

Jim Hurst  
Chair

Doug Albin  
Vice Chair

Richard Shoemaker  
Commissioner

Dan Platt  
Commissioner

Grant Downie  
Commissioner

Anna Neumann  
Harbormaster

## **NOYO HARBOR COMMISSION REGULAR MEETING AGENDA**

**Thursday, November 9<sup>th</sup>, 2023 at 6PM**

**Fort Bragg Town Hall**

363 N. Main Street Fort Bragg, CA

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

### **PUBLIC COMMENT ON NON-AGENDA ITEMS:**

**The Noyo Harbor Commission welcomes input from the public. Please limit your comments to five minutes so that everyone may be heard. The Brown Act does not allow action to be taken on non-agenda items.**

### **CLOSED SESSION:**

**Pending Litigation: Resource Environmental v. Noyo Harbor District (23 CV 00954 Mendocino County Superior Court)**

**Government Code Section 54956.9 (d) (1)**

### **CORRESPONDENCE:**

None

### **CONSENT CALENDAR**

1. Approval of Minutes – Regular Meeting October 12<sup>th</sup>, 2023
2. Treasurer's report – October 2023

**CONDUCT OF BUSINESS:**

1. Discussion and possible action on Geveden Industrial Contract
2. Discussion and possible action on rate increase for 2024
3. Discussion on the Saltonstall-Kennedy Grant application

**STAFF REPORTS AND RECOMMENDATIONS:**

**District Office:**

FEMA Updates

SLC Fish Cleaning Station

Security Systems

**Attorney Report:**

**Matters from the Commissioners:**

**ADJOURNEMENT:** To the next regular meeting of Thursday December 14<sup>th</sup> at 6 pm, 2022.

NOYO HARBOR DISTRICT  
STATEMENT OF ACCOUNTS  
1-Oct-23

Chase Checking	\$74,749.28
Chase Money Market	\$134,064.33
LAIF	\$1,719,399.74
SLC Funds Allocated	\$448,808.00
SLC Funds Spent	\$62,547.11
SLC Remaining	\$386,260.89
Total of all accounts	\$1,928,213.35
<b>Total of NHD assets</b>	<b>\$1,541,952.46</b>

**Noyo Harbor District  
 Profit & Loss**

**October 2023**  
**Oct 23**

Ordinary Income/Expense	
Income	
Electricity	866.05
Ground Rent	35.00
Interest Income	15,366.29
Late Fees	141.50
Park & Launch	1,862.00
Slip Rental Contract	29,968.43
Slip Rental Transient	3,478.66
Total Income	<u>51,717.93</u>
Gross Profit	51,717.93
Expense	
Communications Expense	402.16
Dues and Subscriptions Exp	5,027.96
Emp. Health & Dental Insurance	2,201.84
Fuel Expense	314.52
Legal and Professional Fees	2,135.50
Office Expense	377.93
Operating Supplies	648.68
Payroll Tax Expense	3,946.17
Power	4,411.22
Repairs & Maintenance	3,856.96
Sep. Ira	721.46
Utilities Expense	5,936.52
Wages Expense (Hourly)	10,968.62
Total Expense	<u>40,949.54</u>
Net Ordinary Income	10,768.39
Other Income/Expense	
Other Income	
Grant Reimbursements	2,634.88
Total Other Income	<u>2,634.88</u>
Other Expense	
2020-21 SAVE Grant	3,000.00
FEMA 4683	2,272.50
Property Aquision	1,307.50
SLC Fish Cleaning Station	1,798.50
SLC Vessel Demo	3,775.00
Total Other Expense	<u>12,153.50</u>
Net Other Income	<u>-9,518.62</u>
Net Income	<u><u>1,249.77</u></u>

## Noyo Harbor District Profit & Loss Budget vs. Actual October 2023

	Oct 23	Budget	\$ Over Budget	% of Budget
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
Electricity	866.05	1,250.00	-383.95	69.28%
Encroachment Leases	0.00	0.00	0.00	0.0%
Fish Markets	0.00	250.00	-250.00	0.0%
Ground Rent	35.00	2,916.66	-2,881.66	1.2%
Hoist Fees	0.00	83.33	-83.33	0.0%
Interest Income	15,366.29	7,500.00	7,866.29	204.88%
Late Fees	141.50	333.33	-191.83	42.45%
Main Pier	0.00	83.00	-83.00	0.0%
Other Grant Proceeds	0.00	1,600.00	-1,600.00	0.0%
Park & Launch	1,862.00	2,083.33	-221.33	89.38%
Property Tax RevCurrent	0.00	57,260.00	-57,260.00	0.0%
Slip Rental Contract	29,968.43	37,916.66	-7,948.23	79.04%
Slip Rental Transient	3,478.66	3,583.33	-104.67	97.08%
<b>Total Income</b>	<b>51,717.93</b>	<b>114,859.64</b>	<b>-63,141.71</b>	<b>45.03%</b>
<b>Gross Profit</b>	<b>51,717.93</b>	<b>114,859.64</b>	<b>-63,141.71</b>	<b>45.03%</b>
<b>Expense</b>				
Advertising Expense	0.00	66.00	-66.00	0.0%
Bank Charges	0.00	9.95	-9.95	0.0%
Communications Expense	402.16	375.00	27.16	107.24%
Conferences & Meetings	0.00	416.66	-416.66	0.0%
CSP General	0.00	0.00	0.00	0.0%
DBW SAVE 20/21 Grant	0.00	0.00	0.00	0.0%
Deferred Maintenance	0.00	833.33	-833.33	0.0%
Dues and Subscriptions Exp	5,027.96	1,000.00	4,027.96	502.8%
Emp. Health & Dental Insurance	2,201.84	2,000.00	201.84	110.09%
Equipment Expense	0.00	83.33	-83.33	0.0%
Equipment Purchase	0.00	333.33	-333.33	0.0%
Fuel Expense	314.52	416.66	-102.14	75.49%
Insurance Property & Liability	0.00	0.00	0.00	0.0%
Legal and Professional Fees	2,135.50	4,416.66	-2,281.16	48.35%
Office Expense	377.93	983.33	-605.40	38.43%
Operating Supplies	648.68	583.33	65.35	111.2%
Outside Services	0.00	83.33	-83.33	0.0%
Payroll Tax Expense	3,946.17	5,000.00	-1,053.83	78.92%
Power	4,411.22	4,583.33	-172.11	96.25%
Professional Expense	0.00	1,666.66	-1,666.66	0.0%
Repairs & Maintenance	3,856.96	2,333.00	1,523.96	165.32%
Salary Expense	0.00	5,725.00	-5,725.00	0.0%
Sep. Ira	721.46	675.00	46.46	106.88%
Taxes & Assessments	0.00	250.00	-250.00	0.0%
Tsunami Haz Mid Grand	0.00	0.00	0.00	0.0%
Utilities Expense	5,936.52	5,666.66	269.86	104.76%

