the area of Mitchell's Cove. Upon arrival, the windsurfer indicated he was not in distress. Harbor Patrol returned to harbor without incident.
- 3/10/22 Harbor Patrol responded to a report of a capsized catamaran in the area of the Mile Buoy. Upon arrival, the sailors had righted the overturned catamaran and were underway. Harbor Patrol returned to harbor without incident.
- 3/11/22 Harbor Patrol responded to a report of a missing subject in the area of Davenport Beach. After an extensive multiagency search of the area, the subject was located, trapped inside a cove. Harbor Patrol remained on scene while the victim was assisted to shore by Central Fire rescue swimmers. Harbor Patrol returned to harbor without incident.
- 3/12/22 Harbor Patrol responded to a report of two capsized catamarans in the vicinity of Blacks Beach. Upon arrival, Harbor Patrol and State Parks personal watercraft (PWC) units contacted the capsized vessels, assisted the operators in righting their vessels, and escorted both vessels back to the harbor.
- 3/17/22 Harbor Patrol responded to a report of a surfer in distress in the area of Steamer Lane. Prior to arrival, the surfer had self-rescued. Harbor Patrol returned to the harbor without incident.
- 3/21/22 Harbor Patrol responded to a report of a vessel taking on water in the area of Natural Bridges State Beach while in tow by TowBoatUS. Upon arrival, dewatering efforts were underway but unsuccessful. Harbor Patrol assisted two victims on board the patrol boat and transported them back to the harbor where paramedics were waiting. Minor injuries were reported. Due to the conditions, the vessel was unable to be safely towed and the U.S. Coast Guard was notified. The vessel was not recovered.
- 3/27/22 Harbor Patrol responded to a report of a vessel adrift in the area of the Santa Cruz Municipal Wharf. Upon arrival, Harbor Patrol located the unattended vessel underneath the Santa Cruz Municipal Wharf. Due to extreme weather conditions and

the complex location of the vessel, Harbor Patrol was unable to safely retrieve it. The U.S. Coast Guard was notified of the drifting vessel, which subsequently ran aground on Main Beach and was recovered by the owner the following morning.

***Crime Reports, Assist Outside Department, and Incident Reports***

- 3/9/22 Harbor Patrol took an incident report after a vessel struck the cross-channel dredge pipe. No damage reported.
- 3/13/22 Harbor Patrol responded to a report of an unattended child in a vehicle in the area of J-Dock. Upon arrival, Harbor Patrol located a 5-year-old child and searched the area for a parent or guardian. The father of the child was located and the case was reported to Child Protective Services (CPS).
- 3/14/22 Harbor Patrol responded to a report of an oil spill in the area of T-dock. Upon arrival, the vessel's crew was actively working on containing the leak. The National Response Center was contacted, staff deployed boom and absorbent pads, and assisted with containment and cleanup. The vessel owner was invoiced for the cost recovery.
- 3/18/22 Harbor Patrol took an accident report after the Boatyard TraveLift unintentionally struck a vessel. The vessel sustained minor damage. No injuries reported.
- 3/19/22 Harbor Patrol took a stolen property report after an outboard motor was found missing from a vessel in the area of FF-Dock. No suspect information available.
- 3/31/22 Harbor Patrol took an accident report after a minor vehicle collision occurred in the area of X-Dock. Both parties exchanged information. No injuries reported.

***March Parking Citations: 237***

Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
831.475.6161  
831.475.9558 Fax  
www.santacruzharbor.org



PORT COMMISSIONERS:  
Toby Goddard  
Dennis Smith  
Reed Geisreiter  
Stephen Reed  
Darren Gertler

April 14, 2022

California State Senator John Laird  
17<sup>th</sup> Senate District  
701 Ocean Street, Suite 318A  
Santa Cruz, CA 95060

Dear Senator Laird:

Many thanks for your extraordinary efforts to write a letter of support to Senator Padilla on behalf of Santa Cruz Harbor. We appreciate your willingness to support our request on such short notice.

As you know, the federal funding reimburses the Port District for approximately 35% of the annual cost of dredging the federal navigation channel. This funding is critical to the harbor's operation. It not only supports local jobs and businesses, but also ensures the safety and navigability of the harbor channel is maintained for commercial and recreational boaters seeking access to the Monterey Bay, and coastal mariners seeking refuge.

