

From: [Michael Stangl](#)
To: [Matthew Norton](#)
Cc: [Elizabeth Mackenzie](#)
Subject: Fw: Crown Beach "CXT Payment"
Date: Monday, November 3, 2025 9:25:49 AM
Attachments: [Outlook-A picture.png](#)
[sepbj0keelqgn7k6img_QZqaL.F7F3z3ovKAHv1.png](#)

Newest email



Michael Stangl
Project Manager | Public Works Administration
East Bay Regional Park District
4595 Pacheco Boulevard, Martinez, CA 94553
T: 510-544-3038 | M: 510-693-4239
mstangl@ebparks.org | www.ebparks.org
Participate in the District Plan – [learn more here.](#)

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copies, and delete it from your system.

 Please consider the environment before you print

From: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>
Sent: Monday, November 3, 2025 9:11 AM
To: Eric Holmes <EHolmes@ebparks.org>; Michael Stangl <mstangl@ebparks.org>
Cc: Izzy Correia <service@vnhbuilders.com>; Leonardo Brandao <contact@vnhbuilders.com>
Subject: Re: Crown Beach "CXT Payment"

Good Morning Michael,

I hope this email finds you well and that you had a good time away.

I'm following up on my previous email regarding the CXT building final payment structure, which requires your urgent attention as we approach project completion and year-end deadlines.

To recap the critical points requiring confirmation:

- CXT is requesting \$134,000 in total payment
- VNH Builders has confirmed responsibility for \$60,000
- **We need immediate confirmation that EBRP will cover the remaining \$74,000 in additional fees**

As we haven't received a response to the initial email, I must stress that this matter is now time-sensitive. The delay in confirmation is holding up our ability to:

1. Finalize discussions with CXT
2. Complete the project before year-end
3. Process the necessary payments in a timely manner

Given the approaching deadlines, I would greatly appreciate your response by [11/04/25 "end of business tomorrow" or "November 4th"]. If you need any additional information or would prefer to discuss this over a quick call, I'm available at your convenience.

Please confirm receipt of this email and let me know when we can expect your decision on EBRP's responsibility for the additional fees beyond VNH's \$60,000 obligation.

Thank you for your immediate attention to this matter.

Best regards,

Thanks,

From: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>
Sent: Monday, October 27, 2025 9:22 AM
To: EHolmes@ebparks.org <EHolmes@ebparks.org>; Michael Stangl <mstangl@ebparks.org>
Cc: Izzy Correia <service@vnhbuilders.com>; Leonardo Brandao <contact@vnhbuilders.com>
Subject: Crown Beach "CXT Payment"

Good Morning Michael,

I understand you were recently away and Eric was covering for you during that time. I wanted to ensure you're kept in the loop and would also appreciate your input on this matter. Eric suggested I send this email so we can better understand where we all stand on this issue.

This concerns the CXT building. As we're approaching project completion, it's time to initiate discussions with CXT regarding final payments.

As you're aware, CXT is requesting \$134,000 in total. VNH Builders is responsible for \$60,000 of that amount. Before we proceed with discussions with CXT, I need confirmation that EBRP will be responsible for all additional fees incurred by CXT beyond the original \$60,000 that VNH owes them.

I want to ensure we're all on the same page and have a clear understanding of payment responsibilities as we move forward with completing this project before year-end.

Please let me know your thoughts on this matter at your earliest convenience.



Bruno Vieira | VNH Builders

276 S Maple Avenue LIC #1064244

South San Francisco, CA 94080

Cell: (415) 670-0661



Address

842 Mahler Road
Burlingame, CA 94010

Contact

Phone: (415) 670-0661
Email: bruno.vieira@vnhbuilders.com

Business

License: 1064244
State of California

November 4, 2025

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**Michael Stangl
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605**

**Re: Crown Beach Grant Street Restroom Project - Contract No. 066M-22-409
Response to November 4, 2025 Letter Regarding CXT Building**

Dear Mr. Stangl:

We are writing in response to your letter dated November 4, 2025, regarding the CXT building and associated costs. After careful review of the project documentation and payment history, we must respectfully dispute several assertions made in your correspondence.

Payment History Clarification:

- 1. No Storage Fees Were Paid by EBRPD: Contrary to the claim in your letter, the East Bay Regional Park District has not paid any storage fees to VNH Builders for the CXT building. The payment of \$50,300.80 referenced in Payment Application #9 (dated September 2024) was allocated to Change Order #7, Item 10 "Denali Building" - not for CXT storage fees as incorrectly stated.**
- 2. January 2025 Payment: When EBRPD issued payment in January 2025, VNH Builders immediately remitted 50% of that amount (\$51,355.34) to CXT as shown in their invoice dated May 13, 2025. The balance remains outstanding due to the accumulation of storage and interest charges.**

Storage and Interest Charges:

The CXT building has been stored at their facility for 20 months due to project delays caused by the failure to provide approved plans in a timely manner. These delays were beyond VNH Builders' control and resulted from:

- Initial project commencement without properly approved drawings**
- Extended plan review and approval processes**
- Administrative delays in permit approvals**

CXT is now demanding \$114,976.87 in total charges, which includes:

- Storage fees: \$9,646.15**
- Interest charges: \$38,975.40**
- Outstanding balance on the building**

VNH Builders' Position:

VNH Builders cannot and will not accept financial responsibility for storage and interest

charges resulting from 20 months of project delays caused by factors outside our control. The negligent provision of a project without approved plans has created this untenable situation.

Notice of Work Stoppage:

Given the District's refusal to address these legitimate costs and the mischaracterization of previous payments, VNH Builders hereby provides notice that:

1. All work on East Bay Regional Park projects will cease immediately, effective upon receipt of this letter.
2. VNH Builders will withdraw as the permit holder for all encroachment permits and other permits pulled under our company name for this project.
3. No further work will proceed until there is a satisfactory resolution of:
 - The outstanding CXT charges totaling \$114,976.87
 - Clear acknowledgment that no storage fees have been paid by EBRPD
 - Agreement on responsibility for costs incurred due to project delays

Future Costs and Liability:

Should EBRPD wish to resume this project, please be advised that all costs associated with remobilization, including but not limited to equipment, labor, materials, and administrative expenses, will be the sole responsibility of East Bay Regional Park District. These additional costs are a direct result of EBRPD's misconduct and failure to understand the complexities and requirements of this project from inception to present.

The District's mismanagement has created cascading financial impacts that VNH Builders will not absorb. Any future engagement will require:

- Full payment of all outstanding amounts
- Advance payment for remobilization costs
- Revised contract terms reflecting the actual project conditions
- Clear delineation of responsibility for permit and approval delays

This decision is not taken lightly, but the financial burden being unfairly placed on VNH Builders leaves us no alternative. We remain willing to discuss a reasonable resolution that acknowledges the actual payment history and fairly allocates costs based on the causes of the delays.

Please contact us immediately if you wish to discuss a path forward that addresses these critical issues.

Sincerely,

Bruno Vieira Principal VNH Builders November 4, 2025

Re: CXT, Inc. - Demand for Payment

From branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Date Fri 6/27/2025 1:47 PM

To bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; Gregory Reaume <gwr@gwr-law.com>; Rolando Bayot <rbayot@vbsbuilders.com>

Cc Francis Sandico <fsandico@vbsbuilders.com>

Greg, I have to agree with Bruno on this one as neither the owner nor VNH have received anything over the course of a year (until now) that describes the impacts that CXT is now claiming. I get where we are with their contract and the definition of delivery, but we need them to submit to us a change order request with the proper back-up so they can be fully reimbursed by the owner, not half. I have requested this numerous times even after they discussed their stance on this topic and crickets. This negotiation tactic is weak in my opinion. I say we go straight to Bragg crane and pay them directly to install the building "that was delivered" onsite then use that as leverage in this discussion. I also want to discuss re-writing their contract as part of this conversation and negotiation, as well.

Note: As a lessons learned this is why we make trade partners sign our contract agreements and not the other way around.

I've put language like this in our contracts that avoids these situations in the future

This Purchase Order Agreement shall be utilized in conjunction with the Executed Owner Contract. Where a conflict may occur between these documents the more stringent shall apply. Seller shall require each sub-contractor and or any tiered vendors under their control to be bound by these terms and conditions.

ACCEPTANCE AND MODIFICATION: EACH BUYER PURCHASE ORDER AGREEMENT, INCLUDES THESE TERMS AND CONDITIONS, WHETHER OR NOT THESE TERMS AND CONDITIONS ACCOMPANY THE PURCHASE ORDER AGREEMENT (COLLECTIVELY THE "PURCHASE ORDER AGREEMENT") AND EACH BUYER PURCHASE ORDER AGREEMENT IS BUYER'S OFFER TO SELLER, AND ACCEPTANCE BY SELLER IS LIMITED TO THIS PURCHASE ORDER AGREEMENT, INCLUDING THESE TERMS AND CONDITIONS, WITHOUT ADDITION, DELETION OR OTHER MODIFICATION. Delivery of any goods by Seller shall be conclusive evidence of such acceptance by Seller. No modification of a Purchase Order Agreement (including any addition, deletion, or other modification proposed in Seller's acceptance) shall be binding on Buyer unless Buyer's written consent is first obtained. BUYER OBJECTS TO ANY DIFFERENT OR ADDITIONAL TERMS IN SELLER'S ACCEPTANCE OR ANY OTHER DOCUMENT TRANSMITTED BY OR ON BEHALF OF SELLER. Buyer's objection to different or additional terms shall not be waived by acceptance of any deliveries or by payment of any invoice.

3. DELAYS AND DEFAULT. TIME IS OF THE ESSENCE IN DELIVERY OF THE GOODS BY SELLER. If Seller does not ship the goods as ordered on or before the shipping date shown on the Purchase Order Agreement or in **Attachment E**, or if Seller shall default in any respect or become insolvent or if a petition in bankruptcy or insolvency is filed by or against Seller under any state, federal or foreign law, then in addition to any other remedies provided herein or otherwise available at law or in equity, Buyer may terminate the Purchase Order Agreement or the undelivered part thereof and may purchase substitute items or services and hold Seller liable for any and all excess costs incurred. In the event Seller is unable to deliver any part or all of the goods, Seller agrees to notify the Buyer immediately. Such notice will not limit the rights and remedies available to Buyer or the liability of Seller for nonperformance. The rights and remedies provided herein are in addition to any other rights and remedies given by law, including without limitation, the right to

procedures to include goods that are defective or otherwise subject to return as set forth above, the entire shipment or portion may be rejected and returned to Seller at Seller's risk and expense. Seller shall be responsible for all handling costs incurred. If any of the goods do not perform per specifications, Seller shall make all necessary corrections at Seller's cost and in a timely manner to meet the specification requirements. At the option of Buyer in its sole discretion, any rejected or returned goods or shipment shall be subject to refund, repair by Buyer or Seller, or replacement by Seller, at Seller's risk and expense. Payments for goods prior to inspection shall not constitute acceptance and Buyer reserves the right to hold for Seller or return to Seller, at Seller's expense, any rejected goods.

6. RISK OF LOSS. Notwithstanding any agreement by Buyer to pay freight, express or other transportation charges, delivery is not complete until the goods have been received and accepted by Buyer, and the risk of loss or damage in transit shall be upon the Seller.

13. INDEMNITY. Seller shall indemnify, defend and hold harmless Buyer from any and all claims, suits, liabilities, expense, loss, cost or damage (including but not limited to court costs and attorneys' and expert fees) asserted against or incurred by Buyer by reason of or arising out of or occurring in connection with: (a) any breach or alleged breach of any Purchase Order Agreement or these terms and conditions by Seller; (b) any representations or warranties of Seller made herein; (c) any act or omission of Seller, or any agent or subcontractor of Seller, in the furnishing of goods or in the performance of work under any Purchase Order Agreement, including but not limited to worker's compensation or worker wages, discrimination or other employee related matters; (d) the possession or use of any of the goods by customers of Buyer or others; (e) the transportation or shipping of any goods covered under any purchase order authorized by or in Seller's control; or (f) any warranties related to quality standards, manufacture of or defects in the products covered by the Purchase Order Agreement. For the purposes of this provision, "Seller" shall be deemed to include Seller, its representatives, agents, Buyer-authorized subcontractors, and employees. All indemnity and defense obligations hereunder shall survive termination or cancellation of any Purchase Order Agreement. Seller agrees to maintain insurance in full force and effect to fulfill Seller's indemnification obligations hereunder, and shall name Buyer as an additional insured on such

16. ATTORNEYS' FEES. In any dispute under any Purchase Order Agreement or these terms and conditions, whether or not litigation is commenced, the prevailing party shall be entitled to its costs and expenses incurred, including reasonable attorneys' fees.

17. NO CONSEQUENTIAL DAMAGES. IN NO EVENT, SHALL BUYER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATING TO THIS PURCHASE ORDER AGREEMENT, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (415) 791-4096

From: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>
Sent: Thursday, June 26, 2025 6:58 PM
To: Gregory Reaume <gwr@gwr-law.com>; Rolando Bayot <rbayot@vbsbuilders.com>
Cc: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Francis Sandico <fsandico@vbsbuilders.com>
Subject: Re: CXT, Inc. - Demand for Payment

Greg,

Thanks for the update. Regarding the CXT settlement demand of \$106,462.88, we need to address a fundamental issue that has contributed to this situation: Number one is CXT never brought to our attention their change orders and we request that multiple times, in order for us to charge EBRP. Second its East Bay Regional Park (The owner) payment processing delays.

The underlying costs in question were split equally between East Bay Regional Park and our organization, with each party responsible for 50% of these expenses. However, East Bay Regional Park prolonged payment processing timeline has been a significant contributing factor to the escalation of this matter, including the accrual of interest and additional fees that form the basis of their current demand.

This shared cost responsibility and the delays in their payment process raise important questions about the appropriateness.

Given this context, we believe a comprehensive review of the cost allocation, payment history, and contributing factors is necessary before making any decisions regarding the July 11 settlement deadline or

potential litigation response.

This definitely needs the owner's attention.



Bruno Vieira | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (415) 670-0661

From: Gregory Reaume <gwr@gwr-law.com>
Sent: Thursday, June 26, 2025 6:27 PM
To: Rolando Bayot <rbayot@vbsbuilders.com>
Cc: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Melo Vieira <bruno.vieira@vnhbuilders.com>; Francis Sandico <fsandico@vbsbuilders.com>
Subject: Re: CXT, Inc. - Demand for Payment

All,

Following up on CXT, They will not agree to any payment plan. Basically their final terms are to waive half of the accrued interest in exchange for payment of the balance (i.e., \$95,489.17), plus the current storage fee of \$10,793.71.

That brings the total settlement payment to \$106,462.88. They are saying that if they don't have an agreement for that amount by July 11, they will file a lawsuit.

That said, if they are set on pursuing litigation then they will still have to prove up those costs through the court process.

This one and the Sosco debts are very difficult to defend, so we need to start thinking about the end game and bigger picture for them. Are you all free for a call next week, perhaps Wednesday or Thursday?

Best regards,

Gregory Reaume, Esq, MS

P: 213.926.1516

E: gwr@gwr-law.com

Confidentiality Note: This e-mail and any attachment to it contains confidential information intended only for the use of the individual(s) or entity named in the e-mail. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, reading it is strictly prohibited. If you have received this e-mail in error please immediately return it to the sender and delete it from your system. Thank you.

On Tue, Jun 24, 2025 at 9:32 PM Gregory Reaume <gwr@gwr-law.com> wrote:

Hi Rolando,

Sorry for the delay here - I can certainly try that. I will contact opposing counsel and let you know what they say.

Best regards,

Gregory Reaume, Esq, MS

P: 213.926.1516

E: gwr@gwr-law.com

Confidentiality Note: This e-mail and any attachment to it contains confidential information intended only for the use of the individual(s) or entity named in the e-mail. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, reading it is strictly prohibited. If you have received this e-mail in error please immediately return it to the sender and delete it from your system. Thank you.

On Fri, Jun 20, 2025 at 9:54 AM Rolando Bayot <rbayot@vbsbuilders.com> wrote:

Morning Greg. Wanted to follow-up on my email sent to you. Let me know your thoughts

Regards
Rolando

Rolando Bayot
Business Development
rbayot@vbsbuilders.com

From: rbayot@vbsbuilders.com <rbayot@vbsbuilders.com>
Sent: Thursday, June 19, 2025 9:42 AM
To: Gregory Reaume <gwr@gwr-law.com>;
branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Cc: Bruno Melo Vieira <bruno.vieira@vnhbuilders.com>; Francis Sandico <fsandico@vbsbuilders.com>
Subject: Re: CXT, Inc. - Demand for Payment

Thanks for the update Greg. Give us till end of day tomorrow to walk through our projections and figure out what we can juggle around to meet this obligation. Just to throw it out there, can you negotiate 15K within 30 and the remaining balance the following month. Again we'll confirm our ability to pay in full within the next thirty, but just want to see if we can negotiate that at the very least to give us a little wiggle room.

Thanks
Rolando

From: Gregory Reaume <gwr@gwr-law.com>
Sent: Thursday, June 19, 2025 8:54 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Cc: Bruno Melo Vieira <bruno.vieira@vnhbuilders.com>; Francis Sandico <fsandico@vbsbuilders.com>; Rolando Bayot <rbayot@vbsbuilders.com>
Subject: Re: CXT, Inc. - Demand for Payment

Following up on CXT, their attorney has emailed me twice about paying. I am trying to stall with him but I need to know whether VNH will have \$20-30k in 30 days to pay them.

Gregory Reaume, Esq, MS

P: 213.926.1516

E: gwr@gwr-law.com

Confidentiality Note: This e-mail and any attachment to it contains confidential information intended only for the use of the individual(s) or entity named in the e-mail. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, reading it is strictly prohibited. If you have received this e-mail in error please immediately return it to the sender and delete it from your system. Thank you.

On Thu, Jun 5, 2025 at 4:47 PM Gregory Reaume <gwr@gwr-law.com> wrote:

Just to dumb it down - VNH will have about \$20-30k in 30 days that it can use to pay CXT?

Gregory Reaume, Esq, MS

P: 213.926.1516

E: gwr@gwr-law.com

Confidentiality Note: This e-mail and any attachment to it contains confidential information intended only for the use of the individual(s) or entity named in the e-mail. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, reading it is strictly prohibited. If you have received this e-mail in error please immediately return it to the sender and delete it from your system. Thank you.

On Thu, Jun 5, 2025 at 4:21 PM

branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com> wrote:

Well base scope we owe them approximately \$60k. And in change orders which they need to run through proper chains ~\$32k.

I propose that we pay/do the following

Signa re-negotiated contract that affectively removes FOB from the contract language.

Upon inspection of building in good condition: \$20k payment

Once delivered \$40k

After properly submitting change orders to owner pay them out retention and feed for delays ~\$32k

That being said I'm about NET30 from receiving about \$20-30k from this project on ork completed.

Cordially,



Branum Spliethof | VNH Builders

842 Mahler Road License #1064244

Burlingame, CA 94010

Cell: (415) 791-4096

From: Gregory Reaume <gwr@gwr-law.com>

Sent: Thursday, June 5, 2025 4:09 PM

To: Branum Spliethof <branum.spliethof@vnhbuilders.com>; Bruno Melo Vieira <bruno.vieira@vnhbuilders.com>; Francis Sandico <fsandico@vbsbuilders.com>; Rolando Bayot <rbayot@vbsbuilders.com>

Subject: Re: CXT, Inc. - Demand for Payment

Team,

Following up on the Crown Beach / CXT issue. I had a call with CXT's attorney today and he seems reasonable.