## Noyo Harbor District Profit & Loss Budget vs. Actual October 2023

	<u>Oct 23</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Wages Expense (Hourly)	10,968.62	7,083.33	3,885.29	154.85%
Workers' Comp.	0.00	1,000.00	-1,000.00	0.0%
<b>Total Expense</b>	<u>40,949.54</u>	<u>45,583.89</u>	<u>-4,634.35</u>	<u>89.83%</u>
Net Ordinary Income	10,768.39	69,275.75	-58,507.36	15.54%
Other Income/Expense				
Other Income				
Grant Reimbursements	<u>2,634.88</u>			
<b>Total Other Income</b>	2,634.88			
Other Expense				
2020-21 SAVE Grant	3,000.00			
FEMA 4683	2,272.50			
Property Aquision	1,307.50			
SLC Fish Cleaning Station	1,798.50			
SLC Vessel Demo	<u>3,775.00</u>			
<b>Total Other Expense</b>	<u>12,153.50</u>			
<b>Net Other Income</b>	<u>-9,518.62</u>			
<b>Net Income</b>	<u><u>1,249.77</u></u>	<u><u>69,275.75</u></u>	<u><u>-68,025.98</u></u>	<u><u>1.8%</u></u>

# Noyo Harbor District

## Paycheck history report

Paychecks from Oct 01, 2023 to Oct 31, 2023 for all employees from all locations

Pay date	Name	Total pay	Net pay
10/16/2023	Koski, Bruce	\$ 679.32	\$ 611.01
10/16/2023	Koski, Jay	\$ 2,091.20	\$ 1,633.49
10/16/2023	Neumann, Anna T	\$ 2,825.00	\$ 2,349.23
10/16/2023	Scotfield, Robert	\$ 901.11	\$ 781.25
10/02/2023	Koski, Bruce	\$ 752.76	\$ 663.67
10/02/2023	Koski, Jay	\$ 2,091.20	\$ 1,633.48
10/02/2023	Neumann, Anna T	\$ 2,825.00	\$ 2,349.22
10/02/2023	Scotfield, Robert	\$ 1,112.60	\$ 947.28



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Jim Hurst  
Chair

Doug Albin  
Vice Chair

Richard Shoemaker  
Commissioner

Dan Platt  
Commissioner

Grant Downie  
Commissioner

Anna Neumann  
Harbormaster

## **NOYO HARBOR COMMISSION REGULAR MEETING AGENDA**

**Thursday, October 12th, 2023 at 6PM**

### **Fort Bragg Town Hall**

363 N. Main Street,  
Fort Bragg, CA

**CALL TO ORDER at 6:00pm by Chair Hurst**

### **ROLL CALL**

**Present: Commissioner Shoemakers, Commissioner Platt, Commissioner Downie, Vice Chair Albin, Chair Hurst,**

**Staff Present: Jim Jackson, Anna Neumann**

### **PLEDGE OF ALLEGIANCE**

### **PUBLIC COMMENT ON NON-AGENDA ITEMS:**

None

### **CLOSED SESSION:**

**Pending Litigation: Resource Environmental v. Noyo Harbor District (23 CV 00954 Mendocino County Superior Court)**

### **Government Code Section 54956.9 (d) (1)**

Closed Session began at 6:05pm

Closed Session ended at 6:43pm

Report out: Commission gave legal counsel direction regarding the Resource Environmental matter.

### **CORRESPONDENCE:**

None

### **CONSENT CALENDAR**

1. Approval of Minutes – Regular Meeting August 10<sup>th</sup>, 2023
2. Treasurer’s report –September 2023
3. Treasurer’s report- August 2023

**Motion to approve the Consent Calendar 1<sup>st</sup> Commissioner Shoemaker, 2<sup>nd</sup> Dan Platt. 5-0-0**

### **CONDUCT OF BUSINESS:**

1. Presentation of Community Engagement Plan from Harbormaster and City of Fort Bragg’s Special Projects Manager

The Harbormaster and Special Project manager gave the commissioners an opportunity to review the Community Sustainability Plan. An update was given on the addition of a Sea Grant fellow to City staff. Commissioner Shoemaker suggested that staff look at the consultants that Point Arena hired to complete their Sea Level Rise Plan. No motion was made.

2. Discussion and possible action on Budget 2023-2024

The Harbormaster gave an update on the changes made to the Budget 2023-2024 including the reduced price of insurance for the 2023-2024 year and the additional information on the Grant Information page.

**Motion to approve the 2023-2024 Budget 1<sup>st</sup> Commissioner Shoemaker, 2<sup>nd</sup> Commissioner Downie. 5-0-0**

3. Discussion and possible action on contract with Geveden Industrial

The Harbormaster detailed conversations held with Geveden Industrial about the cost of dismantling vessels and how much money remained in the State Lands Commission COVID Relief Grant. Harbormaster asked for Commissioner Shoemaker and Commissioner Platt to continue to work in an Ad Hoc to negotiate a price with Geveden that would work for them and the District.

4. Discussion on rental increases for submerged tidelands and long-term tenants  
Commissioners held a discussion on increasing rental rates. Commissioners gave direction to bring back an increase to the submerged tidelands in accordance with rental leases, submerged tidelands can be increased by 3% every 3 years.