Thank you again for your support of Santa Cruz Harbor!

Sincerely,

A handwritten signature in black ink, appearing to read "Reed Geisreiter". The signature is written in a cursive style with a large, prominent initial "R".

Reed Geisreiter  
Chair, Santa Cruz Port District Commission

Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062  
831.475.6161  
831.475.9558 Fax  
www.santacruzharbor.org



PORT COMMISSIONERS:  
Toby Goddard  
Dennis Smith  
Reed Geisreiter  
Stephen Reed  
Darren Gertler

April 15, 2022

Mayor Sonja Brunner  
City of Santa Cruz  
809 Center Street, Room 190  
Santa Cruz, CA 95060

Dear Mayor Brunner:

Many thanks for your extraordinary efforts to write a letter of support to Senator Padilla on behalf of Santa Cruz Harbor. We appreciate your willingness to support our request on such short notice.

As you know, the federal funding reimburses the Port District for approximately 35% of the annual cost of dredging the federal navigation channel. This funding is critical to the harbor's operation. It not only supports local jobs and businesses, but also ensures the safety and navigability of the harbor channel is maintained for commercial and recreational boaters seeking access to the Monterey Bay, and coastal mariners seeking refuge.

Thank you again for your support of Santa Cruz Harbor!

Sincerely,

A handwritten signature in black ink that reads "Reed Geisreiter". The signature is written in a cursive style.

Reed Geisreiter  
Chair, Santa Cruz Port District Commission

A handwritten note in black ink that reads "Sonja: Thank you!" with an arrow pointing down to the signature "Reed".

# Port Commission Review Calendar 2022-23

## 2022

### January-March

- ✓ H&H Fresh Fish Lease Exp. 01/31/2022  
*2 (3) year options to extend*
- ✓ Bayside Marine Lease Exp. 01/31/2022  
*no option to extend*
- ✓ Committee Assignments for 2022
- ✓ Sea Scouts' Biannual Report
- ✓ FY 23 Budget
- ✓ Review 5-year CIP
- Santa Cruz Yacht Club Lease Exp. 03/31/2022  
*no option to extend*
- ✓ Slip Vacancy Biannual Report / Waiting List Statistics
- ✓ Form 700 Filing (due by 03/31 each year)

### April-June

- Chardonnay Lease Exp. 05/31/2022  
*1 (5) year option to extend*
- PY&S Lease Exp. 05/31/2022  
*1 (5) year option to extend*
- Dredge Report 2022-23
- Annual Vessel Use List Review
- Biennial Update to Conflict-of-Interest Code

### July-September

- Annual O'Neill Sea Odyssey Report (review slip rent reduction / charter fee. PC action of 07/07)
- Sea Scouts' Biannual Report
- Slip Vacancy Biannual Report / Waiting List Statistics
- Nexus Wealth Advisors Lease Rent Review at Option Period Ending 11/30/2022

### October-December

- Annual Review of Business Use of Slips
- Ethics Training Update (due by year end)
- Mid Fiscal Year Review of CIP
- Port Commission Officers for 2023

### Committee Review Items *(timeline not specified)*

- Comprehensive Review of Charter Fees
- Public Benefit Discount Policy

### Key

- Pending
- In process
- ✓ Done

## 2023

### January-March

- Committee Assignments for 2023
- Sea Scouts' Biannual Report
- Slip Vacancy Biannual Report / Waiting List Statistics
- FY 24 Budget
- Review 5-year CIP
- Form 700 Filing (due by 03/31 each year)
- Biennial Anti-Harassment/Anti-Discrimination Training
- Crow's Nest Beach Market Rent Review at Option Period Ending 4/30/2023
- Intero Real Estate Lease Exp. 05/31/2022  
*no option to extend*

### April-June

- Dredge Report 2023-24
- Annual Vessel Use List Review

### July-September

- Annual O'Neill Sea Odyssey Report (review slip rent reduction / charter fee. PC action of 07/07)
- Sea Scouts' Biannual Report
- Slip Vacancy Biannual Report / Waiting List Statistics

### October-December

- Annual Review of Business Use of Slips
- Ethics Training Update (due by year end)
- Mid Fiscal Year Review of CIP
- Port Commission Officers for 2024

### Future Calendar

- ABC End-Tie Review after Murray Street Bridge Retrofit
- 7<sup>th</sup> and Brommer Property Assessment