In summary - per their contract they can make a strong argument that they are owed money because payment is due FOB origin, meaning when the unit left their factory (as opposed to when delivered). I told him that either they could try to sue for it and have no chance of seeing any money for two years, or they could work with us and get paid relatively soon. He agreed but stated that they needed to have a certain date for payment.

That said, we need to identify a date that we can pay them. Branum, assuming the building goes in mid-July, when would we get funds from the next payment application to pay them? It doesn't sound like they will agree to wait until the City negotiates a Change Order for delay, they are looking for a specific date.

Best regards,

Gregory Reaume, Esq, MS

P: 213.926.1516

E: gwr@gwr-law.com

Confidentiality Note: This e-mail and any attachment to it contains confidential information intended only for the use of the individual(s) or entity named in the e-mail. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, reading it is strictly prohibited. If you have received this e-mail in error please immediately return it to the sender and delete it from your system. Thank you.

On Mon, Jun 2, 2025 at 5:06 PM Gregory Reaume <gwr@gwr-law.com> wrote:

A follow up to this - Laurence reached out to me directly for a call. I am out tomorrow but I will try to connect with him on Thursday.

Gregory Reaume, Esq, MS

P: 213.926.1516

E: gwr@gwr-law.com

Confidentiality Note: This e-mail and any attachment to it contains confidential information intended only for the use of the individual(s) or entity named in the e-mail. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, reading it is strictly prohibited. If you have received this e-mail in error please immediately return it to the sender and delete it from your system. Thank you.

----- Forwarded message -----

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Date: Fri, May 30, 2025 at 12:43 PM

Subject: Re: CXT, Inc. - Demand for Payment

To: Phillips, Laurence R. <Laurence.Phillips@procopio.com> ,

bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com> , Gregory Reaume <gwr@gwr-law.com>

Cc: Alex DelVecchio <ADelVecchio@lbfoster.com>

Hi Laurence,

I just left you a voicemail regarding this matter. Given the complexity of this situation and the fact that this project is ramping back up, we need to schedule a video meeting with all stakeholders to discuss and resolve these issues as quickly as possible. Please give me a call back so we can coordinate a meeting time that works for everyone currently on this email thread.

Primary Issue - Owner-Driven Delay Costs:

As previously discussed, we need CXT to formally submit all extra costs associated with these owner-driven delays so VNH can submit them to EBRPD for review and approval. This includes:

1. **Storage costs from Bragg Crane:** We need backup documentation from Bragg Crane showing the actual storage fees incurred, followed by CXT's formal submission of these costs.
2. **CXT's internal interest charges:** Rather than waiving half the interest as offered, CXT should submit the full amount of their monthly interest charges as part of the change order request to the owner.

These are not costs that VNH intends to bear, as they result from owner-driven delays beyond our control. CXT deserves to be compensated for these legitimate delay costs, and the proper channel for this compensation is through the owner via change order requests.

Delivery Concerns:

We also have our own concerns regarding the building never being officially delivered to the project jobsite. The building remains at Bragg's yard to this day, which represents a fundamental delivery issue that needs to be addressed alongside the payment discussions.

Path Forward - Contract Restructuring:

Once we reach an agreement on the current issues, I propose writing a new contract for CXT's delivery of the building that better aligns with the owner's primary contract requirements. This restructured agreement would clearly address:

- Pay application processes
- Subcontractor billing procedures
- Insurance requirements
- Change order request protocols
- Subcontractor approved change order processes
- Clear definition of delivery requirements from a project perspective

This approach will help CXT better understand our primary contract obligations with the owner and ensure smoother project execution going forward.

Let's schedule this meeting as soon as possible so we can resolve these matters and move the project forward successfully.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (415) 791-4096

From: Phillips, Laurence R. <Laurence.Phillips@procopio.com>
Sent: Friday, May 30, 2025 10:10 AM
To: 'branum.spliethof@vnhbuilders.com' <branum.spliethof@vnhbuilders.com>;
bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; Gregory Reaume <gwr@gwr-law.com>
Cc: 'Alex DelVecchio' <ADelVecchio@lbfoster.com>
Subject: RE: CXT, Inc. - Demand for Payment

Hello Branum: Thank you for your email. Attached is the most current invoice from CXT. I've also attached an Invoice Recap relating to the storage fees.

CXT is willing to waive half of the accrued interest if payment of the balance (i.e., \$95,489.17) is received on or before June 15, 2025.

Payment of the balance must be made before CXT will perform further work on the project.

Please confirm your agreement to the foregoing.

Sincerely,

LAURENCE R. PHILLIPS

PARTNER

P. 858.720.6328 | F. 619.398.0127 | laurence.phillips@procopio.com

12544 HIGH BLUFF DRIVE, SUITE 400, SAN DIEGO, CA 92130

procopio.com/attorneys/view/laurence-r-phillips | [View Profile](#) | [LinkedIn](#) | procopio.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Tuesday, May 13, 2025 5:04 PM

To: Phillips, Laurence R. <Laurence.Phillips@procopio.com>; bruno.vieira@vnhbuilders.com; Gregory Reaume <gwr@gwr-law.com>

Cc: 'Alex DelVecchio' <ADelVecchio@lbfoster.com>

Subject: Re: CXT, Inc. - Demand for Payment

* EXTERNAL EMAIL - Please use Caution. *

Hi Laurence,

Thanks for your email. Wanted to ask if you are aware of the arrangements that we tried to make with CXT previous to your email correspondence? Moreover, when responding can you please keep my legal team and our principal on the conversation their information is as follows:

Principal: Bruno - @bruno.vieira@vnhbuilders.com

Legal Team: Greg - @Gregory.Reaume

If you are unaware of the previous conversation, please find attached email thread discussion with Brian Hall laying out VNHs' stance for project delivery and payment. VNH also stepped into a meeting with CXT to discuss plausible outcomes but our conversations with Brian did not reach an agreement. Along the way VNH has requested from CXT change order requests to be able to submit to the owner for review but CXT never produced impacts, nor have they delivered the building. Overall, there seems to be a disagreement on the definition of "delivery". VNH has acknowledged these are not typical project circumstances and owner driven delays beyond our control. We've tried to alleviate any concerns with payment but have yet to resolve them with your project team.

Here is our initial stance and we still stand firmly on this as we believe this is a fair path forward given all the circumstantial evidence and project constraints.

VNH has already remitted \$51,355.34 toward this project to CXT. After reviewing the latest invoice and our contractual obligations, I'd like to propose the following resolution:

1. *Interest Charges:*

1. *We request that the interest charges (\$36,314.16) be removed from the current invoice. These charges were never previously communicated during our numerous exchanges about*

project status and delays and represent an unexpected cost that wasn't factored into our project planning.

2. *Storage Fees and Other Costs: We understand the necessity of storage fees but need comprehensive documentation including:*

1. *Clearly itemized monthly rate for ongoing storage*
2. *Detailed breakdown of all incurred costs with supporting receipts and documentation*
3. *Separate breakdowns for materials, labor, and subcontractor costs*
4. *Any other expenses with proper substantiation*
5. *This thorough documentation will allow us to:*
 1. *Submit proper documentation to EBRPD for all accumulated charges to date*
 2. *Establish transparent costs for the period until project resumption*
 3. *Include these properly itemized costs in our change order request to the owner*
 4. *Evaluate the change order properly with complete visibility into all charges*

3. *Payment Schedule:*

1. *Upon inspection and acceptance of the building at Bragg's yard, VNH will process payment for the remaining sales tax and freight charges, plus half of the outstanding building balance as follows:*
 1. *Half of DN-393: $\$92,741.00 \div 2 = \$46,370.50$*
 1. *Total for half building + freight + tax = $\$46,370.50 + \$15,000.00 + \$9,969.66 = \$71,340.16$*
 1. *Amount already paid: $\$51,355.34$*
 1. *Amount due after inspection: $\$71,340.16 - \$51,355.34 = \mathbf{\$19,984.82}$*
2. *The final building balance of **\\$46,370.50** will be processed on the day the building is delivered to the project site.*
3. *Storage and remobilization fees will be paid after EBRPD executes the change order including these costs*

As a reminder, our contractual relationship is between VNH and CXT and does not involve EBRPD. While we're working diligently with the owner to secure approvals and funding for these additional costs, we need your partnership in providing clear documentation that helps us substantiate these charges to EBRPD.

I believe this approach represents a fair middle ground that acknowledges:

- *CXTs need for payment*
- *VNH need for completed delivery before final payment*
- *The unusual circumstances of this extended owner driven delay*
- *Using the proper chains to submit extra cost to the owner*
- *Our shared goal of completing this project successfully*

Please provide the requested monthly storage rate information at your earliest convenience so we can incorporate it into our owner change order request. I'm available to discuss this proposal and would welcome a call to align on next steps.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (415) 791-4096

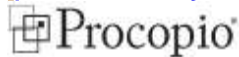
From: Phillips, Laurence R.
Sent: Tuesday, May 13, 2025 15:08
To: 'branum.spliethof@vnhbuilders.com'
Cc: 'Alex DelVecchio'
Subject: CXT, Inc. - Demand for Payment

Mr. Spliethof: Attached is a letter dated May 13, 2025, relating to VNH's delinquent payment to CXT, Inc.

Please contact or CXT, Inc. directly or me to make arrangements for payment.

LAURENCE R. PHILLIPS
PARTNER

—
P. 858.720.6328 | F. 619.398.0127 | laurence.phillips@procopio.com
12544 HIGH BLUFF DRIVE, SUITE 400, SAN DIEGO, CA 92130
[pio.com/attorneys/view/laurence-r-phillips](https://procopio.com/attorneys/view/laurence-r-phillips) [View Profile](#) | [LinkedIn](#) | procopio.com



Tue May 13 2025 15:08:09

This is an email from Procopio, Cory, Hargreaves & Savitch LLP, Attorneys at Law. This email and any attachments hereto may contain information that is confidential and/or protected by the attorney-client privilege and attorney work product doctrine. This email is not intended for transmission to, or receipt by, any unauthorized persons. Inadvertent disclosure of the contents of this email or its attachments to unintended recipients is not intended to and does not constitute a waiver of attorney-client privilege or attorney work product protections. If you have received this email in error, immediately notify the sender of the erroneous receipt and destroy this email, any attachments, and all copies of same, either electronic or printed. Any disclosure, copying, distribution, or use of the contents or information received in error is strictly prohibited.

Fri May 30 2025 10:10:10

This is an email from Procopio, Cory, Hargreaves & Savitch LLP, Attorneys at Law. This email and any attachments hereto may contain information that is confidential and/or protected by the attorney-client privilege and attorney work product doctrine. This email is not intended for transmission to, or receipt by, any unauthorized persons. Inadvertent disclosure of the contents of this email or its attachments to unintended recipients is not intended to and does not constitute a waiver of attorney-client privilege or attorney work product protections. If you have received this email in error, immediately notify the sender of the erroneous receipt and destroy this email, any attachments, and all copies of same, either electronic or printed. Any disclosure, copying, distribution, or use of the contents or information received in error is strictly prohibited.

PAYMENT REQUEST 9

East Bay Regional Park District

Park: Crown Beach
Area: Grand Street
Project: Construct Restrooms

Contract No.: 066M-22-409
Purchase Order No.: P222012
Work Date Range : 9/1/2024

The Contractor,

VNH Builders has completed work in

accordance with the contract and is entitled to payment in the amount of:

\$ 108,310.73

CONTRACTOR FILLS IN YELLOW HIGHLIGHTED FIELDS ONLY								
	Description of Work	Prior Request		This Request		To Date		
		\$	%	\$	%	\$	%	
1	Original Contract Amount	\$ 268,000.00	100.00	\$ 268,000.00		\$ -	100	\$ 268,000.00
2	Mobilization	\$ 8,000.00	0.00	\$ -	100	\$ 8,000.00	100	\$ 8,000.00
3	Submittals	\$ 12,000.00	0.00	\$ -	75	\$ 9,000.00	75	\$ 9,000.00
4	Supervision	\$ 43,900.00	0.00	\$ -	25	\$ 10,975.00	25	\$ 10,975.00
5	Bond & Insurance	\$ 20,807.00	0.00	\$ -	100	\$ 20,807.00	100	\$ 20,807.00
6	OH & Profit	\$ 59,714.00	0.00	\$ -	25	\$ 14,928.50	25	\$ 14,928.50
7	Rough Carpentry	\$ 16,456.00	0.00	\$ -		\$ -	0	\$ -
8	Grading	\$ 45,612.00	0.00	\$ -		\$ -	0	\$ -
9	Rebar, Forming and Concrete	\$ 164,000.00	0.00	\$ -		\$ -	0	\$ -
10	Denali Building	\$ 62,876.00	0.00	\$ -	80	\$ 50,300.80	80	\$ 50,300.80
11	Plumbing Rough In	\$ 6,639.00	0.00	\$ -		\$ -	0	\$ -
12	Plumbing Finish Work	\$ 4,800.00	0.00	\$ -		\$ -	0	\$ -
13	Stainless Steel Hand Rail and Guardrail	\$ 42,542.00	0.00	\$ -		\$ -	0	\$ -
14		\$ -	0.00	\$ -		\$ -	0	\$ -
15		\$ -	0.00	\$ -		\$ -	0	\$ -
16		\$ -	0.00	\$ -		\$ -	0	\$ -
17		\$ -	0.00	\$ -		\$ -	0	\$ -
18		\$ -	0.00	\$ -		\$ -	0	\$ -
19		\$ -	0.00	\$ -		\$ -	0	\$ -
20		\$ -	0.00	\$ -		\$ -	0	\$ -
21		\$ -	0.00	\$ -		\$ -	0	\$ -
	SUBTOTAL	\$ 755,346.00		\$ 268,000.00		\$ 114,011.30		\$ 382,011.30
	Fully executed Change Order 1:	\$ 4,011.05	100.00	\$ 4,011.05		\$ -	100	\$ 4,011.05
	Fully executed Change Order 2:	\$ 14,931.00	100.00	\$ 14,931.00		\$ -	100	\$ 14,931.00
	Fully executed Change Order 3:	\$ 2,852.00	100.00	\$ 2,852.00		\$ -	100	\$ 2,852.00
	Fully executed Change Order 4:	\$ 18,405.95	100.00	\$ 18,405.95		\$ -	100	\$ 18,405.95
	Fully executed Change Order 5:	\$ (16,077.50)	100.00	\$ (16,077.50)		\$ -	100	\$ (16,077.50)
	Fully executed Change Order 6:	\$ 16,077.50	100.00	\$ 16,077.50		\$ -	100	\$ 16,077.50
	Fully executed Change Order 7: (Items 2-13 above)			\$ -		\$ -	0	\$ -
	TOTAL	\$ 795,546.00		\$ 308,200.00		\$ 114,011.30		\$ 422,211.30

Work completed to date: \$ 422,211.30
Total 5% Retention: \$ 21,110.58
 Total earned less retention: \$ 401,100.72
 Prior Payments: \$ 292,789.99

Payment requested this date: **\$ 108,310.73**

RETENTION THIS REQUEST \$ 5,700.57

NOTE: The Contractor hereby certifies that current payroll records are accurate and have been submitted and that the required AS BUILTS documents and construction schedule are also current and complete.

Bruno Vieira
Bruno Vieira (Sep 18, 2024 09:46 PDT)
 Contractor Signature

 District Representative Signature

 Print Name
 Date: Sep 18, 2024

Nate Luna
 Print Name
 Date: _____

APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702

TO OWNER: East Bay Regional Parks P.O. Box 5381 Oakland, CA 94605 Tel: (510) 544-2563 ATTN. : Nate Luna	PROJECT: Crown Beach Grand Street Construction Restrooms 1701 Shoreline Drive Alameda, CA 94501	APPLICATION NO : 009 APPLICATION DATE : 09-06-24 PERIOD TO : 09-01-24 DIR PROJECT NUMBER : 438659	Distribution to: <input checked="" type="checkbox"/> East Bay Parks <input checked="" type="checkbox"/> VNH Builders <input checked="" type="checkbox"/> Inspector of Record <input type="checkbox"/>
--	---	--	---

FROM CONTRACTOR: VNH Builders 842 Mahler Road Burlingame, Ca 94010 Tel: 415-670-0661	CONTRACT DATE : 08-10-22 CONTRACT NO.: 066M-22-409
---	---

FOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
A. Change Orders Approved in Previous Months by Owner.	\$56,275.95	(\$16,077.50)
B. Approved this Month		
1)	\$487,346.00	
2)		
3)		
4)		
5)		
TOTALS	\$543,621.95	(\$16,077.50)
NET CHANGES by Change Order	\$527,544.45	

1. ORIGINAL CONTRACT SUM.....	\$ 268,000.00
2. NET CHANGE BY AMENDMENT.....	\$ -
3. NET CHANGE BY CHANGE ORDERS.....	\$ 527,544.45
4. CONTRACT SUM TO DATE (Line 1 + 2 + 3).....	\$ 795,544.45
5. TOTAL COMPLETED & STORED TO DATE.....	\$ 422,209.75
(Column G on G703)	
6. RETAINAGE	
a. 5.00 % of Completed Work.....	\$ 21,110.49
(Column J on G703)	
b. N/A % of Stored Materials (included in Item 6.a).....	\$ -
(Columns F, not shown on G703)	
Total Retainage (Line 6.a + 6.b) or Grand Total in Column J on G703).....	\$ 21,110.49
7. TOTAL EARNED LESS RETAINAGE.....	\$ 401,099.26
(Line 5 less Line 6 Total)	
8. LESS PREVIOUS CERTIFICATES FOR PAYMENT.....	\$ 308,198.45
(Line 7 from prior Certificate)	
9. CURRENT PAYMENT DUE.....	\$ 114,011.30
10. BALANCE TO FINISH, INCLUDING RETAINAGE.....	\$ 394,445.19
(Line 4 less Line 7)	

Notes:

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payments were issued and payments received from the Owner, and that current payment shown herein is now due.

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Owner certifies that to the best of the Owner's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the amount certified. This certificate is non-negotiable and is payable only to the Contractor.