A discussion was held on not increasing commercial vessel and active fishing vessel rates. Fisheries closures, delayed seasons and low prices have all compounded and the commercial fleet struggles making profits. Direction was given to bring back this topic with possible ways to fairly identify commercial fishing and active working vessels.

**STAFF REPORTS AND RECOMMENDATIONS:**

**District Office:**

**Attorney Report:**

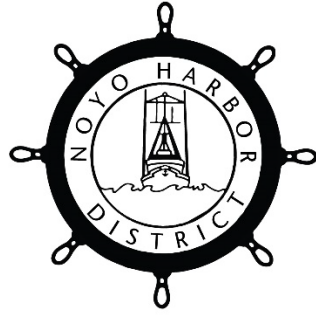
**Matters from the Commissioners:**

Commissioner Downie gave an update on the Noyo Harbor Festival and the success of the event.

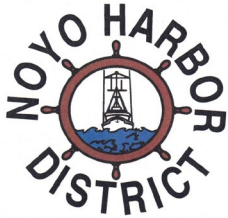
No other reports were made.

**ADJOURNMENT:** To the next regular meeting of Thursday November 16<sup>th</sup>, 2023 at 6 pm

Commissioner Shoemaker made a motion to adjourn the meeting, 2<sup>nd</sup> Commissioner Downie, 5-0-0. Meeting adjourned at 8:25pm



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# NOYO HARBOR DISTRICT AGENDA ITEM SUMMARY

**AGENDA ITEM #: 1**  
**MEETING DATE: 11/9/2023**

## TITLE

Geveden Industrial Contract

## RECOMMENDED ACTION

Approval

## ANALYSIS

The Harbor Office was able to negotiate with Geveden Industrial to reduce the cost of the Vessel Demo project. The District will handle the removal of fluids like, hydraulic fluids, diesel, and gas from the vessel and will allow the vessels to remain on District property for up to 5 days.

The District has \$237,483 remaining in its accounts for the completion of this project.

## FISCAL IMPACT

Grant funded and on budget

## ATTACHMENTS

Geveden Industrial Contract



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**Construction Agreement**  
**VESSEL DESTRUCTION PROJECT**

**Noyo Harbor District**  
**Fort Bragg, California**

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## Agreement

This Agreement is dated as of the \_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_, by and between Noyo Harbor District (hereinafter called "District" and Geveden Industrial hereinafter called "Contractor").

District and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### Article 1: Work

Contractor shall complete the Work as specified or indicated in the District's Contract Documents entitled Noyo Harbor District Vessel Destruction Project. Quality control shall be performed and compliance with the Contract shall be verified by qualified professionals selected by the District or the District's representative.

To include the performance of all the Work and the furnishing of all the labor, supplies, tools, and equipment to demolition and dispose of vessels as specified by the Noyo Harbor District and as outlined in the Bid Schedule.

All Work that is performed on District owned property shall not remain on the site, in any form, for more than five business days from the removal of the vessel from the mooring basin. Specific sites are at the discretion of the Harbormaster and must be approved before removal from the mooring basin. Or vessel can be minimized/destroyed/crushed at Contractor's designated on-land staging site(s) and transported in containers to the appropriate landfill facility or moved in whole condition to the approved landfill facility and disposed of there in whole. All vessels and parts thereof are to be disposed of in a properly licensed and permitted landfill facility.

Contractor is aware that the project is funded by the American Rescue Plan Act through the California State Lands Commission and the Division of Boating and Waterways Surrendered and Abandoned Vessels Exchange (SAVE) Grant Program, and funding agencies may at any and all reasonable times during the term of this Agreement, enter the Project area for purposes of inspecting the Project area and have the right to review the Contractor's records.

### Article 2: Completion of Work

The Work shall be completed to the satisfaction of the District within **90 DAYS** from the commencement date stated in the Notice to Proceed. In no event, however, shall the Work to be performed under this contract be considered to be complete until all construction items called for as stated in *Article 1: Work* has been completed and the contract price paid in full.

### Article 3: Liquidated Damages

- A. District and the Contractor recognize that time is of the essence of this Agreement and that the District will suffer financial loss if the Work is not completed within the time specified in Article 2 herein, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage which the District will sustain in the event of and by reason of the Contractor's failure to fully perform the Work or to fully perform all of its contract obligations that have accrued by the time for completion as specified in Article 2 herein and/or as specified for completion of any scheduled operations

or works described in the Special Provisions. It is, therefore, agreed in accordance with California Government Code Section 53069.85 that the Contractor will forfeit and pay to the District liquidated damages in the sum of One Thousand Dollars (\$1,000) per day for each and every calendar day that expires after the time for completion specified in Article 2 herein and/or as specified for completion of any scheduled operations or works described in the Special Provisions except as otherwise provided by extension of time pursuant to Article 12 of the General Conditions. It is further understood and agreed in accordance with California Government Code Section 53069.85 that the liquidated damages sum specified in this provision is not manifestly unreasonable under the circumstances existing at the time this contract was made, and that the District may deduct liquidated damages sums in accordance with this provision from any payments due or that may become due the Contractor.

- B. Liquidated damages will continue to accrue at the stated rate until final completion of the Work. Accrued liquidated damages may be deducted by the District from amounts due or that become due to the Contractor for performance of the Work. Liquidated damages may not be waived or reduced by District unless expressly waived or reduced in writing by the Construction Manager.