CONTRACTOR: VNH Builders By:  Date: 9/6/2024 Branum Spliethof	OWNER, Reviewed: East Bay Regional Parks By: _____ Date: _____ Nate Luna
--	--

Signature: 
 Email: Nluna@ebparks.org












Pay Request_VNH Builders_066M-22-409

Final Audit Report

2024-09-18

Created:	2024-09-11
By:	Nate Luna (Nluna@ebparks.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAoEkPWscEciqYt-aww-w0zz7W-mpR20Fh

"Pay Request_VNH Builders_066M-22-409" History

-  Document created by Nate Luna (Nluna@ebparks.org)
2024-09-11 - 9:04:13 PM GMT- IP address: 204.58.180.206
-  Document emailed to branum.spliethof@vnhbuilders.com for signature
2024-09-11 - 9:05:08 PM GMT
-  Nate Luna (Nluna@ebparks.org) replaced signer branum.spliethof@vnhbuilders.com with bruno.vieira@vnhbuilders.com
2024-09-18 - 4:43:54 PM GMT- IP address: 204.58.180.206
-  Document emailed to bruno.vieira@vnhbuilders.com for signature
2024-09-18 - 4:43:54 PM GMT
-  Email viewed by bruno.vieira@vnhbuilders.com
2024-09-18 - 4:45:31 PM GMT- IP address: 24.5.170.219
-  Signer bruno.vieira@vnhbuilders.com entered name at signing as Bruno Vieira
2024-09-18 - 4:45:58 PM GMT- IP address: 24.5.170.219
-  Document e-signed by Bruno Vieira (bruno.vieira@vnhbuilders.com)
Signature Date: 2024-09-18 - 4:46:00 PM GMT - Time Source: server- IP address: 24.5.170.219
-  Document emailed to Nate Luna (Nluna@ebparks.org) for signature
2024-09-18 - 4:46:01 PM GMT
-  Email viewed by Nate Luna (Nluna@ebparks.org)
2024-09-18 - 4:47:18 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Nate Luna (Nluna@ebparks.org)
Signature Date: 2024-09-18 - 4:47:38 PM GMT - Time Source: server- IP address: 204.58.180.206
-  Agreement completed.
2024-09-18 - 4:47:38 PM GMT



, Inc. an L.B. Foster Company

Phone: 412-928-3400
Fax: 412-928-7891

Invoice

DATE: 5/13/2025
SALES ORDER: 429918
INVOICE #: 1400009534 B

Important:
Reference invoice # when remitting

SOLD TO:
VNH BUILDERS
842 MAHLER ROAD
BURLINGAME, CA 94010

SHIP TO:
VNH BUILDERS
ALAMEDA, CA

REMIT TO:
CXT INCORPORATED
P.O. BOX 676208
DALLAS, TX 75267-6208

CUSTOMER P.O.: CROWN BEACH

TERMS OF PAYMENT: UPON RECEIPT

FEDERAL ID #: 91-1498605

LINE NO.	DESCRIPTION	UM	QUANTITY	PRICE	EXTENDED PRICE
10	DN-393	EA	1	92,741.00	\$ 92,741.00
20	FREIGHT	EA	1	15,000.00	\$ 15,000.00
30	SALES TAX	EA	1	9,969.66	\$ 9,969.66
40	INTEREST	EA	1	38,975.40	\$ 38,975.40
50	STORAGE FEES	EA	1	9,646.15	\$ 9,646.15
60	PAYMENT RECEIVED 1/2/25	EA	1	(51,355.34)	\$ (51,355.34)

	MONTHS	RATE/MO	RATE/MO	INTEREST CHARGE
\$107,741.00	20	1.5%	1616.12	32,322.30
\$88,707.96	5	1.5%	1330.62	6,653.10
				38,975.40

If you have any questions in regards to the invoice, please contact:

Scott Wilhelm
CXT Incorporated
6701 E. Flamingo Ave., Building 300
Nampa, ID 83687
509-202-3960
swilhelm@lbfooster.com

ORDER TOTAL \$ 114,976.87
TAX \$ -
INVOICE TOTAL \$ 114,976.87



2950 PERALTA OAKS COURT • OAKLAND • CALIFORNIA • 94605-0381 • T: 1-888-EBPARKS • F: 510-569-4319 • TRS RELAY: 711 • EBPARKS.ORG

November 21, 2025

Via E-Mail, U.S. Mail (Certified) and Overnight Delivery

Bruno Vieira
Principal
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnhbuilders.com

**Re: Crown Beach Grant Street Restroom Project
Contract No. 066M-22-409
Current Accounting; and Notice of Intent to Terminate, and Demand for Cure**

Dear Mr. Vierira:

This letter constitutes the East Bay Regional Park District’s (“District”) current accounting of the above-captioned contract (“Contract”) with VNH Builders (“VNH”). As detailed below, the District does not owe any payment based on Payment Application 13.

This letter also constitutes the District’s Notice of Intent to Terminate and Demand for Cure for the Contract. As detailed below, VNH must cure, or a reasonable commence a cure, of its breaches of the Contract (“Work”) **by December 2, 2025**, otherwise the District will terminate VNH’s Work and tender completion to its surety.

Alternatively, the District also proposes a resolution to the present dispute that VNH may accept **by December 1, 2025**. If VNH does not timely accept it, then VNH must cure, or reasonably commence to cure, its breaches of the Contract by December 2, 2025, or the District will terminate the Contract.

CURRENT ACCOUNTING

In response to VNH’s recent correspondence and Payment Application 13, it seems that there is some confusion on VNH’s part about the contract price and the payment status.

As detailed below, the contract price includes storage fees through July 2024, VNH requested payment on the line item that included those storage fees, and the District made such payment. To the extent that additional storage fees are owed, the District is willing to further increase the contract price by that amount if VNH submits a proper change order request.

Board of Directors

John Mercurio Ward 6 President	Olivia Sanwong Ward 5 Vice President	Colin Coffey Ward 7 Treasurer	Dennis Waespi Ward 3 Secretary	Elizabeth Echols Ward 1	Luana España Ward 4	Lynda Deschambault Ward 2	Sabrina B. Landreth General Manager
--------------------------------------	--	-------------------------------------	--------------------------------------	----------------------------	------------------------	------------------------------	--

First, as a prerequisite for any monthly progress payment, VNH has an obligation to submit an updated progress schedule; and if not submitted, the District may withhold payment. (General Conditions §15.)

Accordingly, the District will not make any payment on Payment Application 13 until VNH submits an updated progress schedule.

Second, Payment Application 13 requires adjustment to some of the claimed percentages of completion. The District will forward the necessary adjustments under separate cover.

Third, as shown in the following table, the current withhold items exceed the unpaid contract balance, therefore no payment is possible at this time:

Original Contract Price		\$ 268,000.00
Board-Approved Change Orders (1-10)		556,848.00
Adjusted Contract Price		824,848.00
Payments to Date		(495,941.42)
Unpaid Balance:		328,906.58
- Retention (per current version of Pay App 13)	\$ 29,088.62	
- Other Unpaid Balance	299,817.96	
Withhold Items:		(345,176.30)
- Accrued Liquidated Damages (\$500/day × 98 calendar days of delay [8/15/25 {adjusted contractual completion deadline, per Change Order 8} through 11/21/25])	49,000.00	
- Estimated Future Liquidated Damages (\$500/day × 60 calendar days of delay [11/21/25 through 1/20/26 {estimated completion date ¹ }], plus 50% contingency)	45,000.00	
- Unperformed Work, per current version of Pay App 13	243,676.30	
- Deficient concrete work that requires correction (\$5,000 rough estimate, plus 50% contingency)	7,500.00	
Amount Currently Available for Payment		0.00

If VNH reduces or eliminates any of the withhold items above, then the District will recalculate to determine whether payment is possible.

Fourth, the November 4 and 7, 2025, letters from VNH have argued that it is entitled to immediate payment for various costs, but its arguments have little or no merit:

¹ This estimated completion date assumes that VNH could complete the project in 60 calendar days if VNH diligently prosecutes the work upon receipt of this letter.

- Storage Costs Owed to CXT Through July 2024 – VNH claims that the District has not paid any storage fees being charged by CXT for the Denali restroom building. **However**, as part of Change Order No. 7, the District agreed to pay \$50,876 for the 3/20/24 “change order” from CXT. (See attached copy of Change Order No. 7, including Exhibit 1; and copy of the 3/20/24 CXT change order.) Exhibit 1 to Change Order No. 7 shows that the District agreed to pay \$50,876 for crane mobilization; this dollar amount matches the 3/20/24 CXT “change order” that includes crane mobilization; and that CXT “change order” states that the \$50,876 covered “Storage fees through July 2024.” Therefore, as shown by these documents, the Contract price has already been increased to include storage fees through July 2024. Furthermore, VNH has been paid for these amounts. VNH included Change Order No. 7 (including the storage fees through July 2024) in multiple payment application, including the pending Payment Application 13 (see Line 10). VNH listed Line 10 as 80% complete in Payment Request 9, and the District proceeded to make payment on that basis.
- Storage Costs Owed to CXT After July 2024 – The District acknowledges that VNH was not able to install the building until the City issued the permit, which occurred on April 15, 2025. Therefore, the District agrees that it must pay for an additional 8½ months of storage fees (8/1/24 through 4/15/25). CXT recently advised the District that storage fees are \$550 per month. Therefore, the District will agree to pay \$4,675 for additional storage fees if VNH submits a proposed change order (which it has never done for this cost). **However**, any storage fees after April 15, 2025, are the responsibility of VNH. After the permit was issued, VNH was no longer delayed by the lack of a permit, and VNH should have immediately recommenced construction and had the building delivered to the site. If the site was not ready for the building, then that delay would be VNH’s responsibility. If VNH was not able to obtain release of the building, then that delay would be VNH’s responsibility.
- Interest Owed to CXT – VNH claims that CXT is claiming interest of \$38,975.40, and VNH demands that the District pay this amount. **However**, VNH has not explained how these interest charges were calculated or, more importantly, why it believes that the District is responsible for these interest charges. If CXT was submitting invoices to VNH for storage or other costs, but VNH was not paying CXT, then VNH is responsible for the interest, not the District. VNH has always been responsible to pay all costs invoiced by its subcontractors and suppliers. If VNH incurred storage or other costs that it felt were the District’s responsibility, VNH should have immediately invoiced the District for such costs, but VNH did not do so. Therefore, the District cannot be blamed for VNH’s failure to pay CXT or the resulting interest charges.
- Outstanding Balance on Building – VNH claims that CXT is demanding the “outstanding balance on the building,” and VNH demands that the District pay that amount. **However**, the \$104,000 price for the building was included in the original contract price of \$268,000, the original Contract price has been listed in every payment application from the beginning of the project, and 100% of that amount has been charged to, and paid by, the District (as indicated in Payment Application 12). If VNH has not used the District’s payment of the original Contract price to pay CXT for the building, that is VNH’s fault, not the District’s. The District is not liable for this cost.
- Advance Payment for Remobilization Costs – VNH demands that it must receive advance payment for its remobilization costs. **However**, the adjusted contract price includes these costs, as demonstrated by your November 7 letter. Therefore, nothing in the Contract requires the District to pay for those costs before the work is performed. Once the costs are incurred, then VNH may submit a payment application that reflects completion of that work. Furthermore, the District is actually entitled to a change order credit related to the remobilization. As discussed above, Change Order 7 included payment based on the 3/20/24 CXT “change order” that included night crane work. However, the night crane work is no longer needed, so the District is entitled to a credit for that amount.
- Documents 2 and 3 – VNH refers to “Payment Request #9” in its November 7 letter. The District agrees that it listed an additional \$62,876 for the building, and that it requested payment based on 80% completion of that item. **However**, as discussed above, this item includes the 3/20/24 CXT “change order” that

covered storage fees through July 2024 (as also mentioned in the November 7 letter). Also, VNH has been mostly paid for this item based on VNH's payment applications.

- *Alleged False Claim by the District* – VNH states that the District's claim that it has paid for storage fees is "demonstrably false." **However**, to the contrary, the above analysis demonstrates that the District has increased the contract price to cover storage fees through July 2024, and that the District has made every payment of those costs when requested in a VNH payment application (see Payment Application 9).
- *Demand for Payment* – VNH demands payment of \$67,868.41 to cover storage fees, interest charges, and legal fees. **However**, as discussed above, the District is only responsible for \$4,675 of storage fees after July 2024. The District rejects VNH's demand for any increase in the Contract price other than \$4,675. The other costs were caused by VNH's failure to promptly pay CXT and failure to promptly pay

Based on the above, if VNH wishes to submit a proposed Change Order 11 that includes (A) \$4,675 for 8½ months of additional storage costs beyond July 2024, and (B) an appropriate credit for deletion of the night crane work, the District would approve it. Then VNH could add it to its next application for payment.

Otherwise, no Contract price increase or payment is owed by the District. The other items claimed by VNH do not have any merit based on the information provided by VNH.

VNH is welcome to prepare and submit a detailed and proper proposed change order that includes supporting documentation and explanation for any desired Contract price increase. The District will review it; and if the District approves any additional compensation, VNH could add it to its next payment application.

Fifth, VNH claims in its November 4, 2025, letter that the Contract terms must be revised to reflect the actual project conditions. However, VNH has not submitted any proposed revisions for the District's review. Until VNH does so, the District cannot respond to this demand.

NOTICE OF INTENT TO TERMINATE, AND DEMAND FOR CURE

VNH is currently in substantial breach of the Contract in many respects.

Primarily, VNH's completion of the Work is substantially late, even after taking into account time extensions:

- The original completion deadline was January 12, 2023 (60 working days after the October 13, 2022, notice to proceed).
- Change Order No. 7 extended the completion deadline to February 29, 2024, based on the work added by Change Order 7 and the permitting delays.
- Change Order No. 8 extended the completion deadline to August 15, 2025.
- However, no other time extensions are warranted. VNH was required to resume its work after issuance of the City permit that ended the permitting delay, and the Change Order No. 8 time extension provided ample time to complete the work. Now, in breach of the Contract, VNH is refusing to resume its work due to a payment dispute with a supplier (CXT).² Therefore, all delay since issuance of the permit is the responsibility of VNH and substantially breaches of the Contract.

In addition, VNH has breached the Contract by refusing to perform work as directed. On November 4, 2025, the District directed VNH to supply the CXT building, as required by Section 40(e) of the General Conditions. However, in a letter later that day, VNH not only refused to supply the CXT building, but it also refused to perform any work. VNH asserted that based on the District's alleged "refusal to address these legitimate costs

² The contract prohibits VNH from refusing to work on the basis of a payment dispute. (General Conditions §46(a).)

and the mischaracterization of previous payments,” all work on all EBRPD projects “will cease immediately,” that VNH “will withdraw as the permit holder,” and that “no further work will proceed until there is satisfactory resolution” of the disputed issues.

However, as demonstrated in the first part of this letter, the District has addressed all legitimate cost issues, the District has not mischaracterized previous payments, there is no basis for an increase in the contract price other than \$4,675 for storage costs, and there is no basis for a progress payment at this time.

More importantly, a payment dispute between VNH and the District does not give VNH the right to refuse to perform work – the work must proceed as directed by the District, even if the District is directing a change in the work. (General Conditions §46(a).) VNH cannot hold the progress of the project hostage to its demands for additional compensation.

VNH is also in breach of the Contract since it has not submitted any schedule, much less updated schedules. Schedules are required by the Contract (General Conditions §15) since, in part, they are necessary to demonstrate to the District that VNH has a reasonable and acceptable plan for completion of the Work.

Last, VNH’s recent concrete work is deficient since it requires patching, grinding, and color matching.

Accordingly, the above breaches by VNH justify the District’s termination of VNH’s performance of the Contract, pursuant to Section 59(a)(1), (5), and (7) of the General Conditions.

Pursuant to Section 59(b) of the General Conditions, the District demands that VNH cure, or reasonably commence to cure, its breaches by performing the following **by December 2, 2025**:

- Commence diligent and expeditious performance of the Work (including correction of the concrete), as required by the Contract (General Conditions §§10, 43(e), and 46(a)).
- Submit a schedule that complies with the Contract’s requirements (General Conditions §15) and indicates a reasonable projected completion date (“Schedule”).
- Continue diligent and expeditious performance of the Work pursuant to the Schedule through completion of the Work.

If VNH fails to perform as directed above, the District will terminate VNH’s performance of the Work, in which case it would either tender completion of the Contract to its surety or hire a contractor to complete the Work at the expense of VNH and its surety. (General Conditions §59(c).)

Please note that failure of VNH to timely perform as directed above will ***not*** result in automatic termination. The District reserves its right to decide if and when to terminate VNH’s performance of the Contract; and if the District decides to terminate, it will issue written notice to VNH and its surety.

If VNH believes that a Contract price increase is owed, or a time extension is due, for any work being directed by the District in this letter or in the past, then it must follow the Contract’s procedures (as discussed in the first part of this letter) to request additional compensation or a time extension. A mere payment dispute is not a valid basis for refusal to perform the Work as directed above. (General Conditions §46(a).)

Last, we encourage VNH and its surety to comply with the above demand for a cure, otherwise the District will hold VNH and its surety accountable for the District’s attorneys’ fees. (General Conditions §61)

OFFER OF RESOLUTION

Notwithstanding the above notice of intent to terminate and demand for cure, the District offers to resolve the present dispute by immediately processing a change order that would (A) grant a time extension until January 20, 2026, thus waiving \$94,000 of liquidated damages; (B) waive VNH's rights to seek any other compensation, damages (delay or otherwise), or time extensions based on existing or known issues (including but not limited to the items previously demanded by VNH); and (D) require VNH to immediately resume performance of its work.

VNH must accept this offer in writing **by 4:00 p.m. on December 1, 2025**. If VNH does so, the District will withdraw its notice of intent to terminate and demand for a cure. If VNH does not timely accept this offer, it will expire and VNH must comply with the above notice of intent to terminate, and demand for cure, by December 2, 2025.

The District looks forward to VNH's prompt response. Please let us know if you have any questions.

Sincerely,

Matthew Norton

Matthew Norton
Maintenance Superintendent

Enclosures: Change Order 7, including Exhibit 1
CXT Change Order, dated 3/20/24

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (U.S.
Mail [certified] and overnight delivery)

CHANGE ORDER (CO) NO. 7

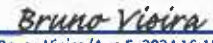
EAST BAY REGIONAL PARK DISTRICT
 2950 Peralta Oaks Court, P.O. Box 5381 Oakland, CA 94605-0381


PARK:	Crown Beach	PUR. ORDER NO.:	P222012
AREA:	Grand Street	CONTRACT NO.:	066M-22-409
DESCRIP.:	Construct Restrooms	DATE OF CO:	8/1/2024
DIST. REP.:	Matt Norton	CONTRACTOR:	VNH Builders
DIST. PHONE:	510-690-6688	CONT. EMAIL:	bruno.vieira@vnhbuilders.com


You are hereby directed to proceed promptly with the following specific changes to the work in conformity with the Contract Documents:

1. Contractor shall use plans titled, "EBRPD CROWN BEACH RESTROOM #3", dated 7/22/2024.
2. Contractor shall obtain necessary City of Alameda permits: building, encroachment, etc. including application and correspondence, cost of permits will be paid by the District.
3. Contractor shall complete work per cost proposal attached as Exhibit 1.