#### **Article 4: Prevailing Wages**

- A. Pursuant to California Labor Code Section 1771, Contractor and any subcontractor shall pay all workers employed in execution of the Work in accordance with the general rate of per diem wages specified for each craft, classification, or type of worker needed to execute the Work.
- B. Contractor is required to pay all applicable penalties and back wages in the event of violation of prevailing wage law, and Contractor and any subcontractor shall fully comply with California Labor Code Section 1775, which is incorporated by this reference as though fully set forth herein.
- C. Contractor and any subcontractor shall maintain and make available for inspection payroll records as required by California Labor Code Section 1776, which is incorporated by this reference as though fully set forth herein. Contractor is responsible for ensuring compliance with this section.
- D. Contractor and any subcontractor shall fully comply with California Labor Code Section 1777.5, concerning apprentices, which is incorporated by this reference as though fully set forth herein. Contractor is responsible for ensuring compliance with this section.
- E. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under this Agreement. Contractor and any subcontractor shall pay workers overtime pay as required by California Labor Code Section 1815. Contractor and any subcontractor shall, as a penalty to the District, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation so the provisions of Article 3 of Chapter 1 of

Part 7, Division 2 of the California Labor Code, which is incorporated by this reference as though fully set forth herein.

## **Article 5: Contract Price**

- A. District shall pay Contractor for completion of the Work the sum of Two Hundred Thirty Thousand Five Hundred Sixty dollars (\$230,560.00), based on the bid price of same and in accordance with the Contract Documents.
- B. Notwithstanding any provisions herein, Contractor shall not be paid any compensation until such time as Contractor has on file with the District current information requested on the "Vendor Information" form available from the District.
- C. In no case shall the total contract compensation exceed Two Hundred Thirty Thousand Five Hundred Sixty dollars (\$230,560.00) without prior written authorization by the Harbormaster. Further, no compensation for a section or work program component attached with a specific budget shall be exceeded without the prior written authorization of the Harbormaster.

## **Article 6: Bonds**

- A. Before entering upon the performance of the Work, the Noyo Harbor District shall cause the Contractor to furnish Performance, and Payment/Labor and Materials Bonds, each in the amount of one hundred percent (100%) of the contract price. These Bonds shall remain in effect at least until one (1) year after the date of Completion, except as otherwise provided by Law or Regulation or by the Contract Documents.
- B. The form of the Performance, Payment/Labor and Materials are provided by the District as part of the Contract Documents. Only such bond forms provided by the District are acceptable, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.
- C. If the surety on any Bond furnished by the Contractor is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Work is located, the Contractor shall within 7 days thereafter substitute another Bond and surety, which must be acceptable to the District.
- D. All Bonds required by the Contract Documents to be purchased and maintained by Contractor shall be obtained from surety companies that are duly licensed or authorized in the State of California to issue Bonds for the limits so required.

## **Article 7: Payment Procedures**

Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by the Construction Manager as provided in the General Conditions.

## **Article 8: Retention**

- A. Pursuant to Section 22300 of the California Public Contract Code, the Contractor may substitute securities for any money withheld by the District to ensure performance under the Contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the District or with a state or federally chartered bank in California as to the escrow agent, who shall return such securities to the Contractor upon satisfactory completion of the Contract.
- B. Alternatively, the Contractor may request and the District shall make payment of retentions earned directly to the escrow agent at the expense of the Contractor. At the expense of the Contractor, the Contractor may direct the investment of the payments into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for in this section for securities deposited by the Contractor. The Contractor shall be responsible for paying all fees for the expenses incurred by the escrow account and all expenses of the District. These expenses and payment terms shall be determined by the District's Finance Director or his/her designee and the escrow agent. Upon satisfactory completion of the Contract, the Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the District, pursuant to the terms of this section. The Contractor shall pay to each subcontractor, not later than 20 days

of receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each subcontractor, on the amount of retention withheld to ensure the performance of the Contractor.

- C. Securities eligible for investment under Section 22300 shall be limited to those listed in Section 16430 of the Government Code and to bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the District.

#### **Article 9: Contract Documents**

The Contract Documents which comprise the entire agreement between the District and the Contractor concerning the Work consist of this Agreement and the following attachments to this Agreement:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Forms including the Bid, Bid Schedule(s), Information Required of Bidder, Bid Bond, and all required certificates and affidavits
- Labor and Materials Bond
- Performance Bond
- General Conditions
- Supplementary General Conditions (if any)
- Special Provisions
- Addenda (if any)
- Change Orders which may be delivered or issued after Effective Date of the Agreement and are not attached hereto.

There are no Contract Documents other than those listed in this Article 9. The Contract Documents may only be amended by Change Order as provided in Paragraph 3.5 of the General Conditions.

#### **Article 10: Changes in Work**

Owner Directed Change Orders. The Owner may at any time during the progress of the Work direct any amendments to the Work or any of the Contract Documents, including, but not limited to the Technical Specifications, or Project Plans. Such amendments will in no way void the agreement, but will be applied to amend the Contract Price, if such amendments affect the Contract Price, the Project schedule, if such amendments affect the Project schedule, or any other provision of the Contract Documents based on a fair and reasonable valuation of the amendment in accordance with this Article.

Writing Requirement. Change orders and other amendments to the Contract Documents may be made only by writing executed by authorized representatives of the Owner and the Contractor.

Contractor Proposed Change Orders. Unless the Construction Manager otherwise authorizes or the Owner and the Contractor otherwise agree, change order proposals submitted by the Contractor must be submitted to the District and Construction Manager no later than the time of the proposed change.



All Change Orders. All change order proposals must be submitted on completed Change Order forms provided by the Owner. All such change order proposals must itemize all cost impacts of the proposed change order and include a total price for that change order and the amended Contract Price that would become effective upon execution of the change order. All change order proposals must specify any change in the Project schedule, or in any project milestone including, but not limited to, the Time for Completion, under the change order. It is understood that change orders that do not specify a change in any milestone, including, but not limited to, the Time for Completion, may be accomplished by the Time for Completion then in effect.