The ADDITIONAL CHANGE or DEDUCTION for the above work is.....	\$	487,346.00
The original Contract Sum was.....	\$	268,000.00
Net change by previous Change Orders.....	\$	40,200.00
The Contract Sum prior to this Change Order was.....	\$	308,200.00
The Contract Sum will be <input checked="" type="checkbox"/> increased) <input type="checkbox"/> decreased) <input type="checkbox"/> unchanged).....	\$	487,346.00
The new Contract Sum including this Change Order will be.....	\$	795,546.00
The Contract Time will be <input checked="" type="checkbox"/> increased) <input type="checkbox"/> decreased) <input type="checkbox"/> unchanged).....		270 days
The completion Date as of the date of this Change Order is.....		2/29/2024

Bruno Vieira, Principal
 Contractor

 Bruno Vieira (Aug 5, 2024 16:18 PDT)
 Signature
 Aug 5, 2024
 Date

Matt Norton, Superintendent
 District Representative

 Signature
 Aug 7, 2024
 Date

Lisa Goorjian, AGM
 Chief/AGM

 Signature
 Aug 11, 2024
 Date

SIGN AND RETURN ELECTRONIC COPY OF CHANGE ORDER

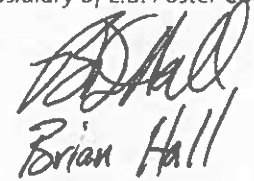


606 N. Pines Road, Suite 202
Spokane Valley, WA 99206
800.696.5766

CHANGE ORDER

Customer:	VNH Builders Crown Beach EBP		
Project/SOA:	429918		
Date:	March 20, 2024		
Description			Price
Remobilize DN-393 and all installation equipment for night operations. CXT trained and certified install crew Crane, crew and equipment Trucking Storage fees through July 2024			50,875.94
Additional Parts	Quantity	Price	
		Tax:	
		Total:	\$50,875.94

CXT Incorporated
a subsidiary of L.B. Foster Company

By 
Brian Hall

The above change order is satisfactory and hereby accepted and are subject to the conditions below.

Accepted this day of 20
VNH Builders Crown Beach EBP Customer Name

CXT Sales Representative 3/20/2024 Date Signature Date

CXT® Precast Concrete Products manufactures restroom, shower and concession buildings in multiple designs, textures and colors. The roof and walls are fabricated with high strength precast concrete to meet all local building codes and textured to match local architectural details. All CXT buildings are designed to meet A.D.A. and to withstand heavy snow, high wind and category E seismic loads. All concrete construction also makes the buildings easy to maintain and withstand the rigors of vandalism. The buildings are prefabricated and delivered complete and ready-to-use, including plumbing and electrical where applicable. With thousands of satisfied customers nationwide, CXT is the leader in prefabricated concrete restrooms.

1. ORDERING ADDRESS(ES): CXT Precast Concrete Products, 606 N. Pines Road, Suite 202, Spokane Valley, WA 99206

2. ORDERING PROCEDURES: Fax 509-928-8270

3. PAYMENT ADDRESS(ES):
Remitting by check: CXT, Inc., PO Box 676208, Dallas, TX 75267-6208
Remitting by ACH or wire transfer: Beneficiary: CXT, Inc.
Beneficiary Bank: PNC Bank, Pittsburgh, PA
Account: 1077766885 ABA/Routing: 043000096
Email remittance details to AR@lbfoster.com

4. WARRANTY PROVISIONS: CXT provides a one (1) year warranty. The warranty is valid only when concrete is used within the specified loadings. Furthermore, said warranty includes only the related material necessary for the construction and fabrication of said concrete components. All other non-concrete components will carry a one (1) year warranty. CXT warrants that all goods sold pursuant hereto will, when delivered, conform to specifications set forth above. Goods shall be deemed accepted and meeting specifications unless notice identifying the nature of any non-conformity is provided to CXT in writing within the specified warranty. CXT, at its option, will repair or replace the goods or issue credit for the customer provided CXT is first given the opportunity to inspect such goods. It is specifically understood that CXT's obligation hereunder is for credit, repair or replacement only, F.O.B. CXT's manufacturing plants, and does not include shipping, handling, installation or other incidental or consequential costs unless otherwise agreed to in writing by CXT.

This warranty shall not apply to:
1. Any goods which have been repaired or altered without CXT's express written consent, in such a way as in the reasonable judgment of CXT, to adversely affect the stability or reliability thereof;
2. To any goods which have been subject to misuse, negligence, acts of God or accidents; or
3. To any goods which have not been installed to manufacturer's specifications and guidelines, improperly maintained, or used outside of the specifications for which such goods were designed.

5. TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE): All prices subject to the "Conditions of Sale" listed on the CXT quotation form.

Customers are responsible for marking exact location building is to be set; providing clear and level site, free of overhead and/or underground obstructions; and providing site accessible to normal highway trucks and sufficient area for the crane to install and other equipment to perform the contract requirements. Customer shall provide notice in writing of low bridges, roadway width or grade, unimproved roads or any other possible obstacles to access. CXT reserves the right to charge the customer for additional costs incurred for special equipment required to perform delivery and installation. Customers will negotiate installation on a project-by-project basis, which shall be priced as separate line items. For more information regarding installation and truck turning radius guidelines please see our website at <http://www.cxtinc.com>.

In the event delivery of the building/s ordered is/are not completed within 30 days of the agreed to schedule through no fault of CXT, an invoice for the full contract value (excluding shipping and installation costs) will be submitted for payment. Delivery and installation charges will be invoiced at the time of delivery and installation.

Should the delivery and installation costs increase due to changes in the delivery period, this increase will be added to the price originally quoted, and will be subject to the contract payment terms.

In the event that the delivery is delayed more than 90 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of 1-1/2% of contract price per month or any part of any month will be charged.

**Customer is responsible for all local permits and fees.

6. DELIVERY CHARGE: All prices F.O.B. origin prepaid and added to invoice. CXT operates three (3) manufacturing plants in the United States and will deliver from the closest location on our carriers.

7. PAYMENT TERMS: All orders are cash in advance. At CXT's discretion, credit may be given after approval of credit application. Payment to CXT by the purchaser of any approved credit amount is net 30 days after submission of invoice to purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning with the 35th day (includes five (5) day grace period) from the date of the invoice. Under no circumstance can retention be taken, if CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys' fees and costs of any appeal.

8. LIMITATION OF REMEDIES: In the event of any breach of any obligations hereunder, breach of any warranty regarding the goods, or any negligent act or omission of any party, the parties agree to submit all claims to binding arbitration. Any settlement reached shall include all reasonable costs including attorney fees. In no event shall CXT be subject to or liable for any incidental or consequential damages. Without limitation on the foregoing, in no event shall CXT be liable for damages in excess of the purchase price of the goods herein offered.

9. DELIVERY INFORMATION: All prices F.O.B. origin prepaid and added to invoice. CXT operates three (3) manufacturing plants in the United States and will deliver from the closest location on our carriers. Use the information below to determine the origin:
• F.O.B. 6701 E. Flamingo Avenue, Building 300, Nampa, ID 83687 applies to: AK, CA, HI, ID, MT, ND, NV, OR, SD, UT, WA, WY.
• F.O.B. 901 North Highway 77, Hillsboro, TX 76645 applies to AR, AZ, CO, IA, KS, LA, MN, MO, MS, NE, NM, OK, TX.
• F.O.B. 362 Waverly Road, Williamsstown, WV 26183 applies to AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, PR, RI, SC, TN, VA, VT, WI, WV.
• Prices exclude all federal/state/local taxes. Tax will be charged where applicable if customer is unable to provide proof of exemption.

VNH BUILDERS

842 Mahler Road
Burlingame, CA 94010
Phone: (415) 670-0661 | Email: bruno.vieira@vnhbuilders.com

November 26, 2025

VIA EMAIL AND CERTIFIED MAIL

Michael Stangl
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

**Re: Crown Beach Grant Street Restroom Project - Contract No. 066M-22-409
Response to November 21, 2025 Letter - Request for Collaborative Resolution**

Dear Mr. Stangl:

We appreciate your November 21 letter and welcome the opportunity to clarify the facts and work toward a collaborative resolution. VNH Builders remains committed to completing this important community project and believes that through good-faith negotiations, we can resolve the current impasse and deliver the Crown Beach Restroom facility that the community needs and deserves.

We request an immediate meeting with all stakeholders to resolve these issues constructively rather than through confrontation.

I. HOW WE ARRIVED HERE - THE CASCADE EFFECT

To understand the current situation, it's essential to recognize how a series of initial challenges created a cascade of delays that neither party anticipated:

A. The Original Challenge - Starting Without Approved Plans

On October 13, 2022, the District issued a Notice to Proceed with a 60-working-day completion deadline (January 12, 2023), but without approved construction plans. This created an impossible situation that set the stage for everything that followed:

- We could not obtain building permits without approved plans
- We could not order the CXT building without confirmed specifications
- We could not begin site work without knowing final elevations and dimensions

B. The Domino Effect - 638 Days Waiting for Plans

The District didn't provide updated plans until July 22, 2024 - **638 days after the Notice to Proceed**. During this extended period:

- CXT manufactured the building based on preliminary specifications (completed April 14, 2023)
- The building had to be stored at CXT's facility, accumulating storage costs
- We continued paying for bonds, insurance, and overhead without ability to work
- Material costs escalated due to inflation

C. Discovery of Plan Deficiencies - Another 52 Days

When we finally received plans and began work, we discovered critical errors and omissions requiring extensive RFI submissions:

- **RFI #009 - Critical Dimensional Error:** Plans showed 6.2 feet instead of 6.24 feet for slab-on-grade. This 0.5" discrepancy would have caused catastrophic misalignment between the prefabricated building and foundation.
- **RFI #011 - Missing Drainage Details:** Plans showed drain rock and perforated pipe but no outlet locations or connections. We waited 26 days for this critical information.
- **Multiple Other RFIs:** Missing sections, foundation details, code compliance issues - each requiring work stoppage while awaiting responses.

These weren't minor clarifications - they were fundamental design elements necessary for construction.

II. VNH'S PROACTIVE MANAGEMENT OF THE CXT SITUATION

Contrary to any suggestion that we've been passive, VNH has been actively managing the CXT storage situation from day one:

A. Our Documented Efforts (February 2023 - March 2025)

- 1. Early 2023:** Began requesting detailed storage fee documentation from CXT
- 2. Throughout 2023-2024:** Multiple emails and calls to CXT requesting:
 - Itemized storage costs
 - Monthly storage rates

- Documentation for change order processing
- Options to minimize costs

3. January 2024: Negotiated with CXT and Hugh Escobar (Bragg Crane) about alternative storage locations

4. March 14, 2025: CXT finally provides comprehensive invoice after nearly two years of requests

5. March 20, 2025: We immediately notified the District and requested payment authorization

B. Why This Matters

This timeline demonstrates that:

- We didn't ignore storage costs - we actively pursued documentation for two years
- We tried to minimize costs through alternative arrangements
- We immediately brought the issue to the District when documentation was received
- The delay in invoice presentation was CXT's, not ours

III. CLARIFYING KEY MISCONCEPTIONS

We believe several misconceptions need clarification to move forward productively:

A. Misconception: Storage Fees Were Paid in Change Order #7

Reality: Change Order #7's \$50,300.80 for "Denali Building" covered crane mobilization and setup costs only. This is documented in:

- The Change Order description itself
- Payment Application #9 line items
- CXT's March 2025 statement that no storage fees have been paid

We understand how this confusion arose and are happy to provide detailed documentation in our proposed meeting.

B. Misconception: VNH Refuses to Work

Reality: We are eager to work but face a practical impossibility - the project's centerpiece (the CXT building) cannot be delivered without payment. It's not refusal; it's inability. We cannot:

- Install a building we don't have
- Connect utilities to a non-existent structure
- Complete site work around missing infrastructure

We propose discussing alternative work sequencing in our meeting to maximize progress while resolving the CXT issue.

C. Misconception: Schedule Can Be Provided Without Building Delivery Date

Reality: The CXT building installation is the critical path for all remaining work. Without knowing when it will arrive, any schedule would be fiction. However:

We have prepared a draft 45-day completion schedule that begins upon CXT payment confirmation and are ready to share it at our proposed meeting.

IV. PROPOSED PATH FORWARD - COLLABORATIVE SOLUTIONS

Rather than escalating to litigation, we propose the following collaborative approach:

A. Immediate Actions (Within 7 Days)

1. Stakeholder Meeting: Schedule a meeting with District, VNH, CXT, and key subcontractors to:

- Review actual costs and documentation
- Discuss payment structure options
- Develop mutually acceptable timeline
- Address concerns transparently

2. Site Visit: Joint inspection of completed work and CXT building at Richmond yard

3. Document Review: Share all relevant emails, invoices, and correspondence

B. Areas Open for Negotiation

We are flexible and willing to negotiate on:

1. Payment Structure:

- Direct District payment to CXT vs. payment through VNH
- Partial payments to secure building release
- Payment terms and timing

2. Storage Cost Resolution:

- Negotiated rate reduction with CXT
- Shared responsibility for certain periods
- Interest waiver if resolved quickly

3. Completion Schedule:

- Accelerated schedule options
- Phased completion milestones
- Liquidated damages waiver for good-faith effort

4. Delay Claims:

- Mutual waiver of delay damages
- Focus on completion rather than fault
- No-cost change order for time extensions

C. Our Commitments

If we can reach agreement on payment, VNH commits to:

- Complete all work within 45 days of CXT building delivery
- Provide weekly progress reports with photos
- Address all punch list items promptly
- Maintain open communication throughout
- Work collaboratively to minimize further costs

V. THE REALITY OF OUR SITUATION

Let's be candid about where we stand:

What We Both Want:

- A completed restroom facility for the Crown Beach community
- Resolution without costly litigation

- Fair compensation for work performed
- Professional reputations intact

The Obstacles:

- \$66,355.34 owed to CXT preventing building release
- Accumulated storage and interest charges
- Miscommunication about payment status
- Frustration on both sides

The Simple Solution:

Pay CXT → Get building → Complete project → Serve community

CONCLUSION

This project has faced unprecedented challenges - starting without approved plans, waiting 638 days for documentation, discovering critical design errors, and now the CXT payment impasse. Each delay cascaded into the next, creating a situation neither party anticipated or wanted.

However, we're at a critical juncture where we can either:

1. Continue down a path of confrontation, litigation, and further delay, or
2. Come together, acknowledge the challenges, negotiate fairly, and complete this project

We strongly prefer option 2 and believe you do too.

We respectfully request that instead of proceeding with termination, the District join us in a collaborative effort to resolve these issues. We've been proactive from day one in managing the CXT situation, we've navigated extraordinary delays caused by factors beyond anyone's control, and we remain ready and eager to deliver this important community facility.

Please contact us immediately to schedule a meeting. Time is of the essence, but with good faith on both sides, we can resolve this matter quickly and successfully.

Respectfully submitted with hope for immediate resolution,

Bruno Vieira
Principal
VNH Builders
License #1064244
Direct: (415) 670-0661
Email: bruno.vieira@vnhbuilders.com

Attachments:

1. CXT Email Exchange (showing our proactive efforts from 2023-2025)
2. Timeline of VNH's Storage Fee Management Efforts
3. Draft 45-Day Completion Schedule (ready to implement)
4. RFI Log Showing Design-Related Delays

cc: CXT, Inc. - Brian Hall (for meeting coordination)

Bragg Crane Service - Hugh Escobar

[Legal Counsel - if engaged]

Re: Crown Beach Restroom Project/DN-393 429918

From branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Date Fri 3/21/2025 9:12 AM

To Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com <branum.spliethof@outlook.com>

Oh that's weird must have been a glitch, please attend 3/24/25 at 8am do you need me to resend ?

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfoster.com>

Sent: Friday, March 21, 2025 8:54 AM

To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com <branum.spliethof@outlook.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

I received an invite for 3/24/2025 at 8:00am PST and multiple other canceled invites. Can you please confirm the meeting date and time?

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Friday, March 21, 2025 8:12 AM

To: Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

Thank you for offering meeting times. I'd like to schedule a video conference for Monday, March 24 at 12:00pm PST to discuss this matter. I'll be creating and sending a Microsoft Teams meeting invitation shortly.

I look forward to working toward a resolution that addresses both our concerns.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BrianHall@lbfoster.com>
Sent: Friday, March 21, 2025 6:21 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; 'Escobar, Hugh' <hugh.escobar@braggcrane.com>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

Agreed, we have an executed contract in place that sets the expectation of this project. That contract includes (1) mobilization delivery and off load. It does not include multiple mobilizations, crane picks and specialized equipment. This is clearly covered in the terms of the agreement. It does not include delivery to multiple sites, multiple crane picks, and specialized equipment.

As Hugh with Bragg Crane (included) communicated a week ago on Friday March 14, the building is ready for inspection per the below communication.

The building is currently stored at our Richmond yard 457 Parr Blvd Richmond Ca 94801, you can inspect the building M-F 7am – 3pm, just let me know when you would like to visit

I have a handful of meetings today and my availability window is 11:00am-2:30pm PST. If that does not work, I am free Monday 3/24 8:00am-9:00am and 12:00pm-2:00pm PST. Hugh does not need to be on this call. This call should include at a minimum, CXT and VNH. If EBPD is available that would be preferred as well.

Just so we are all on the same page, CXT expects payment of \$66,355.34 by 3/28/2025. Anything outside of this and we intend to hand this over to our legal team and pursue all remedies within the agreement CXT has fully capitalized the project and needs to be compensated for the work performed on 4/14/2023, almost two years ago.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Thursday, March 20, 2025 7:44 PM
To: Brian Hall <BrianHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

We are not an adversary here. We want to pay you, but the building is simply not delivered. We've even agreed to pay CXT an extra \$19k (upon inspection) until delivery, despite CXT driven and owner driven delays. We're being extremely reasonable here, as a trade partner, we need your team to acknowledge this fact.

As outlined in my previous email with detailed timeline evidence, **delivery** under our agreement means transportation to site, crane pick, and proper setting on the building pad - none of which has occurred.

I propose one final opportunity to resolve this matter constructively: a meeting with all stakeholders this week. If you decline this meeting, we will proceed with our legal options to protect our contractual rights.

Please confirm your availability for a video conference this week or Monday at the latest with representatives from CXT, VNH, and Bragg Crane present.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BBHall@lbfoster.com>
Sent: Thursday, March 20, 2025 9:10 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

The payment CXT has requested by 3/28/2025, \$66,355.34 is the original balance and does not include any storage, or interest fees. On our 3/15/2024 conference between all parties, it was agreed CXT would receive payment for all operations completed through this date. It is CXT's understanding VNH has received this payment.

If CXT does not receive this payment by 3/28/2025, it will be turned over to our legal department and all remedies will be pursued.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Thursday, March 20, 2025 8:53 AM
To: Brian Hall <BBHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

Thank you for your recent email. After reviewing your position regarding payment terms, I feel it's important to establish a clear timeline of events regarding this project, as there appears to be a fundamental misunderstanding about what constitutes "delivery" under our contract.

The building was never delivered to the project site. This is the central issue at hand and is evident in our documented communication history:

1. Original timeline: Contract schedule dated 12/06/2022 showed completion on 02/16/2023.
2. Initial delay by CXT: On 02/02/2023, you notified us that "LB Foster ran into a hiccup on the building completion" due to back-ordered fiberglass doors, pushing the timeline approximately 10 weeks to "early-mid April." (Email from Matt Armitage dated 02/02/2023)
3. Multiple requests from VNH: Between 02/21/2023 and 03/09/2023, we sent multiple emails requesting updates and exact delivery dates, expressing concern about project impacts.
4. Alternative solutions rejected: On 03/02/2023, I specifically asked "Why are the doors such an integral part of delivery? Why can't they come at a later date?" noting that "the owner is not very happy with me about this delay." (Email dated 03/02/2023)
5. Refusal to ship separately: On 03/13/2023, Matt Armitage responded: "Unfortunately we cannot ship the building without doors as the building will not be useable or secure." (Email dated 03/13/2023)
6. Formal notice of impacts: On 04/03/2023, VNH sent formal "Notice of Project Impacts and Schedule Delays" documenting the timeline of delays caused by CXT's procurement issues.
7. Last-minute changes: On 04/11/2023, just days before the rescheduled installation, CXT suddenly required a change order for an additional \$12,000 for a larger crane, further complicating the process.
8. Project halt: The building was ultimately never delivered to or installed at the project site due to owner-driven design changes that occurred after the initial delays.