Change Order Pricing. Change order pricing will be governed by the following:

- Unit prices specified in the Contract Documents will apply to cost impacts involving items for which the Contract Documents specify unit prices.
- Cost impacts involving items for which no unit prices are specified will be calculated by adding the itemized actual direct cost that would be added or reduced under the change order and an allowance for indirect costs in accordance with this Section. Itemization for direct costs for required labor must include the classifications of labor required, the total hours required for each classification, the hourly rate for each classification and other labor related costs such as liability and workers compensation insurance, social security, retirement and unemployment insurance. All other cost impacts for which no unit prices are specified must be itemized as appropriate, including the cost of tools, vehicles, phones and other equipment, and the cost of all required materials or supplies. Indirect costs added under a change order may not exceed an allowance of fifteen (15) percent of the total of combined Contractor and subcontractor direct costs added under the change order. Such allowance covers Contractor overhead and profit under the change order and includes the cost of insurance in addition to that required pursuant to Section 8.8, bond premiums, superintendent labor, clerical labor, home office expenses, worksite office expenses, and utility costs under the change order. Such costs may not be itemized as direct costs under a change order. Indirect costs deducted under a change order will be calculated in exactly the same way as indirect costs added under a change order, except indirect costs deducted under a change order may not exceed an allowance of seven and a half (7.5) percent of the total of combined Contractor and subcontractor direct costs deducted under the change order.

Liability Under Unapproved Change Orders. The Contractor shall be solely responsible for any and all losses, costs, or liabilities of any kind incurred by the Contractor, any subcontractor engaged in the performance of the Work, any party supplying material or equipment for the Work or any third party that are incurred pursuant to Contractor-proposed change orders prior to issuance of an approved change order executed in accordance with this Section 3. The Contractor will have all of the obligations and the Owner will have all of the rights and remedies that are specified in Section 11 concerning any work or resulting losses, costs, or liabilities pursuant to a Contractor proposed change order before issuance of an approved change order executed in accordance with this Section 3.

Changes Subject to Contract Documents. Any changes in the Work and/or the Contract Documents pursuant to change orders and any other amendments issued in accordance with the Contract Documents, including this Section 4, will in all respects be subject to all provisions of the Contract Documents, except as modified by such change orders or amendments.

Disputed District Directed Change Orders. If the Contractor disputes an Owner directed change order following a reasonable effort by the and the Contractor to resolve the dispute including, at a minimum, a

meeting between appropriate representatives of the Contractor and the Owner, the Contractor must commence performing the Work consistent with the disputed change order within five (5) working days of the last meeting between representatives of the Contractor and the Owner to resolve the dispute, or within the time specified in the disputed District directed change order, whichever is later. In performing Work consistent with a disputed Owner-directed change order pursuant to this provision the Contractor will have all of the Contractor's rights concerning claims pursuant to the Contract Documents and applicable law.

Disputed Contractor Proposed Change Orders. If the Owner disputes a Contractor proposed change order, the Owner and the Contractor will use reasonable efforts to resolve the dispute including, at a minimum, holding a meeting between appropriate representatives of the Contractor and the Owner. Regardless of and throughout any such efforts to resolve the dispute the Contractor must continue performing the Work irrespective of and unmodified by the disputed change order. In continuing to perform the Work, the Contractor will retain all of the Contractor's rights under contract or law pertaining to resolution of disputes and protests between contracting parties. Disputes between the Owner and the Contractor concerning any Contractor-proposed change order or other amendment do not excuse the Contractor's obligation to perform the Work in accordance with the Contract Documents excluding such Contractor-proposed change order or other amendment by the Time for Completion or waive any other Project milestone or other requirement of the Contract Documents.

#### **Article 11: Insurance**

Contractor and any subcontractor shall not commence work under this Agreement until Contractor shall have obtained all insurance required under this paragraph and such insurance shall have been approved by the District's Attorney as to form and carrier and the Harbormaster as to sufficiency, nor shall Contractor allow any contractor or subcontractor to commence work on this contract or subcontract until all similar insurance required of the Contractor and/or subcontractor shall have been so obtained and approved. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

Contractor shall procure and maintain for the duration of the contract all necessary insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, the Contractor's agents, representatives, employees or subcontractors.

##### **A. Minimum Scope of Insurance**

1. Coverage shall be at least as broad as:
  - a. Insurance Services Office Commercial General Liability coverage
  - b. Insurance Services Office form number covering Automobile Liability, code 1 (any auto)
  - c. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance
2. Certificates naming Noyo Harbor District as additional insured shall be provided by Contractor's insurance provider

##### **B. Minimum Limits of Insurance**



**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees, and volunteers; the State of California, its officers, agents, employees and servants are hereby declared to be additional insured under the terms of this policy, as to activities of the Grantee and in respect to the Project, and this policy shall not be canceled without thirty (30) days prior written notice to Grantee; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**D. Other Insurance Provisions**

The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

1. The District, its officers, officials, employees, agents and volunteers, are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the District, its officers, officials, employees, agents or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the District, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, agents, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the District, its officers, officials, employees, agents or volunteers.
4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought except, with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the District.

**E. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

**F. Verification of Coverage**

Contractor shall furnish the District with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the District. All endorsements are to be received and approved by the District before work commences. As an alternative to the District's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

#### **Article 11: Indemnification**

- A. Contractor shall indemnify, defend with counsel acceptable to District, and hold harmless to the full extent permitted by law, the District, their officers, officials, employees, agents, and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including, without limitation, attorney fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the Work or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the active negligence, sole negligence or willful misconduct of the District. Such indemnification by the Contractor shall include, but not be limited to, liability of claims:
1. Resulting directly or indirectly from the performance of the Work by the Contractor, its subcontractors, suppliers, laborers, employees, or agents and any other person, firm, entity, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and/or from any and all claims and losses accruing or resulting to any person, firm, entity, or corporation who may be injured or damaged by Contractor in performance of this agreement;
  2. Resulting directly or indirectly from the negligence or carelessness of the Contractor, its subcontractors, suppliers, laborers, employees, or agents in the performance of the Work, or in guarding or maintaining the same, or from any improper materials, implements, or appliances used in its construction, or by or on account of any act or omission of the Contractor, its employees, or agents;
  3. Arising directly or indirectly from bodily injury, occupational sickness or disease, or death of the Contractor's, or Supplier's own employees, or agents engaged in the Work resulting in actions brought by or on behalf of such employees against the District and/or the Construction Manager;
  4. Arising directly or indirectly from or based on the violation of any Laws or Regulations, whether by the Contractor, its subcontractors, employees, or agents;
  5. Arising directly or indirectly from the use or manufacture by the Contractor, its subcontractors, employees, or agents in the performance of this Agreement of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article, or appliance, unless otherwise specified stipulated in this Agreement;

6. Arising directly or indirectly from the breach of any warranties, whether express or implied, made to the District or any other parties by the Contractor, its subcontractors, employees, or agents;
  7. Arising directly or indirectly from the willful misconduct of the Contractor, its subcontractors, employees, or agents;
  8. Arising directly or indirectly from any breach of the obligations assumed in this Agreement by the Contractor;
  9. Arising directly or indirectly from, relating to, or resulting from a hazardous condition created by the Contractor, Subcontractors, Suppliers, or any of their employees or agents; and
  10. Arising directly, or indirectly, or consequentially out of any action, legal or equitable, brought against the District, Construction Manager, their consultants, sub consultants, and the officers, directors, employees and agents of each or any of them, to the extent caused by the Contractor's use of any premises acquired by permits, rights of way, or easements, the Site, or any land or area contiguous thereto or its performance of the Work thereon.
- B. The Contractor shall reimburse the District for all costs and expenses, (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals and court costs of appeal) incurred by said District in enforcing the provisions of this Paragraph.
- C. The indemnification obligation under this Article 11 shall not be limited in any way by any limitation on the amount or type of insurance carried by Contractor or by the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor or other person or organization under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- D. Pursuant to California Public Contract Code Section 9201, District shall timely notify Contractor of receipt of any third-party claim relating to this Agreement.

#### **Article 12: Disclaimer and Indemnity Concerning Labor Code Section 6400**

By executing this agreement the Contractor understands and agrees that with respect to the Work, and notwithstanding any provision in this contract to the contrary, the Contractor, and/or its privities, including, without limitation, subcontractors, suppliers and others engaged by the Contractor in the performance of the Work shall be "employers" for purposes of California Labor Code Section 6400 and related provisions of law, and that neither District nor its officials, officers, employees, agents, volunteers or consultants shall be "employers" pursuant to California Labor Code Section 6400 with respect to the performance of the Work by the Contractor and/or its privities.

The Contractor shall take all responsibility for the Work, shall bear all losses and damages directly or indirectly resulting to the Contractor, any subcontractors, the District, its officials, officers, employees, agents, volunteers and consultants, on account of the performance or character of the Work, unforeseen difficulties, accidents, or occurrences of other causes predicated on active or passive negligence of the Contractor or of any subcontractor, including, without limitation, all losses, damages or penalties directly or

indirectly resulting from exposure to hazards in performance of the Work in violation of the California Labor Code. The Contractor shall indemnify, defend and hold harmless the District, its officials, officers, employees, agents, volunteers and consultants from and against any or all losses, liability, expense, claim costs (including costs of defense), suits, damages and penalties (including, without limitation, penalties pursuant to the California Labor Code) directly or indirectly resulting from exposure to hazards in performance of the Work in violation of the California Labor Code, except such liability or costs caused by the active negligence, sole negligence or willful misconduct of the District.

### **Article 13: Independent Contractor**

It is understood and agreed that in the performance of this Agreement, Contractor (including its employees and agents) is acting in the capacity of an independent contractor, and not as an agent or employee of the District. Contractor has full control over the means and methods of performing said services and is solely responsible for its acts and omissions, including the acts and omissions of its employees and agents.

### **Article 14: Subcontractors**

Contractor must obtain the District's prior written consent for subcontracting any Work pursuant to this Agreement. Any such subcontractor shall comply, to the extent applicable, with the terms and conditions of this Agreement. Any agreement between Contractor and a subcontractor pursuant to this Agreement shall provide that the subcontractor procure and maintain insurance coverage as required herein and which shall name District as an additional insured.

### **Article 15: Compliance with Laws/Provisions**

#### **1. EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the contractor agrees as follows:

1.1 The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

1.2 The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

1.3 The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of

such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

1.4 The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

1.5 The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

1.6 The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

1.7 In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1.8 The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.



The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

## 2. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

2.1 *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2.2 *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

2.3 *Withholding for unpaid wages and liquidated damages.* The Noyo Harbor District shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

2.4 *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 2.1 through 2.4 of this section.

## 3. CLEAN AIR ACT

3.1 The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

3.2 The contractor agrees to report each violation to the Noyo Harbor District and understands and agrees that the Noyo Harbor District will, in turn, report each violation as required to assure notification to the ARPA Administrator, and the appropriate Environmental Protection Agency Regional Office.

3.3 The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA.

#### 4. FEDERAL WATER POLLUTION CONTROL ACT

4.1 The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

4.2 The contractor agrees to report each violation to the Noyo Harbor District and understands and agrees that the Noyo Harbor District will, in turn, report each violation as required to assure notification to the ARPA Administrator, and the appropriate Environmental Protection Agency Regional Office.

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA.

#### 5. DEBARMENT AND SUSPENSION

5.1 This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

5.2 The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

5.3 This certification is a material representation of fact relied upon by Noyo Harbor District. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Noyo Harbor District, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

5.4 The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### 6. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with

obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

6.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

6.2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

6.3 The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

## 7. PROCUREMENT OF RECOVERED MATERIALS

7.1 In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

7.1.1 Competitively within a timeframe providing for compliance with the contract performance schedule;

7.1.2 Meeting contract performance requirements; or

7.1.3 At a reasonable price.

7.2 Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

7.3 The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

## 8. ACCESS TO RECORDS

The following access to records requirements apply to this contract:

8.1 The Contractor agrees to provide Noyo Harbor District, ARPA Grant representatives, SAVE Grant representatives, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

8.2 The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

8.3 The Contractor agrees to provide the ARPA or SAVE Grant Administrators or its authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

### **Article 16: Notices**

All notices required or permitted by this Agreement, including notice of change of address, shall be in writing and given by personal delivery or sent postage prepaid and addressed to the parties intended to be notified, as set forth herein. Notice shall be deemed given as of the date of delivery in person or as of the date deposited in any post office or post office box regularly maintained by the United States Postal Service, unless otherwise stated herein.