Your current position that "CXT has provided delivery and off load per the executed agreement" contradicts the reality of the situation. The building remains at Bragg's yard and has never been transported to or installed at the project site as required under our contract.

While I understand your stance on the payment terms, it's important to recognize that:

9. VNH did not bill EBRPD for the CXT building until September 18, 2024, as we were anticipating project resumption. Furthermore, due to EBRPD's standard NET60 payment terms, we didn't receive payment from them until December 2024, which is why our payment to CXT was processed in early January 2025.
10. Interest charges were never previously communicated to us during our ongoing correspondence about project status.
11. The extraordinary length of the storage period is due to circumstances outside both our companies' control, requiring a more collaborative approach to resolution.

I remain committed to finding a reasonable solution while maintaining our contractual rights. My position remains as originally proposed:

12. We will schedule an inspection of the building at Bragg's yard within the next 7 days
13. Following inspection and verification of the building's condition, we will process payment of \$19,984.82, which covers the remaining freight charges, sales tax, and half of the outstanding building balance (accounting for our previous payment of \$51,355.34)
14. The final building balance of \$46,370.50 will be processed when the building is delivered to the project site and properly installed
15. Storage fees that can be properly documented will be submitted to EBRPD for approval through our change order process

This payment structure appropriately balances our mutual obligations in light of the unique circumstances of this project and aligns with standard industry practice regarding payment for incomplete deliveries.

To be clear, the March 28, 2025 deadline for payment is not feasible given that we do not have possession of the building, which remains in Bragg's yard. No contractor would reasonably be expected to make full payment for a building that has not been delivered to the project site. Nor would that stand up in arbitration or litigation.

Again, I request that we schedule a meeting with all stakeholders by the end of this week to resolve these issues constructively. Without such a meeting to establish mutual understanding, we cannot proceed with any payment until proper delivery terms are agreed upon.

I look forward to your response and am available to discuss this further at your convenience.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <Brian.Hall@lbfoster.com>
Sent: Thursday, March 20, 2025 6:56 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

Has VNH received payment from EBPD for this portion of the project?

Please see the terms sections to your email below in **BLUE** from the executed attached agreement. The terms are very clear to cover this occurrence.

CXT received payment for \$51,355.34 on 1/2/2025. Remaining original balance was \$66,355.34. CXT will not consider removing any interest, or storage charges until the original balance is paid. This will need to be paid by 3/28/2025. If payment is not received by 3/25/2025, CXT will initiate and pursue all remedies and costs per the executed agreement.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Tuesday, March 18, 2025 12:45 PM
To: Brian Hall <Brian.Hall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. **Do NOT click links** and **do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Hi Brian, et al,

Thank you for your prompt response. I appreciate you bringing clarity to your position and including all stakeholders in this conversation for transparency. After reviewing the executed agreement and your latest email, I need to emphasize some critical points:

1. According to standard construction practice and our understanding of the original agreement, full payment is contingent on complete delivery and installation of the building at the project site. Currently, the building remains at Bragg's yard and has not been transported to the site or placed on the foundation as intended in our agreement.

PAYMENT TERMS: All orders are cash in advance. At CXT's discretion, credit may be given after approval of credit application. Payment to CXT by the purchaser of any approved credit amount is net 30 days after submission of invoice to purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning with the 35th day (includes five (5) day grace period) from the date of the invoice. Under no circumstance can retention be taken. If CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys' fees and costs of any appeal.

Should the delivery and installation costs increase due to changes in the delivery period, this increase will be added to the price originally quoted, and will be subject to the contract payment terms. In the event that the delivery is delayed more than 90 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of 1-½% of contract price per month or any part of any month will be charged.

2. As a demonstration of our good faith and commitment to this project, I propose the following payment structure:
 - a. We will schedule an inspection of the building at Bragg's yard within the next 7 business days
 - b. Upon verification of the building's condition, we will process payment of \$19,984.82, which covers the remaining freight charges, sales tax, and half of the outstanding building balance
 - c. The final building payment of \$46,370.50 will be processed when the building is delivered to the project site and properly installed

CXT has completed all work in accordance with the executed agreement and per the included terms. The balance on the attached invoice is overdue and delinquent.

3. Regarding interest charges, we request documentation showing when and how these charges were communicated to VNH prior to the recent invoice. These charges represent a significant unexpected cost that was never addressed in our numerous communications throughout the ongoing project delay.
4. Regarding the new storage fees, we still require detailed documentation of monthly storage rates to properly submit these ongoing costs to EBRPD through our change order process.

Storage and interest fees are clearly defined in executed agreement and above notes.

I believe this approach honors our contractual obligations while recognizing the unusual circumstances of this project. I would welcome the opportunity to discuss this further on a call with all stakeholders to establish a clear path forward. Please confirm receipt of this email and your availability for a call early next week.

The executed agreement clearly defines the contractual obligations.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall
Sent: Tuesday, March 18, 2025 10:05
To: branum.spliethof@vnhbuilders.com; Bruno Vieira
Cc: Hugh Escobar; Matthew Norton; Nate Luna
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

It's good we have the communication lines reestablished as CXT has been requesting updates for months on the payment status. I am attaching the executed agreement and the invoice that reflects the terms of the agreement. I am also adding representatives from East Bay Parks for full transparency on this project due to the break in communications and overdue balance on this project.

As of shipment date 4/14/2023, the original balance on the project was \$117,710.68 (email and updated invoice attached). On 3/15/2024 we conducted a conference between CXT, VNH and EBP. During this call, CXT requested payment be made for all operations completed

through this date. This was agreed to by all parties.

CXT received payment for \$51,355.34 on 1/2/2025. Remaining original balance was \$66,355.34. CXT will not consider removing any interest, or storage charges until the original balance is paid. This will need to be paid by 3/28/2025. It is our understanding VNH has been paid in full for this portion of the project. Please confirm, as this has not been answered in previous requests.

CXT has provided delivery and off load per the executed agreement and all work has been completed under this agreement. The payment terms, storage terms and interest charges are covered in the executed agreement. The attached invoice dated 3/14/2025 accounts the interest on the unpaid balances throughout the duration of this project.

Please provide a response to this email and include a payment schedule by 3/21/2025.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfooster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Friday, March 14, 2025 2:39 PM

To: Brian Hall <BHall@lbfooster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brain,

Thank you for your continued communication regarding the Crown Beach project. I tried reaching you by phone earlier without success, so I wanted to follow up with an email to address the outstanding payment situation and propose a specific path forward that works for all parties. I want to emphasize that it was never our intention to have you deliver the building without payment in full. Our understanding has always been that "delivery" means the building is, transported to site, crane pick and properly set on building pad - at which point NET 30 payment terms begin. To clarify our current payment status, VNH has already remitted \$51,355.34 toward this project. After reviewing the latest invoice and our contractual obligations, I'd like to propose the following resolution:

1. Interest Charges:

1. We request that the interest charges (\$36,314.16) be removed from the current invoice. These charges were never previously communicated during our numerous exchanges about project status and delays (see attached emails), and represent an unexpected cost that wasn't factored into our project planning.

2. Storage Fees and Other Costs: We understand the necessity of storage fees but need comprehensive documentation including:

1. Clearly itemized monthly rate for ongoing storage
2. Detailed breakdown of all incurred costs with supporting receipts and documentation
3. Separate breakdowns for materials, labor, and subcontractor costs
4. Any other expenses with proper substantiation

5. This thorough documentation will allow us to:

1. Submit proper documentation to EBRPD for all accumulated charges to date
2. Establish transparent costs for the period until project resumption
3. Include these properly itemized costs in our change order request to the owner
4. Evaluate the change order properly with complete visibility into all charges

4.

5. Payment Schedule:

1. Upon inspection and acceptance of the building at Bragg's yard, VNH will process payment for the remaining sales tax and freight charges, plus half of the outstanding building balance as follows:

1. Half of DN-393: $\$92,741.00 \div 2 = \$46,370.50$
2. Total for half building + freight + tax = $\$46,370.50 + \$15,000.00 + \$9,969.66 = \$71,340.16$
3. Amount already paid: $\$51,355.34$
4. Amount due after inspection: $\$71,340.16 - \$51,355.34 = \mathbf{\$19,984.82}$

1.

2. The final building balance of **\$46,370.50** will be processed on the day the building is delivered to the project site.

1. Storage and remobilization fees will be paid after EBRPD executes the change order including these costs

As a reminder, our contractual relationship is between VNH and CXT, and does not involve EBRPD. While we're working diligently with the owner to secure approvals and funding for these additional costs, we need your partnership in providing clear documentation that helps us substantiate these charges to EBRPD.

I believe this approach represents a fair middle ground that acknowledges:

- Your need for payment
- Our need for completed delivery before final payment
- The unusual circumstances of this extended delay
- Our shared goal of completing this project successfully

Please provide the requested monthly storage rate information at your earliest convenience so we can incorporate it into our owner change order request. I'm available to discuss this proposal and would welcome a call to align on next steps.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Escobar, Hugh <hugh.escobar@braggcrane.com>

Sent: Friday, March 14, 2025 10:49 AM

To: Brian Hall <BBHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>;

branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>;

commercial@vnhbuilders.com <commercial@vnhbuilders.com>; mayza.campos@vnhbuilders.com <mayza.campos@vnhbuilders.com>;

'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Matthew Armitage <MArmitage@lbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

The building is currently stored at our Richmond yard 457 Parr Blvd Richmond Ca 94801, you can inspect the building M-F 7am – 3pm, just let me know when you would like to visit

Thanks

Regards,

Hugh Escobar | Wind Power / Technical Services
Bragg Crane Service

From: Brian Hall <BHall@lbfoster.com>

Sent: Friday, March 14, 2025 10:38 AM

To: Bruno Vieira <bruno.vieira@vnhbuilders.com>; branum.spliethof@vnhbuilders.com; commercial@vnhbuilders.com; mayza.campos@vnhbuilders.com; 'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Escobar, Hugh <hugh.escobar@braggcrane.com>; Matthew Armitage <MArmitage@lbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

[WARNING - EXTERNAL EMAIL] This email originated from outside of our organization. Please exercise caution when opening attachments, clicking links, or responding with sensitive information.

Bruno,

Thank you for the reply.

CXT has been very patient during this process. We've fully capitalized this project and continue to experience expenses and have yet to receive full payment. CXT has completed our scope of work under the attached executed agreement.

The executed agreement contains all necessary terms and conditions to cover this type of occurrence. The attached invoice reflects these terms and conditions for this project. It is our understanding VNH has been paid in full for this portion of the project as well. If this is not correct, please let me know.

The building is currently stored in Bragg Crane's yard and Hugh is included on this email to scheduling an inspection. The building will not be released until full payment has cleared and CXT provides this release. Additionally, a remobilization quote will need to be provided by CXT once the original site is ready, or a storage site is chosen. This quote will be dependent upon the site and timing of this additional move due to accumulating storage fees. It may be beneficial for all parties if a storage site is selected, and planning can begin to facilitate this operation.

In closing, the payment terms, storage terms and conditions of interest on unpaid balances are covered within the executed agreement. Please provide a payment schedule by 3/21/2025.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: Bruno Vieira <bruno.vieira@vnhbuilders.com>

Sent: Friday, March 14, 2025 9:25 AM

To: Brian Hall <BHall@lbfoster.com>; branum.spliethof@vnhbuilders.com; commercial@vnhbuilders.com; mayza.campos@vnhbuilders.com; 'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; hugh.escobar@braggcrane.com; Matthew Armitage <MArmitage@lbfoster.com>

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Hi Brian,

I hope this message finds you well.

We would like to express our appreciation for your time and cooperation throughout this process. As per our standard practice, we typically make payments for a building once it is in our possession and we have verified its condition. However, in this case, we have already paid 50% of the total amount for the bidding process, despite not having received any tangible deliverables or confirmation regarding the building's location or current state.

To proceed with the remaining 50% payment, we kindly request the exact location of the building so that we can arrange an inspection. This step is crucial for us to verify the building's condition and ensure it meets our expectations before finalizing the transaction.

Once the inspection is completed and the building's location and condition are confirmed, we will promptly process the remaining payment. We believe this approach is fair and aligns with standard business practices, ensuring transparency and mutual satisfaction for both parties.

Please provide the necessary details at your earliest convenience so we can move forward with the inspection and finalize the payment. Should you have any questions or require further clarification, feel free to reach out.

Thank you for your understanding and cooperation. We look forward to your prompt response.

Best,

Get [Outlook for iOS](#)

From: Brian Hall <BHall@lbfooster.com>

Sent: Friday, March 14, 2025 9:10 AM

To: branam.spliethof@vnhbuilders.com <branam.spliethof@vnhbuilders.com>; commercial@vnhbuilders.com <commercial@vnhbuilders.com>; bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; mayza.campos@vnhbuilders.com <mayza.campos@vnhbuilders.com>; 'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>;

hugh.escobar@braggcrane.com <hugh.escobar@braggcrane.com>; Matthew Armitage <MArmitage@lbfooster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

VNH team,

Please find the attached, updated invoice. Additionally, this matter will be turned over to our legal team and CXT will pursue all remedies for collections on this balance.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfooster.com



From: Nate Luna <nluna@ebparks.org>
Sent: Thursday, March 13, 2025 1:50 PM
To: Brian Hall <BHall@lbfoster.com>; branum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Matthew Norton <MNorton@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

VNH,

Please reply to Brian today.



Nate Luna, PMP
Project Manager | Maintenance and Skilled Trades Administration
East Bay Regional Park District
17930 Lake Chabot Rd, Castro Valley, CA 94546
M: 510-541-9631
nluna@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copies, and delete it from your system.

 Please consider the environment before you print

From: Brian Hall <BHall@lbfoster.com>
Sent: Tuesday, March 11, 2025 9:04 AM
To: branum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Matthew Norton <MNorton@ebparks.org>; Andrea C. Jones <ACJones@ebparks.org>; Eric Bowman <ebowman@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Good morning,

Please provide an update on the \$66,355.32 outstanding balance on this order. It is our understanding VNH has been paid in full for this project. If CXT does not receive an update by COB 3/13/2025 this matter will be turned over to our legal department and CXT will pursue all remedies within the contract.

Your response and support is appreciated.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: Brian Hall <BBHall@lbfoster.com>

Sent: Friday, January 17, 2025 6:22 AM

To: branam.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: RE: Crown Beach Restroom Project/DN-393

Hi Branum,

Can you please provide an update on the outstanding balance on the attached invoice? The storage balance will depend on the timing of the installation schedule. Additionally, CXT has been very patient awaiting the open balance on the attached to be paid.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branam.spliethof@vnhbuilders.com <branam.spliethof@vnhbuilders.com>

Sent: Wednesday, January 15, 2025 9:57 AM

To: Brian Hall <BBHall@lbfoster.com>; Matthew Armitage <marmitage@lbfoster.com>; hugh.escobar@braggcrane.com

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: Re: Crown Beach Restroom Project/DN-393

CAUTION: This email originated from outside of the organization. **Do NOT click links** and **do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian the owner and I had a quick discussion this morning about any extra storage fees that you have due to this project delay that continues to go on from September last year, the plan review process seems to be finally coming to a close once you get them over you final reviewed set from your engineer. Can you please submit to me any extra cost from you or Bragg that needs to be captured, or let me know if your team is good to go.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BBHall@lbfoster.com>

Sent: Wednesday, January 24, 2024 10:08 AM

To: Matthew Armitage <MArmitage@lbfoster.com>; branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; hugh.escobar@braggcrane.com <hugh.escobar@braggcrane.com>; EHolmes@ebparks.org <EHolmes@ebparks.org>

Cc: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; commercial@vnhbuilders.com <commercial@vnhbuilders.com>

Subject: RE: Crown Beach Restroom Project/DN-393

Hi Branum and Eric,

We are currently working on the remob quote and the storage costs. Once we have everything, we will present this to both of you.

Is the original site ready, or going to be ready soon? If not, is there a location on East Bay property where the building can be stored instead of the crane yard?

We understand site challenges arise, but CXT has fully capitalized this project and Bragg Crane has been storing the building since 4/17/2023.

Please let me know if there is a day and time where we can set up a call to discuss the details.

Thank you.

Brian Hall
Commercial Operations Manager



CXT Incorporated
606 N Pines Rd Suite 202
Spokane, WA 99206
t: 509-892-3218
e: bhall@lbfoster.com

www.cxtinc.com



From: Matthew Armitage <marmitage@lbfoster.com>

Sent: Tuesday, January 23, 2024 7:04 AM

To: branum.spliethof@vnhbuilders.com; hugh.escobar@braggcrane.com; EHolmes@ebparks.org

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Brian Hall <BBHall@lbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393

I've cc'd our commercial operations manager, Brian Hall, on this reply.

Matt Armitage

Field Operations Manager



t: 509-892-3250

e: marmitage@lbfoster.com

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Tuesday, January 23, 2024 5:00 AM

To: hugh.escobar@braggcrane.com; Matthew Armitage <marmitage@lbfoster.com>; EHolmes@ebparks.org

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: Crown Beach Restroom Project

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the [Phish Alert Button](#) to report suspect emails.

Hi Team,

We wanted to start a chat after hearing the news about wanting the CXT building off Bragg property and Bragg's desire to wash their hands with the project. Let me start by saying as the GC I do share the same frustrations with this project as our bond, insurance, warranty, and liability are all up in the air without finishing this project on time.

That being said, we do want to be reasonable, and we understand that comes at a cost. I just spoke with Eric on the phone yesterday and he is fully aware of the situation at hand. Therefore, he would like to meet with us, bring his engineering team together and give us timelines so we can better understand project completion dates. Would your team be willing to discuss the options and terms of the contract value and timeline and stay on board or is this no longer an option? If we do maintain course, there are some relief options that may add some logistics but relieve Bragg from storage space.

But let's go over those details after we circle the wagons with who everyone wants to bring to the table for discussion. Meaning feel free to bring the upper management into the conversation (just cc them on your reply).

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.



2950 PERALTA OAKS COURT • OAKLAND • CALIFORNIA • 94605-0381 • T: 1-888-EBPARKS • F: 510-569-4319 • TRS RELAY: 711 • EBPARKS.ORG

December 8, 2025

Via E-Mail and Overnight Delivery

Bruno Vieira
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnhbuilders.com

Re: Crown Beach Grant Street Restroom Project
Contract No. 066M-22-409
Demand for Schedule and Counteroffer

Dear Mr. Vieira:

The District has reviewed your November 26, 2025, letter on behalf of VNH Builders (“VNH”). For the reasons below (as well as the reasons detailed in the District’s November 21, 2025, letter), the District again rejects VNH’s position and arguments. In addition, VNH has not even acknowledged, much less responded to, the District’s offer to resolve the current dispute.