Notice shall be given as follows:

District: Harbormaster  
Noyo Harbor District  
19101 S. Harbor Drive Fort  
Bragg, CA 95437  
Telephone: (707)964-4719

Contractor: Jake Sheaffer  
Geveden Industrial  
1520 Vista Way  
Red Bluff, CA 96080  
Telephone:(530)736-9624

**Article 17: Governing Law/Venue**

This Agreement shall be construed and its performance enforced under California law. Venue shall be in the Superior Court of the State of California in the County of Mendocino.

**Article 18: Non-Waiver**

The District's failure to enforce any provision of this Agreement or the waiver of any provision in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.

**Article 19: Third Party Beneficiaries**

The Parties do not intend, by any provision of this Agreement, to create in any third party any benefit or right owed by one party, under the terms and conditions of this Agreement, to the other party.

## **Article 20: Assignment**

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

District and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

## **Article 21: Severability**

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise enforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

## **Article 22: Attorney's Fees**

If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action or proceeding by the prevailing party.

## **Article 23: Sole and Only Agreement**

This Agreement constitutes the sole and only Agreement between the parties. Any agreements or representations not expressly set forth in this instrument are null and void.

Signatures Appear On Next Page

In Witness Whereof, District and Contractor have caused this Agreement to be executed the day and year first above written.

District

Contractor

By \_\_\_\_\_

(Corporate Seal)

Attest

Attest

\_\_\_\_\_

\_\_\_\_\_

Address for giving notices

Address for giving notices

Noyo Harbor District

19101 S. Harbor Drive

Fort Bragg, CA. 95437

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

License No. \_\_\_\_\_

Approved as to Form:

Agent for service of process:

(Signature)

(Title)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

End of Agreement

**This Page Left Intentionally Blank.**



## Bid Schedule

(DO NOT DETACH)

Item No.	Base Bid Item Description With Unit Price Written in Words	Approx. Quantity	Unit Price	Total Item Price
1	Mobilization/Demobilization for the Lump Sum Price of <u>Thirty Six Thousand Six Hundred Fifty Dollars</u> _____ Dollars	1 LS	\$ <u>36,650</u>	\$ <u>36,650</u>
2	Remove and Dispose of Christine, #254572 a 46 ft. Wooden Vessel for the Lump Sum Price of <u>Fifty Eight Thousand Two Hundred Sixty Five</u> _____ Dollars	1 LS	\$ <u>58,265</u>	\$ <u>58,265</u>
3	Remove and Dispose of Angelina #256620 a 37 ft. Wood Vessel for the Lump Sum Price of <u>Fifty Three Thousand Eight Hundred Sixty Five</u> _____ Dollars	1 LS	\$ <u>53,865</u>	\$ <u>53,865</u>
4	Remove and Dispose of Blue Northern #115284 a 45ft Wood Vessel for the Lump Sum Price of <u>Fourty Six Thousand Seven Hundred Fifty Five</u> _____ Dollars	1 LS	\$ <u>46,755</u>	\$ <u>46,755</u>
5	Remove and Dispose of Avispa #25686 a 30ft Fiberglass over Plywood Vessel for the Lump Sum Price of <u>Thirty Five Thousand Two Hundred Five</u> _____ Dollars	1 LS	\$ <u>35,205</u>	\$ <u>35,205</u>
<b>Total Project Base Bid in Words:</b>			<b>Total Base Bid in Figures:</b>	
_____ Dollars			_____	
<u>Two Hundred Thirty Thousand Five Hundred Sixty</u> Dollars			\$ <u>230,560.00</u>	

# Agreement Certificate

STATE OF CALIFORNIA (if Corporation)

\_\_\_\_\_ ) ss:

COUNTY OF \_\_\_\_\_ )

I HEREBY CERTIFY that a meeting of the Board of Directors of the \_\_\_\_\_ a corporation existing under the laws of the State of \_\_\_\_\_, held on \_\_\_\_\_, 20\_\_\_\_, the following resolution was duly passed and adopted:

"RESOLVED, that \_\_\_\_\_, as \_\_\_\_\_ President of the Corporation, be and is hereby authorized to execute the Agreement dated \_\_\_\_\_, 20\_\_\_\_, by and between this Corporation and \_\_\_\_\_ and that his/her execution thereof, attested by the Secretary of the Corporation, and with the Corporate Seal affixed, shall be the official act and deed of this Corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Secretary

(SEAL)

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# Agreement Certificate

STATE OF CALIFORNIA (if Partnership)

\_\_\_\_\_ ) ss:

COUNTY OF \_\_\_\_\_ )

I HEREBY CERTIFY that a meeting of the Partners of the

\_\_\_\_\_ a partnership

existing under the laws of the State of \_\_\_\_\_, held on \_\_\_\_\_,

20\_\_\_\_\_, the following resolution was duly passed and adopted:

"RESOLVED, that \_\_\_\_\_, as the General Partner of the Partnership, be and is hereby authorized to execute the Agreement dated \_\_\_\_\_, 20\_\_\_\_\_ by and between this Partnership and \_\_\_\_\_, and that his/her execution thereof, attested by the \_\_\_\_\_ shall be the official act and deed of this Partnership."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Partner

(SEAL)

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# Agreement Certificate

(if Joint Venture)

STATE OF CALIFORNIA

\_\_\_\_\_ ) ss:  
COUNTY OF \_\_\_\_\_ )

I HEREBY CERTIFY that a meeting of the Principals of the

\_\_\_\_\_ a

joint venture existing under the laws of the State of \_\_\_\_\_, held  
on \_\_\_\_\_, 20\_\_\_\_, the following resolution was duly passed and adopted:

"RESOLVED, that \_\_\_\_\_, as  
\_\_\_\_\_, of the joint venture, be and is hereby authorized to execute the  
Agreement dated \_\_\_\_\_, 20\_\_\_\_, by and between this Joint Venture and  
\_\_\_\_\_ and that his/her execution thereof,  
attested by the \_\_\_\_\_ shall be the official act and deed of this Joint  
Venture."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_, day of  
\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Managing Partner