Accordingly, there is currently no reason for the District to meet with VNH. However, if VNH submits a **reasonable counteroffer, and its draft completion schedule based on that counteroffer, by 5:00 p.m. on December 11, 2025**, the District will review them and let VNH know whether a meeting is warranted. If VNH does not timely submit them, the District will immediately proceed with termination.

Your November 26, 2025, letter contains numerous misstatements and invalid arguments:

- Your letter focuses on various delays that occurred during the project. However, the District has already granted time extensions and additional compensation for the various delay issues, and they have been resolved. VNH cannot now ask for more time or more money based on those previously resolved issues. Those issues are irrelevant for present purposes.
- You argue that VNH proactively managed the CXT situation. However, you admit that you did not notify the District until March 20, 2025 even though the issues had existed for over two years. Also, VNH did not adequately manage the CXT situation since (A) VNH never paid CXT the portion of storage fees that the District has already paid to VNH, and (B) now the CXT situation has ballooned into a dispute where CXT is also asking for interest and legal fees. VNH did nothing to mitigate the damages that would be claimed by CXT, contrary to its duty under the contract and law.

Board of Directors

John Mercurio Ward 6 President	Olivia Sanwong Ward 5 Vice President	Colin Coffey Ward 7 Treasurer	Dennis Waespi Ward 3 Secretary	Elizabeth Echols Ward 1	Luana España Ward 4	Lynda Deschambault Ward 2	Sabrina B. Landreth General Manager
--------------------------------------	--	-------------------------------------	--------------------------------------	----------------------------	------------------------	------------------------------	--

December 8, 2025

Bruno Vieira

Page | 2

- CXT is VNH's supplier, and therefore VNH has the responsibility to resolve its dispute with CXT. The District only has an obligation to pay additional money or grant additional time to VNH if VNH timely submits requests for money or time that have merit (i.e., they were outside the control of VNH). Here, VNH had control of the storage fee situation for more than two years, but let the situation get completely out of hand before even notifying the District about it in March 2025. If storage fees were accumulating, VNH had the responsibility to promptly pay those fees to CXT to avoid additional charges, or at least to promptly submit requests to the District for additional money so that it could pay those fees, but it never did so. When VNH learned that additional charges were accruing, it had the duty to either pay CXT to stop the accrual of charges or submit a request to the District for such fees, but it never did so.
- You continue to argue that the \$50,300.80 "covered crane mobilization and setup costs only." However, the general description of the item in the beginning of Change Order #7 or in Payment Request #9 does not matter. What matters is the detail in the March 20, 2024, CXT "change order" that explains which items were covered by the \$50,300.80 amount. The CXT "change order" clearly states that it covers "Storage fees through July 2024." Therefore, the \$50,300.80 increase in the contract price included those storage fees.
- The District admits that VNH is entitled to a contract price increase of \$4,675 for storage fees after July 2024. However, VNH has never submitted a change order request for those fees, therefore no payment is owed by the District for them yet. If VNH ever submits a request for this amount, the District will process a change order and then pay it.
- You argue that VNH cannot provide a valid schedule since it does not know when the building will arrive. However, VNH should know when it will arrive because delivery of the building has always been within the control of VNH. All VNH had to do was timely pay the amounts required by VNH's supplier, and the building would have been delivered. If VNH believes that the District is responsible for any portion of the amount paid to CXT, then VNH could submit a change order request to the District for the District's consideration. However, VNH cannot refuse to pay CXT and then try to blame the District. VNH has a contractual obligation to mitigate damages and expeditiously perform the work despite any payment dispute (General Conditions §46(a)), but VNH has breached this obligation.

The District looks forward to VNH's timely submittal of a reasonable counteroffer and its draft schedule.

Sincerely,

Matthew Norton

Matthew Norton

Maintenance Superintendent

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (by U.S. Mail)



VNH BUILDERS

842 Mahler Road
Burlingame, CA 94010
Phone: (415) 670-0661 | Email: bruno.vieira@vnhbuilders.com

December 11, 2025

VIA EMAIL AND OVERNIGHT DELIVERY

Matthew Norton
Maintenance Superintendent
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Crown Beach Grant Street Restroom Project - Contract No. 066M-22-409

COUNTEROFFER AND COMPLETION SCHEDULE

Dear Mr. Norton:

Thank you for your December 8, 2025 letter. In the spirit of moving this project forward and serving the Crown Beach community, VNH Builders hereby submits this counteroffer and draft completion schedule as requested.

I. COUNTEROFFER

VNH Builders proposes the following resolution to immediately move forward with project completion:

A. VNH Builders Will Absorb:

1. ALL interest charges claimed by CXT (approximately \$38,975.40)

VNH acknowledges that while we diligently pursued CXT for documentation, we will accept responsibility with CXT and work with them to sort this out and complete the project in a timely manner propose on this letter.

B. District's Responsibility:

1. Storage Fees for District-Caused Delays (15 months)

The District should pay for storage costs during the period from July 2024 through September 2025 when the project remained delayed:

- Period: July 2024 through September 2025 (15 months)

- Rate: \$550/month (actual CXT storage rate)
- Total: $\$550 \times 15 \text{ months} = \mathbf{\$8,250.00}$

Justification: The District issued a Notice to Proceed on October 13, 2022, without approved plans. Plans were not provided until July 22, 2024 (638 days later), and permits were not obtained until April 15, 2025 and the encroachment permit delay and other RFIs as well. This entire period of delay was caused by the District's failure to provide buildable plans and secure necessary permits. The CXT building has been in storage since April 2023, accumulating costs through no fault of VNH.

C. Contract Time Extension Request:

1. 140 calendar days extension to the contract to account for:

- Plan approval delays (638 days, requesting partial)
- RFI response delays (72 days documented)
- CXT payment resolution period

2. 90 working days to complete all remaining work from the date of CXT building delivery to site

FINANCIAL SUMMARY OF COUNTEROFFER

District Pays:

- Storage (Jul 2024 - Sep 2025, 15 months @ \$550): \$8,250.00
- **District Total: \$8,250.00**

VNH Absorbs:

- CXT BALANCE

Time Extensions:

- Contract Extension: 140 calendar days
- Completion Time: 90 working days from building delivery

II. DRAFT 90-DAY COMPLETION SCHEDULE

Upon acceptance of this counteroffer and payment to CXT, VNH commits to completing all work within 90 working days:

PHASE 1: MOBILIZATION & PREPARATION (Days 1-14)

- Days 1-3: Payment confirmation and CXT coordination

- Days 4-7: Site preparation and concrete corrections
- Days 8-10: Equipment mobilization and staging
- Days 11-14: Foundation final preparation

PHASE 2: BUILDING INSTALLATION (Days 15-30)

- Days 15-17: CXT building transport and delivery
- Days 18-20: Crane setup and building placement
- Days 21-25: Building anchoring and connections
- Days 26-30: Weatherproofing and initial testing

PHASE 3: UTILITIES & INFRASTRUCTURE (Days 31-60)

- Days 31-40: Plumbing rough-in and connections
- Days 41-50: Electrical rough-in and connections
- Days 51-55: Drainage and site utilities
- Days 56-60: Systems testing and commissioning

PHASE 4: SITE WORK & FINALIZATION (Days 61-90)

- Days 61-70: Final grading and drainage
- Days 71-75: Concrete walkways and paving
- Days 76-80: Landscaping and site restoration
- Days 81-85: Punch list completion
- Days 86-90: Final inspections and project closeout

SUBSTANTIAL COMPLETION: 90 WORKING DAYS FROM CXT BUILDING DELIVERY

III. CONDITIONS AND COMMITMENTS

This counteroffer and schedule are contingent upon:

1. District's acceptance and payment by December 15th of pay app approved October 17, 2025
2. Approval of 140 calendar day contract extension
3. Agreement on 90 working day completion period
4. No liquidated damages for past delays caused by District
5. Weather and site conditions permitting
6. Immediate processing of pending payment applications

VNH Builders commits to:

- Maintaining full crews throughout the 90-day completion period
- Providing weekly progress reports with photo documentation

- Working extended hours if needed to meet schedule
- Completing all work to contract specifications

IV. CLARIFICATION OF KEY POINTS

Regarding your December 8 letter:

- 1. Time Extension Justification:** The requested 140-day extension represents only a fraction of the 900+ days of District-caused delays. The 90 working days for completion is reasonable given the scope of remaining work and need for proper sequencing.
- 2. Storage Fee Responsibility:** The District should pay for storage during periods when the project could not proceed due to lack of approved plans and permits. The \$8,250 represents actual costs at \$550/month for 15 months.
- 3. Schedule Validity:** The 90-working-day schedule is based on actual work requirements and includes appropriate time for inspections, testing, and weather contingencies.

V. CONCLUSION

This counteroffer represents a reasonable compromise where both parties share responsibility:

- The District pays for storage during the period of their delays (\$8,250)
- VNH absorbs CXT responsibilities
- Both parties focus on completing this important community project

With the time extensions requested, VNH can complete this project professionally and to specification within 90 working days.

We respectfully request your acceptance of this counteroffer by December 15, 2025, so we can immediately proceed with project completion. The Crown Beach community has waited long enough for this essential facility.

Sincerely,

Bruno Vieira

Principal



VNH Builders
License #1064244

Attachments:

- Detailed 90-Day Schedule Gantt Chart
- Resource Allocation Plan
- Change Order Request Form for Time Extension
- Storage Fee Documentation

cc: Michael Stangl, EBRPD

Elizabeth Mackenzie, EBRPD

Lynne Bourgault, EBRPD

American Contractors Indemnity Company (Performance Bond #1001188124)



2950 PERALTA OAKS COURT • OAKLAND • CALIFORNIA • 94605-0381 • T: 1-888-EBPARKS • F: 510-569-4319 • TRS RELAY: 711 • EBPARKS.ORG

December 18, 2025

Via E-Mail, U.S. Mail, and Overnight Delivery

Bruno Vieira
Principal
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnhbuilders.com

Re: **Notice of Termination for Cause**
Crown Beach Grant Street Restroom Project – Contract No. 066M-22-409

Dear Mr. Vieira:

This letter constitutes the East Bay Regional Park District’s (“District”) Notice of Termination for Cause of VNH Builders’ (“VNH”) performance under Contract No. 066M-22-409 for the Crown Beach Grant Street Restroom Project (“Contract”), effective immediately.

This termination is issued pursuant to Section 59(a) of the General Conditions, and based on VNH’s substantial breaches of contract and its failure to cure the breaches identified in the District’s November 21, 2025, Notice of Intent to Terminate and Demand for Cure (“NIT”).

BACKGROUND

The November 21, 2025, NIT (attached) provided a detailed current accounting, identified multiple material breaches of the Contract, and demanded that VNH cure or reasonably commence cure of those breaches by no later than December 2, 2025. In addition, the NIT offered VNH a proposed resolution that required written acceptance by December 1, 2025. The NIT expressly advised that failure to timely cure or accept the offer would result in termination.

On November 26, 2025, VNH submitted a letter (attached) disputing the District’s accounting, disputing responsibility for storage costs and delays, requesting a meeting, and proposing further negotiations.

VNH did not accept the District’s proposed resolution by December 1, 2025. In addition, VNH did not cure, or reasonably commence cure of, the breaches identified in the NIT by December 2, 2025.

The District issued a further letter on December 8, 2025 (attached) reiterating the bases for termination and affording VNH one final opportunity to submit a reasonable counteroffer and a completion schedule by December 11, 2025.

Board of Directors

John Mercurio Ward 6 President	Olivia Sanwong Ward 5 Vice President	Colin Coffey Ward 7 Treasurer	Dennis Waespi Ward 3 Secretary	Elizabeth Echols Ward 1	Luana España Ward 4	Lynda Deschambault Ward 2	Sabrina B. Landreth General Manager
--------------------------------------	--	-------------------------------------	--------------------------------------	----------------------------	------------------------	------------------------------	--

On December 11, 2025, VNH submitted a counteroffer letter and schedule for completion (attached). However, this submission failed to cure the breaches identified in the NIT, did not satisfy the Contract's requirements, and did not constitute a reasonable basis for the District to allow VNH's performance to continue.

GROUNDINGS FOR TERMINATION

Multiple grounds for termination exist, including but not limited to the following:

1. **Failure to Accept the District's Offer of Resolution by December 1, 2025.**

The District offered to resolve the dispute through a change order that would have provided a time extension through January 20, 2026, conditioned on VNH immediately resuming performance and waiving additional claims. VNH did not accept that offer by the stated deadline, and it expired. VNH's November 26, 2025, letter only suggested further discussions.

2. **Failure to Timely Cure, or Commence to Cure, by December 2, 2025.**

The NIT required VNH to cure, or reasonably commence cure of, its breaches by December 2, 2025, including recommencing diligent performance of the work. These breaches were described in the District's November 21, 2025, letter, and they justify termination under General Conditions section 59(a)(1), (5), and (7). VNH did not cure, or reasonably commence cure of, these breaches by the December 2, 2025, deadline.

3. **Failure to Submit an Acceptable Counteroffer.**

Despite VNH's failures to accept the District's offer by the December 1 deadline or commence its cure by the December 2 deadline, the District's December 8 letter gave VNH one more chance to submit a counteroffer. However, VNH's December 11 letter indicated that it would require **90 working days** (about 19 weeks) to complete the work after delivery of the building, even though VNH had indicated in its November 26 letter that it would only need 45 days. VNH also asked the District to pay storage fees through September 2025, even though the permit delay ended in April 2025. In addition, VNH asked for a 140-day time extension, presumably in addition to the time extension already offered by the District. Last, VNH also demanded acceptance and payment by December 15, 2025, which was an impossibility. These terms – especially the time demanded for completion of the work – were unreasonable and unacceptable to the District.

TERMINATION FOR CAUSE

Based on the above grounds, the District terminates VNH's performance of the Contract for cause, pursuant to Section 59(a)(1),(5), and (7) of the General Conditions.

DIRECTIVES

As a result of this termination, VNH is hereby directed to immediately:

- Cease all work under the Contract, except as may be expressly authorized in writing by the District.
- Secure and protect the Contract site, including all work in place pursuant to the contract documents and OSHA standards.

- Transfer possession and control of the Contract site and all District-owned or District-paid materials, equipment, and work to the District.
- Deliver to the District all Contract documents, including schedules, submittals, records, correspondence, and as-built information.
- Direct subcontractors and suppliers to coordinate directly with the District regarding the Contract.

Pursuant to the Contract, the District will tender completion of the work to VNH's surety or hire a contractor to complete the work at the expense of VNH and its surety. (General Conditions §59(c).)

RESERVATION OF RIGHTS

To the extent that this termination is determined not to be supported by sufficient cause, this termination shall alternatively be deemed a termination for convenience, effective as of the date of this letter, pursuant to the Contract's termination-for-convenience provisions.

The District expressly reserves all rights and remedies under the Contract and applicable law, including the right to recover liquidated damages, costs of completion, and attorneys' fees.

Sincerely,



Chris Wyckoff
Division Lead, Maintenance and Skilled Trades Administration
East Bay Regional Park District

Enclosures

- Notice of Intent to Terminate and Demand for Cure, dated November 21, 2025.
- VNH letter, dated November 26, 2025
- District letter, dated December 8, 2025
- VNH letter, dated December 11, 2025

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (U.S.
Mail [certified] and overnight delivery)



November 21, 2025

Via E-Mail, U.S. Mail (Certified) and Overnight Delivery

Bruno Vieira
Principal
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnhbuilders.com

**Re: Crown Beach Grant Street Restroom Project
Contract No. 066M-22-409
Current Accounting; and Notice of Intent to Terminate, and Demand for Cure**

Dear Mr. Vierira:

This letter constitutes the East Bay Regional Park District's ("District") current accounting of the above-captioned contract ("Contract") with VNH Builders ("VNH"). As detailed below, the District does not owe any payment based on Payment Application 13.

This letter also constitutes the District's Notice of Intent to Terminate and Demand for Cure for the Contract. As detailed below, VNH must cure, or a reasonable commence a cure, of its breaches of the Contract ("Work") **by December 2, 2025**, otherwise the District will terminate VNH's Work and tender completion to its surety.

Alternatively, the District also proposes a resolution to the present dispute that VNH may accept **by December 1, 2025**. If VNH does not timely accept it, then VNH must cure, or reasonably commence to cure, its breaches of the Contract by December 2, 2025, or the District will terminate the Contract.

CURRENT ACCOUNTING

In response to VNH's recent correspondence and Payment Application 13, it seems that there is some confusion on VNH's part about the contract price and the payment status.

As detailed below, the contract price includes storage fees through July 2024, VNH requested payment on the line item that included those storage fees, and the District made such payment. To the extent that additional storage fees are owed, the District is willing to further increase the contract price by that amount if VNH submits a proper change order request.

Board of Directors

John Mercurio
Ward 6
President

Olivia Sanwong
Ward 5
Vice President

Colin Coffey
Ward 7
Treasurer

Dennis Waespi
Ward 3
Secretary

Elizabeth Echols
Ward 1

Luana España
Ward 4

Lynda Deschambault
Ward 2

Sabrina B. Landreth
General Manager

First, as a prerequisite for any monthly progress payment, VNH has an obligation to submit an updated progress schedule; and if not submitted, the District may withhold payment. (General Conditions §15.)

Accordingly, the District will not make any payment on Payment Application 13 until VNH submits an updated progress schedule.

Second, Payment Application 13 requires adjustment to some of the claimed percentages of completion. The District will forward the necessary adjustments under separate cover.

Third, as shown in the following table, the current withhold items exceed the unpaid contract balance, therefore no payment is possible at this time:

Original Contract Price		\$ 268,000.00
Board-Approved Change Orders (1-10)		556,848.00
Adjusted Contract Price		824,848.00
Payments to Date		(495,941.42)
Unpaid Balance:		328,906.58
- Retention (per current version of Pay App 13)	\$ 29,088.62	
- Other Unpaid Balance	299,817.96	
Withhold Items:		(345,176.30)
- Accrued Liquidated Damages (\$500/day × 98 calendar days of delay [8/15/25 {adjusted contractual completion deadline, per Change Order 8} through 11/21/25])	49,000.00	
- Estimated Future Liquidated Damages (\$500/day × 60 calendar days of delay [11/21/25 through 1/20/26 {estimated completion date ¹ }], plus 50% contingency)	45,000.00	
- Unperformed Work, per current version of Pay App 13	243,676.30	
- Deficient concrete work that requires correction (\$5,000 rough estimate, plus 50% contingency)	7,500.00	
Amount Currently Available for Payment		0.00

If VNH reduces or eliminates any of the withhold items above, then the District will recalculate to determine whether payment is possible.

Fourth, the November 4 and 7, 2025, letters from VNH have argued that it is entitled to immediate payment for various costs, but its arguments have little or no merit:

¹ This estimated completion date assumes that VNH could complete the project in 60 calendar days if VNH diligently prosecutes the work upon receipt of this letter.

- Storage Costs Owed to CXT Through July 2024 – VNH claims that the District has not paid any storage fees being charged by CXT for the Denali restroom building. **However**, as part of Change Order No. 7, the District agreed to pay \$50,876 for the 3/20/24 “change order” from CXT. (See attached copy of Change Order No. 7, including Exhibit 1; and copy of the 3/20/24 CXT change order.) Exhibit 1 to Change Order No. 7 shows that the District agreed to pay \$50,876 for crane mobilization; this dollar amount matches the 3/20/24 CXT “change order” that includes crane mobilization; and that CXT “change order” states that the \$50,876 covered “Storage fees through July 2024.” Therefore, as shown by these documents, the Contract price has already been increased to include storage fees through July 2024. Furthermore, VNH has been paid for these amounts. VNH included Change Order No. 7 (including the storage fees through July 2024) in multiple payment application, including the pending Payment Application 13 (see Line 10). VNH listed Line 10 as 80% complete in Payment Request 9, and the District proceeded to make payment on that basis.
- Storage Costs Owed to CXT After July 2024 – The District acknowledges that VNH was not able to install the building until the City issued the permit, which occurred on April 15, 2025. Therefore, the District agrees that it must pay for an additional 8½ months of storage fees (8/1/24 through 4/15/25). CXT recently advised the District that storage fees are \$550 per month. Therefore, the District will agree to pay \$4,675 for additional storage fees if VNH submits a proposed change order (which it has never done for this cost). **However**, any storage fees after April 15, 2025, are the responsibility of VNH. After the permit was issued, VNH was no longer delayed by the lack of a permit, and VNH should have immediately recommenced construction and had the building delivered to the site. If the site was not ready for the building, then that delay would be VNH’s responsibility. If VNH was not able to obtain release of the building, then that delay would be VNH’s responsibility.
- Interest Owed to CXT – VNH claims that CXT is claiming interest of \$38,975.40, and VNH demands that the District pay this amount. **However**, VNH has not explained how these interest charges were calculated or, more importantly, why it believes that the District is responsible for these interest charges. If CXT was submitting invoices to VNH for storage or other costs, but VNH was not paying CXT, then VNH is responsible for the interest, not the District. VNH has always been responsible to pay all costs invoiced by its subcontractors and suppliers. If VNH incurred storage or other costs that it felt were the District’s responsibility, VNH should have immediately invoiced the District for such costs, but VNH did not do so. Therefore, the District cannot be blamed for VNH’s failure to pay CXT or the resulting interest charges.
- Outstanding Balance on Building – VNH claims that CXT is demanding the “outstanding balance on the building,” and VNH demands that the District pay that amount. **However**, the \$104,000 price for the building was included in the original contract price of \$268,000, the original Contract price has been listed in every payment application from the beginning of the project, and 100% of that amount has been charged to, and paid by, the District (as indicated in Payment Application 12). If VNH has not used the District’s payment of the original Contract price to pay CXT for the building, that is VNH’s fault, not the District’s. The District is not liable for this cost.
- Advance Payment for Remobilization Costs – VNH demands that it must receive advance payment for its remobilization costs. **However**, the adjusted contract price includes these costs, as demonstrated by your November 7 letter. Therefore, nothing in the Contract requires the District to pay for those costs before the work is performed. Once the costs are incurred, then VNH may submit a payment application that reflects completion of that work. Furthermore, the District is actually entitled to a change order credit related to the remobilization. As discussed above, Change Order 7 included payment based on the 3/20/24 CXT “change order” that included night crane work. However, the night crane work is no longer needed, so the District is entitled to a credit for that amount.
- Documents 2 and 3 – VNH refers to “Payment Request #9” in its November 7 letter. The District agrees that it listed an additional \$62,876 for the building, and that it requested payment based on 80% completion of that item. **However**, as discussed above, this item includes the 3/20/24 CXT “change order” that

covered storage fees through July 2024 (as also mentioned in the November 7 letter). Also, VNH has been mostly paid for this item based on VNH's payment applications.

- Alleged False Claim by the District – VNH states that the District's claim that it has paid for storage fees is "demonstrably false." *However*, to the contrary, the above analysis demonstrates that the District has increased the contract price to cover storage fees through July 2024, and that the District has made every payment of those costs when requested in a VNH payment application (see Payment Application 9).
- Demand for Payment – VNH demands payment of \$67,868.41 to cover storage fees, interest charges, and legal fees. *However*, as discussed above, the District is only responsible for \$4,675 of storage fees after July 2024. The District rejects VNH's demand for any increase in the Contract price other than \$4,675. The other costs were caused by VNH's failure to promptly pay CXT and failure to promptly pay

Based on the above, if VNH wishes to submit a proposed Change Order 11 that includes (A) \$4,675 for 8½ months of additional storage costs beyond July 2024, and (B) an appropriate credit for deletion of the night crane work, the District would approve it. Then VNH could add it to its next application for payment.

Otherwise, no Contract price increase or payment is owed by the District. The other items claimed by VNH do not have any merit based on the information provided by VNH.

VNH is welcome to prepare and submit a detailed and proper proposed change order that includes supporting documentation and explanation for any desired Contract price increase. The District will review it; and if the District approves any additional compensation, VNH could add it to its next payment application.

Fifth, VNH claims in its November 4, 2025, letter that the Contract terms must be revised to reflect the actual project conditions. However, VNH has not submitted any proposed revisions for the District's review. Until VNH does so, the District cannot respond to this demand.

NOTICE OF INTENT TO TERMINATE, AND DEMAND FOR CURE

VNH is currently in substantial breach of the Contract in many respects.

Primarily, VNH's completion of the Work is substantially late, even after taking into account time extensions:

- The original completion deadline was January 12, 2023 (60 working days after the October 13, 2022, notice to proceed).
- Change Order No. 7 extended the completion deadline to February 29, 2024, based on the work added by Change Order 7 and the permitting delays.
- Change Order No. 8 extended the completion deadline to August 15, 2025.
- However, no other time extensions are warranted. VNH was required to resume its work after issuance of the City permit that ended the permitting delay, and the Change Order No. 8 time extension provided ample time to complete the work. Now, in breach of the Contract, VNH is refusing to resume its work due to a payment dispute with a supplier (CXT).² Therefore, all delay since issuance of the permit is the responsibility of VNH and substantially breaches of the Contract.

In addition, VNH has breached the Contract by refusing to perform work as directed. On November 4, 2025, the District directed VNH to supply the CXT building, as required by Section 40(e) of the General Conditions. However, in a letter later that day, VNH not only refused to supply the CXT building, but it also refused to perform any work. VNH asserted that based on the District's alleged "refusal to address these legitimate costs

² The contract prohibits VNH from refusing to work on the basis of a payment dispute. (General Conditions §46(a).)

and the mischaracterization of previous payments,” all work on all EBRPD projects “will cease immediately,” that VNH “will withdraw as the permit holder,” and that “no further work will proceed until there is satisfactory resolution” of the disputed issues.

However, as demonstrated in the first part of this letter, the District has addressed all legitimate cost issues, the District has not mischaracterized previous payments, there is no basis for an increase in the contract price other than \$4,675 for storage costs, and there is no basis for a progress payment at this time.

More importantly, a payment dispute between VNH and the District does not give VNH the right to refuse to perform work – the work must proceed as directed by the District, even if the District is directing a change in the work. (General Conditions §46(a).) VNH cannot hold the progress of the project hostage to its demands for additional compensation.

VNH is also in breach of the Contract since it has not submitted any schedule, much less updated schedules. Schedules are required by the Contract (General Conditions §15) since, in part, they are necessary to demonstrate to the District that VNH has a reasonable and acceptable plan for completion of the Work.

Last, VNH’s recent concrete work is deficient since it requires patching, grinding, and color matching.

Accordingly, the above breaches by VNH justify the District’s termination of VNH’s performance of the Contract, pursuant to Section 59(a)(1), (5), and (7) of the General Conditions.

Pursuant to Section 59(b) of the General Conditions, the District demands that VNH cure, or reasonably commence to cure, its breaches by performing the following by December 2, 2025:

- Commence diligent and expeditious performance of the Work (including correction of the concrete), as required by the Contract (General Conditions §§10, 43(e), and 46(a)).
- Submit a schedule that complies with the Contract’s requirements (General Conditions §15) and indicates a reasonable projected completion date (“Schedule”).
- Continue diligent and expeditious performance of the Work pursuant to the Schedule through completion of the Work.

If VNH fails to perform as directed above, the District will terminate VNH’s performance of the Work, in which case it would either tender completion of the Contract to its surety or hire a contractor to complete the Work at the expense of VNH and its surety. (General Conditions §59(c).)

Please note that failure of VNH to timely perform as directed above will *not* result in automatic termination. The District reserves its right to decide if and when to terminate VNH’s performance of the Contract; and if the District decides to terminate, it will issue written notice to VNH and its surety.

If VNH believes that a Contract price increase is owed, or a time extension is due, for any work being directed by the District in this letter or in the past, then it must follow the Contract’s procedures (as discussed in the first part of this letter) to request additional compensation or a time extension. A mere payment dispute is not a valid basis for refusal to perform the Work as directed above. (General Conditions §46(a).)

Last, we encourage VNH and its surety to comply with the above demand for a cure, otherwise the District will hold VNH and its surety accountable for the District’s attorneys’ fees. (General Conditions §61)

OFFER OF RESOLUTION

Notwithstanding the above notice of intent to terminate and demand for cure, the District offers to resolve the present dispute by immediately processing a change order that would (A) grant a time extension until January 20, 2026, thus waiving \$94,000 of liquidated damages; (B) waive VNH's rights to seek any other compensation, damages (delay or otherwise), or time extensions based on existing or known issues (including but not limited to the items previously demanded by VNH); and (D) require VNH to immediately resume performance of its work.

VNH must accept this offer in writing *by 4:00 p.m. on December 1, 2025*. If VNH does so, the District will withdraw its notice of intent to terminate and demand for a cure. If VNH does not timely accept this offer, it will expire and VNH must comply with the above notice of intent to terminate, and demand for cure, by December 2, 2025.

The District looks forward to VNH's prompt response. Please let us know if you have any questions.

Sincerely,

Matthew Norton

Matthew Norton
Maintenance Superintendent

Enclosures: Change Order 7, including Exhibit 1
CXT Change Order, dated 3/20/24

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (U.S.
Mail [certified] and overnight delivery)

CHANGE ORDER (CO) NO. 7


EAST BAY REGIONAL PARK DISTRICT
 2950 Peralta Oaks Court, P.O. Box 5381 Oakland, CA 94605-0381


PARK:	Crown Beach	PUR. ORDER NO.:	P222012
AREA:	Grand Street	CONTRACT NO.:	066M-22-409
DESCRIP.:	Construct Restrooms	DATE OF CO:	8/1/2024
DIST. REP.:	Matt Norton	CONTRACTOR:	VNH Builders
DIST. PHONE:	510-690-6688	CONT. EMAIL:	bruno.vieira@vnhbuilders.com


You are hereby directed to proceed promptly with the following specific changes to the work in conformity with the Contract Documents:

1. Contractor shall use plans titled, "EBRPD CROWN BEACH RESTROOM #3", dated 7/22/2024.
2. Contractor shall obtain necessary City of Alameda permits: building, encroachment, etc. including application and correspondence, cost of permits will be paid by the District.
3. Contractor shall complete work per cost proposal attached as Exhibit 1.

The ADDITIONAL CHANGE or DEDUCTION for the above work is.....	\$ 487,346.00
The original Contract Sum was.....	\$ 268,000.00
Net change by previous Change Orders.....	\$ 40,200.00
The Contract Sum prior to this Change Order was.....	\$ 308,200.00
The Contract Sum will be <input checked="" type="checkbox"/> increased) <input type="checkbox"/> decreased) <input type="checkbox"/> unchanged).....	\$ 487,346.00
The new Contract Sum including this Change Order will be.....	\$ 795,546.00
The Contract Time will be <input checked="" type="checkbox"/> increased) <input type="checkbox"/> decreased) <input type="checkbox"/> unchanged).....	270 days
The completion Date as of the date of this Change Order is.....	2/29/2024

Bruno Vieira, Principal
 Contractor

 Bruno Vieira (Aug 5, 2024 16:18 PDT)
 Signature
 Aug 5, 2024
 Date

Matt Norton, Superintendent
 District Representative

 Signature
 Aug 7, 2024
 Date

Lisa Goorjian, AGM
 Chief/AGM

 Signature
 Aug 11, 2024
 Date

SIGN AND RETURN ELECTRONIC COPY OF CHANGE ORDER

Exhibit 001

LINE NO.		TIME REP. / CDS REC.	DESCRIPTION	UNIT OF MEASURE	QUANTITY	UNIT PRICE	TOTAL MATL.	LABOR RATE	LABOR HOURS	TOTAL LABOR	TOTAL COST	DIVISION TOTAL
<p>GREEN LINES: INPUT DATA BLUE LINES: DO NOT TOUCH FOR Q&A</p>												
<p>PROJECT NAME: GOLF COURSE BEACH RESTROOM #3</p>				<p>SCOPE OF WORK: ASPHALT, CONCRETE, LANDSCAPE, UTILITY WORK</p>								
001			CONCRETE	YD	10	100	1000	10	10	100	1100	1100
002			ASPHALT	YD	5	100	500	10	5	50	550	550
003			LANDSCAPE	HR	100	10	1000	10	100	1000	2000	2000
004			UTILITY WORK	HR	50	20	1000	20	50	1000	1500	1500
005			CONCRETE	YD	20	100	2000	10	20	200	2200	2200
006			ASPHALT	YD	10	100	1000	10	10	100	1100	1100
007			LANDSCAPE	HR	150	10	1500	10	150	1500	3000	3000
008			UTILITY WORK	HR	75	20	1500	20	75	1500	2250	2250
009			CONCRETE	YD	30	100	3000	10	30	300	3300	3300
010			ASPHALT	YD	15	100	1500	10	15	150	1650	1650
011			LANDSCAPE	HR	200	10	2000	10	200	2000	4000	4000
012			UTILITY WORK	HR	100	20	2000	20	100	2000	2900	2900
013			CONCRETE	YD	40	100	4000	10	40	400	4400	4400
014			ASPHALT	YD	20	100	2000	10	20	200	2200	2200
015			LANDSCAPE	HR	250	10	2500	10	250	2500	5000	5000
016			UTILITY WORK	HR	125	20	2500	20	125	2500	3750	3750
017			CONCRETE	YD	50	100	5000	10	50	500	5500	5500
018			ASPHALT	YD	25	100	2500	10	25	250	2750	2750
019			LANDSCAPE	HR	300	10	3000	10	300	3000	6000	6000
020			UTILITY WORK	HR	150	20	3000	20	150	3000	4500	4500

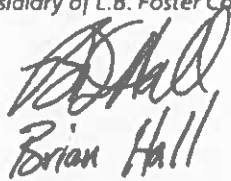


606 N. Pines Road, Suite 202
 Spokane Valley, WA 99206
 800 696 5766

CHANGE ORDER

Customer:	VNH Builders Crown Beach EBP		
Project/SOA:	429918		
Date:	March 20, 2024		
Description			Price
Remobilize DN-393 and all installation equipment for night operations. CXT trained and certified install crew Crane, crew and equipment Trucking Storage fees through July 2024			50,875.94
Additional Parts	Quantity	Price	
		Tax:	
		Total: \$50,875.94	

CXT Incorporated
 a subsidiary of L.B. Foster Company

By 
 Brian Hall

The above change order is satisfactory and hereby accepted and are subject to the conditions below.

Accepted this 20 day of _____ 20____
 VNH Builders Crown Beach EBP Customer Name

CXT Sales Representative 3/20/2024 Date Signature _____ Date _____

CXT Precast Concrete Products manufactures restroom, shower and concession buildings in multiple designs, textures and colors. The roof and walls are fabricated with high strength precast concrete to meet all local building codes and textured to match local architectural details. All CXT buildings are designed to meet A.D.A. and to withstand heavy snow, high wind and category E seismic loads. All concrete construction also makes the buildings easy to maintain and withstand the rigors of vandalism. The buildings are prefabricated and delivered complete and ready to use, including plumbing and electrical where applicable. With thousands of satisfied customers nationwide, CXT is the leader in prefabricated concrete restrooms.

1. ORDERING ADDRESS(ES): CXT Precast Concrete Products, 606 N. Pines Road, Suite 202, Spokane Valley, WA 99206
 2. ORDERING PROCEDURES: Fax 509-928-8270
 3. PAYMENT ADDRESS(ES):
 Remitting by check: CXT, Inc., PO Box 676208, Dallas, TX 75267-6208
 Remitting by ACH or wire transfer: Beneficiary CXT Inc.
 Beneficiary Bank: PNC Bank, Pittsburgh, PA
 Account: 1077766885 ABA/Routing: 043000096

Email remittance details to AR@lbfoster.com

4. WARRANTY PROVISIONS: CXT provides a one (1) year warranty. The warranty is valid only when concrete is used within the specified loadings. Furthermore, said warranty includes only the related material necessary for the construction and fabrication of said concrete components. All other non-concrete components will carry a one (1) year warranty. CXT warrants that all goods sold pursuant hereto will, when delivered, conform to specifications set forth above. Goods shall be deemed accepted and meeting specifications unless notice identifying the nature of any non-conformity is provided to CXT in writing within the specified warranty. CXT, at its option, will repair or replace the goods or issue credit for the customer provided CXT is first given the opportunity to inspect such goods. It is specifically understood that CXT's obligation hereunder is for credit, repair or replacement only, FOB CXT's manufacturing plants, and does not include shipping, handling, installation or other incidental or consequential costs unless otherwise agreed to in writing by CXT.

This warranty shall not apply to:
 1. Any goods which have been repaired or altered without CXT's express written consent, in such a way as in the reasonable judgment of CXT, to adversely affect the stability or reliability thereof;
 2. To any goods which have been subject to misuse, negligence, acts of God or accidents; or
 3. To any goods which have not been installed to manufacturer's specifications and guidelines, improperly maintained, or used outside of the specifications for which such goods were designed.

5. TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE): All prices subject to the "Conditions of Sale" listed on the CXT quote or form.

Customers are responsible for marking exact location building is to be set; providing clear and level site, free of overhead and/or underground obstructions and providing site accessible to normal highway trucks and sufficient area for the crane to install and other equipment to perform the contract requirements. Customer shall provide notice in writing of low bridges, roadway width or grade, unimproved roads or any other possible obstacles to access. CXT reserves the right to charge

the customer for additional costs incurred for special equipment required to perform delivery and installation. Customers will negotiate installation on a project-by-project basis, which shall be priced as separate line items. For more information regarding installation and truck turning radius guidelines please see our website at <http://www.cxtinc.com>

In the event delivery of the building is ordered is not completed within 30 days of the agreed to schedule through no fault of CXT, an invoice for the full contract value (excluding shipping and installation costs) will be submitted for payment. Delivery and installation charges will be invoiced at the time of delivery and installation.

Should the delivery and installation costs increase due to changes in the delivery period, this increase will be added to the price originally quoted, and will be subject to the contract payment terms.

In the event that the delivery is delayed more than 90 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of 1-2% of contract price per month or any part of any month will be charged.

**Customer is responsible for all local permits and fees.

6. DELIVERY CHARGE: All prices FOB, origin prepaid and added to invoice. CXT operates three (3) manufacturing plants in the United States and will deliver from the closest location on our carriers.

7. PAYMENT TERMS: All orders are cash in advance. At CXT's discretion, credit may be given after approval of credit application. Payment to CXT by the purchaser of any approved credit amount is net 30 days after submission of invoice to purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning with the 35th day (includes five (5) day grace period) from the date of the invoice. Under no circumstance can retention be taken. If CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys fees and costs of any appeal.