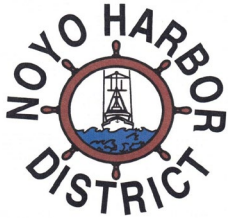
(SEAL)

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# NOYO HARBOR DISTRICT AGENDA ITEM SUMMARY

**AGENDA ITEM #: 3**  
**MEETING DATE: 11/9/2023**

## TITLE

Stalltonstall – Kennedy Grant

## RECOMMENDED ACTION

None

## ANALYSIS

The Harbor has been invited to apply for the Stalltonstall- Kennedy Grant. This grant would be another partnership between the Harbor District and West Business Development Center to work with fishermen on direct sales, and expansion into the national and global markets. The program would involve the development of a website with a fishermen and community facing pages where the fishermen could post available catches, prices, sales times and locations, find information on necessary permits for off the dock sales, farmers market style sales, and processing requirements. The community would also be able to see fishermen post, have access to maps and contact information for the fishermen. A heavy marketing campaign would be required to ensure that the community and fleet understand this tool. Marketing would also focus on vacation rental businesses in wealthier communities on the southern Mendocino Coast like Gualala and Sea Ranch.

The Harbor District and West Business would also help the fleet expand into the national and global markets by taking a select group of fishermen to the National Seafood Expo in Boston Mass. Here the fleet would have the opportunity to network on a much higher level. West Business would also be an available resource for the fleet in helping them establish and build those long term contacts post conference.

## FISCAL IMPACT

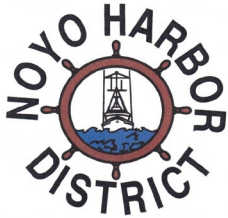
100% grant funded 0% match

## ATTACHMENTS

None



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# NOYO HARBOR DISTRICT AGENDA ITEM SUMMARY

**AGENDA ITEM #: 2**  
**MEETING DATE: 11/9/2023**

## TITLE

Rate Increases

## RECOMMENDED ACTION

## ANALYSIS

Rate Type	New Price	Previous Price	Rate Increase
Annual Long Term Rate Increase Excluding Commercial Fishermen	\$60.76	\$55.25	10%
Monthly Long Term Rate Increase Excluding Commercial Fishermen	\$5.50	\$5.00	10%
Short Term Daily	\$1.00	\$0.75	33%
Short Term Weekly	\$3.60	\$3.50	3%
Short Term Monthly	\$8.25	\$8.00	3%
Submerged Tidelands Wharfs	\$9.08	\$8.82	3%
Submerged Tidelands Floats	\$1.77	\$1.72	3%

The proposed increases to the long term, short term and submerged tideland leases will generate an estimated \$25,000 annually. The largest increase is a 10% increase to the long-term tenants excluding commercial fishermen. Although this is a large increase it still leaves Noyo Harbor significantly cheaper in price in comparison to nearby harbors. Spud Point is at \$7.50 per foot per month for long term tenants and Humboldt Bay at \$7.35 per foot per month.

Short-term rentals all slightly increase with the largest increase being for daily rentals. Daily rentals can be time consuming to book and manage. This price also leaves us very competitive in comparison to other harbors.

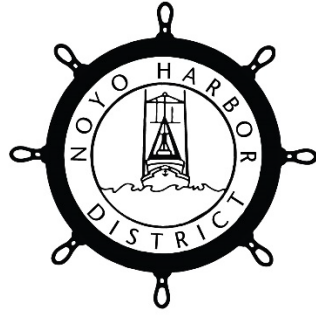
The submerged tidelands increase is what is allowed in accordance with our leases with submerged tidelands tenants.

No increases to ground rent are being proposed, all ground rentals are held by commercial fishermen.

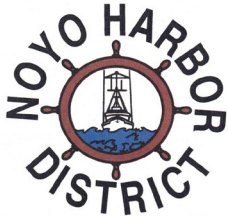
There are multiple options to determine if a tenant qualifies for the commercial fishing exclusion. Allowing any commercially registered vessel to be excluded would be the broadest option and allow for the most exclusions. Requiring active permits in at least one fishery would narrow the exclusion to those who are actively upkeeping permits and allow those who cannot fish due to a collapsed fishery to be eligible. Requiring fish tickets within the last 36 month would again narrow the exclusion to those who have actively fished within the last 3 years. This option would be the most limiting and the hardest for the older members of the fishing fleet who keep active permits and vessels but often work as crew on other vessels rather than fish alone.

#### **FISCAL IMPACT**

Between \$20,000-\$30,000 annually depending on the number of vessels that qualify for the exclusion.



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# NOYO HARBOR DISTRICT AGENDA ITEM SUMMARY

**AGENDA ITEM #: 3**  
**MEETING DATE: 11/9/2023**

## TITLE

Stalltonstall – Kennedy Grant

## RECOMMENDED ACTION

None

## ANALYSIS

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## FISCAL IMPACT

100% grant funded 0% match

## ATTACHMENTS

None



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Jim Hurst  
Chair

Doug Albin  
Vice Chair

Richard Shoemaker  
Commissioner

Dan Platt  
Commissioner

Grant Downie  
Commissioner

Anna Neumann  
Harbormaster

## Staff Reports

### FEMA Projects

The Harbormaster has agreed with and signed the Damage Description Declarations with FEMA listing out four projects. The four projects, damage to the floor of mooring basin, damage to the G dock piling, damage to the N. Harbor parking lot and damage to the sediment containment cell. The projects are now in review with FEMA and hopefully obligation will be the next step forward.

### SLC Fish Cleaning Station

SHN has been working on the last step with City Works so that our County CDP application can be completed and approved for the Fish Cleaning Station. We hope to have a the Coastal Development Permit by January and begin work on the construction of the Fish Cleaning Station in early Spring.

### Security Systems

After the Harbor District's security cameras went out over the summer we have successfully replaced the system and cameras and are 100% back to full monitoring of the Harbor District. We moved some camera placements to cover less of the roads and more of the marina. Our last system had been in place for roughly 8 years.