8. LIMITATION OF REMEDIES: In the event of any breach of any obligations hereunder, breach of any warranty regarding the goods, or any negligent act or omission of any party, the parties agree to submit all claims to binding arbitration. Any settlement reached shall include all reasonable costs including attorney fees. In no event shall CXT be subject to or liable for any incidental or consequential damages. Without limitation on the foregoing, in no event shall CXT be liable for damages in excess of the purchase price of the goods herein offered.

9. DELIVERY INFORMATION: All prices FOB, origin prepaid and added to invoice. CXT operates three (3) manufacturing plants in the United States and will deliver from the closest location on our carriers. Use the information below to determine the origin:
 • F.O.B. 6701 E. Flamingo Avenue, Building 300 Nampa, ID 83687 applies to AK, CA, HI, ID, MT, ND, NV, OR, SD, UT, WA, WY
 • F.O.B. 901 North Highway 77, Hillsboro, TX 76645 applies to AR, AZ, CO, IA, KS, LA, MN, MO, MS, NE, NM, OK, TX
 • F.O.B. 362 Waverly Road, Williamsstown, WV 26183 applies to AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, NC, NJ, NY, OH, PA, PR, RI, SC, TN, VA, VT, WI, WV.
 • Prices exclude all federal/state/local taxes. Tax will be charged where applicable if customer is unable to provide proof of exemption.

VNH BUILDERS

842 Mahler Road
Burlingame, CA 94010

Phone: (415) 670-0661 | Email: bruno.vieira@vnhbuilders.com

November 26, 2025

VIA EMAIL AND CERTIFIED MAIL

Michael Stangl
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Crown Beach Grant Street Restroom Project - Contract No. 066M-22-409

Response to November 21, 2025 Letter - Request for Collaborative Resolution

Dear Mr. Stangl:

We appreciate your November 21 letter and welcome the opportunity to clarify the facts and work toward a collaborative resolution. VNH Builders remains committed to completing this important community project and believes that through good-faith negotiations, we can resolve the current impasse and deliver the Crown Beach Restroom facility that the community needs and deserves.

We request an immediate meeting with all stakeholders to resolve these issues constructively rather than through confrontation.

I. HOW WE ARRIVED HERE - THE CASCADE EFFECT

To understand the current situation, it's essential to recognize how a series of initial challenges created a cascade of delays that neither party anticipated:

A. The Original Challenge - Starting Without Approved Plans

On October 13, 2022, the District issued a Notice to Proceed with a 60-working-day completion deadline (January 12, 2023), but without approved construction plans. This created an impossible situation that set the stage for everything that followed:

- We could not obtain building permits without approved plans
- We could not order the CXT building without confirmed specifications
- We could not begin site work without knowing final elevations and dimensions

B. The Domino Effect - 638 Days Waiting for Plans

The District didn't provide updated plans until July 22, 2024 - **638 days after the Notice to Proceed**. During this extended period:

- CXT manufactured the building based on preliminary specifications (completed April 14, 2023)
- The building had to be stored at CXT's facility, accumulating storage costs
- We continued paying for bonds, insurance, and overhead without ability to work
- Material costs escalated due to inflation

C. Discovery of Plan Deficiencies - Another 52 Days

When we finally received plans and began work, we discovered critical errors and omissions requiring extensive RFI submissions:

- **RFI #009 - Critical Dimensional Error:** Plans showed 6.2 feet instead of 6.24 feet for slab-on-grade. This 0.5" discrepancy would have caused catastrophic misalignment between the prefabricated building and foundation.
- **RFI #011 - Missing Drainage Details:** Plans showed drain rock and perforated pipe but no outlet locations or connections. We waited 26 days for this critical information.
- **Multiple Other RFIs:** Missing sections, foundation details, code compliance issues - each requiring work stoppage while awaiting responses.

These weren't minor clarifications - they were fundamental design elements necessary for construction.

II. VNH'S PROACTIVE MANAGEMENT OF THE CXT SITUATION

Contrary to any suggestion that we've been passive, VNH has been actively managing the CXT storage situation from day one:

A. Our Documented Efforts (February 2023 - March 2025)

- 1. Early 2023:** Began requesting detailed storage fee documentation from CXT
- 2. Throughout 2023-2024:** Multiple emails and calls to CXT requesting:
 - Itemized storage costs
 - Monthly storage rates

- Documentation for change order processing
- Options to minimize costs

3. January 2024: Negotiated with CXT and Hugh Escobar (Bragg Crane) about alternative storage locations

4. March 14, 2025: CXT finally provides comprehensive invoice after nearly two years of requests

5. March 20, 2025: We immediately notified the District and requested payment authorization

B. Why This Matters

This timeline demonstrates that:

- We didn't ignore storage costs - we actively pursued documentation for two years
- We tried to minimize costs through alternative arrangements
- We immediately brought the issue to the District when documentation was received
- The delay in invoice presentation was CXT's, not ours

III. CLARIFYING KEY MISCONCEPTIONS

We believe several misconceptions need clarification to move forward productively:

A. Misconception: Storage Fees Were Paid in Change Order #7

Reality: Change Order #7's \$50,300.80 for "Denali Building" covered crane mobilization and setup costs only. This is documented in:

- The Change Order description itself
- Payment Application #9 line items
- CXT's March 2025 statement that no storage fees have been paid

We understand how this confusion arose and are happy to provide detailed documentation in our proposed meeting.

B. Misconception: VNH Refuses to Work

- Direct District payment to CXT vs. payment through VNH
- Partial payments to secure building release
- Payment terms and timing

2. Storage Cost Resolution:

- Negotiated rate reduction with CXT
- Shared responsibility for certain periods
- Interest waiver if resolved quickly

3. Completion Schedule:

- Accelerated schedule options
- Phased completion milestones
- Liquidated damages waiver for good-faith effort

4. Delay Claims:

- Mutual waiver of delay damages
- Focus on completion rather than fault
- No-cost change order for time extensions

C. Our Commitments

If we can reach agreement on payment, VNH commits to:

- Complete all work within 45 days of CXT building delivery
- Provide weekly progress reports with photos
- Address all punch list items promptly
- Maintain open communication throughout
- Work collaboratively to minimize further costs

V. THE REALITY OF OUR SITUATION

Let's be candid about where we stand:

What We Both Want:

- A completed restroom facility for the Crown Beach community
- Resolution without costly litigation

- Fair compensation for work performed
- Professional reputations intact

The Obstacles:

- \$66,355.34 owed to CXT preventing building release
- Accumulated storage and interest charges
- Miscommunication about payment status
- Frustration on both sides

The Simple Solution:

Pay CXT → Get building → Complete project → Serve community

CONCLUSION

This project has faced unprecedented challenges - starting without approved plans, waiting 638 days for documentation, discovering critical design errors, and now the CXT payment impasse. Each delay cascaded into the next, creating a situation neither party anticipated or wanted.

However, we're at a critical juncture where we can either:

1. Continue down a path of confrontation, litigation, and further delay, or
2. Come together, acknowledge the challenges, negotiate fairly, and complete this project

We strongly prefer option 2 and believe you do too.

We respectfully request that instead of proceeding with termination, the District join us in a collaborative effort to resolve these issues. We've been proactive from day one in managing the CXT situation, we've navigated extraordinary delays caused by factors beyond anyone's control, and we remain ready and eager to deliver this important community facility.

Please contact us immediately to schedule a meeting. Time is of the essence, but with good faith on both sides, we can resolve this matter quickly and successfully.

Respectfully submitted with hope for immediate resolution,

Bruno Vieira
Principal
VNH Builders
License #1064244
Direct: (415) 670-0661
Email: bruno.vieira@vnhbuilders.com

Attachments:

1. CXT Email Exchange (showing our proactive efforts from 2023-2025)
2. Timeline of VNH's Storage Fee Management Efforts
3. Draft 45-Day Completion Schedule (ready to implement)
4. RFI Log Showing Design-Related Delays

cc: CXT, Inc. - Brian Hall (for meeting coordination)

Bragg Crane Service - Hugh Escobar

[Legal Counsel - if engaged]

Re: Crown Beach Restroom Project/DN-393 429918

From branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Date Fri 3/21/2025 9:12 AM

To Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com <branum.spliethof@outlook.com>

Oh that's weird must have been a glitch, please attend 3/24/25 at 8am do you need me to resend ?

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfoster.com>

Sent: Friday, March 21, 2025 8:54 AM

To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com <branum.spliethof@outlook.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

I received an invite for 3/24/2025 at 8:00am PST and multiple other canceled invites. Can you please confirm the meeting date and time?

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Friday, March 21, 2025 8:12 AM

To: Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

Thank you for offering meeting times. I'd like to schedule a video conference for Monday, March 24 at 12:00pm PST to discuss this matter. I'll be creating and sending a Microsoft Teams meeting invitation shortly.

I look forward to working toward a resolution that addresses both our concerns.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BrianHall@lbfoster.com>
Sent: Friday, March 21, 2025 6:21 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; 'Escobar, Hugh' <hugh.escobar@braggcrane.com>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

Agreed, we have an executed contract in place that sets the expectation of this project. That contract includes (1) mobilization delivery and off load. It does not include multiple mobilizations, crane picks and specialized equipment. This is clearly covered in the terms of the agreement. It does not include delivery to multiple sites, multiple crane picks, and specialized equipment.

As Hugh with Bragg Crane (included) communicated a week ago on Friday March 14, the building is ready for inspection per the below communication.

The building is currently stored at our Richmond yard 457 Parr Blvd Richmond Ca 94801, you can inspect the building M-F 7am – 3pm, just let me know when you would like to visit

I have a handful of meetings today and my availability window is 11:00am-2:30pm PST. If that does not work, I am free Monday 3/24 8:00am-9:00am and 12:00pm-2:00pm PST. Hugh does not need to be on this call. This call should include at a minimum, CXT and VNH. If EBPD is available that would be preferred as well.

Just so we are all on the same page, CXT expects payment of \$66,355.34 by 3/28/2025. Anything outside of this and we intend to hand this over to our legal team and pursue all remedies within the agreement CXT has fully capitalized the project and needs to be compensated for the work performed on 4/14/2023, almost two years ago.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Thursday, March 20, 2025 7:44 PM
To: Brian Hall <BrianHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

We are not an adversary here. We want to pay you, but the building is simply not delivered. We've even agreed to pay CXT an extra \$19k (upon inspection) until delivery, despite CXT driven and owner driven delays. We're being extremely reasonable here, as a trade partner, we need your team to acknowledge this fact.

As outlined in my previous email with detailed timeline evidence, **delivery** under our agreement means transportation to site, crane pick, and proper setting on the building pad - none of which has occurred.

I propose one final opportunity to resolve this matter constructively: a meeting with all stakeholders this week. If you decline this meeting, we will proceed with our legal options to protect our contractual rights.

Please confirm your availability for a video conference this week or Monday at the latest with representatives from CXT, VNH, and Bragg Crane present.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfooster.com>
Sent: Thursday, March 20, 2025 9:10 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

The payment CXT has requested by 3/28/2025, \$66,355.34 is the original balance and does not include any storage, or interest fees. On our 3/15/2024 conference between all parties, it was agreed CXT would receive payment for all operations completed through this date. It is CXT's understanding VNH has received this payment.

If CXT does not receive this payment by 3/28/2025, it will be turned over to our legal department and all remedies will be pursued.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfooster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Thursday, March 20, 2025 8:53 AM
To: Brian Hall <BHall@lbfooster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

Thank you for your recent email. After reviewing your position regarding payment terms, I feel it's important to establish a clear timeline of events regarding this project, as there appears to be a fundamental misunderstanding about what constitutes "delivery" under our contract.

The building was never delivered to the project site. This is the central issue at hand and is evident in our documented communication history:

1. Original timeline: Contract schedule dated 12/06/2022 showed completion on 02/16/2023.
2. Initial delay by CXT: On 02/02/2023, you notified us that "LB Foster ran into a hiccup on the building completion" due to back-ordered fiberglass doors, pushing the timeline approximately 10 weeks to "early-mid April." (Email from Matt Armitage dated 02/02/2023)
3. Multiple requests from VNH: Between 02/21/2023 and 03/09/2023, we sent multiple emails requesting updates and exact delivery dates, expressing concern about project impacts.
4. Alternative solutions rejected: On 03/02/2023, I specifically asked "Why are the doors such an integral part of delivery? Why can't they come at a later date?" noting that "the owner is not very happy with me about this delay." (Email dated 03/02/2023)
5. Refusal to ship separately: On 03/13/2023, Matt Armitage responded: "Unfortunately we cannot ship the building without doors as the building will not be useable or secure." (Email dated 03/13/2023)
6. Formal notice of impacts: On 04/03/2023, VNH sent formal "Notice of Project Impacts and Schedule Delays" documenting the timeline of delays caused by CXT's procurement issues.
7. Last-minute changes: On 04/11/2023, just days before the rescheduled installation, CXT suddenly required a change order for an additional \$12,000 for a larger crane, further complicating the process.
8. Project halt: The building was ultimately never delivered to or installed at the project site due to owner-driven design changes that occurred after the initial delays.

Your current position that "CXT has provided delivery and off load per the executed agreement" contradicts the reality of the situation. The building remains at Bragg's yard and has never been transported to or installed at the project site as required under our contract.

While I understand your stance on the payment terms, it's important to recognize that:

9. VNH did not bill EBRPD for the CXT building until September 18, 2024, as we were anticipating project resumption. Furthermore, due to EBRPD's standard NET60 payment terms, we didn't receive payment from them until December 2024, which is why our payment to CXT was processed in early January 2025.
10. Interest charges were never previously communicated to us during our ongoing correspondence about project status.
11. The extraordinary length of the storage period is due to circumstances outside both our companies' control, requiring a more collaborative approach to resolution.

I remain committed to finding a reasonable solution while maintaining our contractual rights. My position remains as originally proposed:

12. We will schedule an inspection of the building at Bragg's yard within the next 7 days
13. Following inspection and verification of the building's condition, we will process payment of \$19,984.82, which covers the remaining freight charges, sales tax, and half of the outstanding building balance (accounting for our previous payment of \$51,355.34)
14. The final building balance of \$46,370.50 will be processed when the building is delivered to the project site and properly installed
15. Storage fees that can be properly documented will be submitted to EBRPD for approval through our change order process

This payment structure appropriately balances our mutual obligations in light of the unique circumstances of this project and aligns with standard industry practice regarding payment for incomplete deliveries.

To be clear, the March 28, 2025 deadline for payment is not feasible given that we do not have possession of the building, which remains in Bragg's yard. No contractor would reasonably be expected to make full payment for a building that has not been delivered to the project site. Nor would that stand up in arbitration or litigation.

Again, I request that we schedule a meeting with all stakeholders by the end of this week to resolve these issues constructively. Without such a meeting to establish mutual understanding, we cannot proceed with any payment until proper delivery terms are agreed upon.

I look forward to your response and am available to discuss this further at your convenience.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfooster.com>
Sent: Thursday, March 20, 2025 6:56 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

Has VNH received payment from EBPD for this portion of the project?

Please see the terms sections to your email below in **BLUE** from the executed attached agreement. The terms are very clear to cover this occurrence.

CXT received payment for \$51,355.34 on 1/2/2025. Remaining original balance was \$66,355.34. CXT will not consider removing any interest, or storage charges until the original balance is paid. This will need to be paid by 3/28/2025. If payment is not received by 3/25/2025, CXT will initiate and pursue all remedies and costs per the executed agreement.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfooster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Tuesday, March 18, 2025 12:45 PM
To: Brian Hall <BHall@lbfooster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. **Do NOT click links** and **do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Hi Brian, et al,

Thank you for your prompt response. I appreciate you bringing clarity to your position and including all stakeholders in this conversation for transparency. After reviewing the executed agreement and your latest email, I need to emphasize some critical points:

1. According to standard construction practice and our understanding of the original agreement, full payment is contingent on complete delivery and installation of the building at the project site. Currently, the building remains at Bragg's yard and has not been transported to the site or placed on the foundation as intended in our agreement.

PAYMENT TERMS: All orders are cash in advance. At CXT's discretion, credit may be given after approval of credit application. Payment to CXT by the purchaser of any approved credit amount is net 30 days after submission of invoice to purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning with the 35th day (includes five (5) day grace period) from the date of the invoice. Under no circumstance can retention be taken. If CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys' fees and costs of any appeal.

Should the delivery and installation costs increase due to changes in the delivery period, this increase will be added to the price originally quoted, and will be subject to the contract payment terms. In the event that the delivery is delayed more than 90 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of 1-½% of contract price per month or any part of any month will be charged.

2. As a demonstration of our good faith and commitment to this project, I propose the following payment structure:
 - a. We will schedule an inspection of the building at Bragg's yard within the next 7 business days
 - b. Upon verification of the building's condition, we will process payment of \$19,984.82, which covers the remaining freight charges, sales tax, and half of the outstanding building balance
 - c. The final building payment of \$46,370.50 will be processed when the building is delivered to the project site and properly installed

CXT has completed all work in accordance with the executed agreement and per the included terms. The balance on the attached invoice is overdue and delinquent.

3. Regarding interest charges, we request documentation showing when and how these charges were communicated to VNH prior to the recent invoice. These charges represent a significant unexpected cost that was never addressed in our numerous communications throughout the ongoing project delay.
4. Regarding the new storage fees, we still require detailed documentation of monthly storage rates to properly submit these ongoing costs to EBRPD through our change order process.

Storage and interest fees are clearly defined in executed agreement and above notes.

I believe this approach honors our contractual obligations while recognizing the unusual circumstances of this project. I would welcome the opportunity to discuss this further on a call with all stakeholders to establish a clear path forward. Please confirm receipt of this email and your availability for a call early next week.

The executed agreement clearly defines the contractual obligations.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall
Sent: Tuesday, March 18, 2025 10:05
To: branum.spliethof@vnhbuilders.com; Bruno Vieira
Cc: Hugh Escobar; Matthew Norton; Nate Luna
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

It's good we have the communication lines reestablished as CXT has been requesting updates for months on the payment status. I am attaching the executed agreement and the invoice that reflects the terms of the agreement. I am also adding representatives from East Bay Parks for full transparency on this project due to the break in communications and overdue balance on this project.

As of shipment date 4/14/2023, the original balance on the project was \$117,710.68 (email and updated invoice attached). On 3/15/2024 we conducted a conference between CXT, VNH and EBP. During this call, CXT requested payment be made for all operations completed

through this date. This was agreed to by all parties.

CXT received payment for \$51,355.34 on 1/2/2025. Remaining original balance was \$66,355.34. CXT will not consider removing any interest, or storage charges until the original balance is paid. This will need to be paid by 3/28/2025. It is our understanding VNH has been paid in full for this portion of the project. Please confirm, as this has not been answered in previous requests.

CXT has provided delivery and off load per the executed agreement and all work has been completed under this agreement. The payment terms, storage terms and interest charges are covered in the executed agreement. The attached invoice dated 3/14/2025 accounts the interest on the unpaid balances throughout the duration of this project.

Please provide a response to this email and include a payment schedule by 3/21/2025.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfooster.com



From: branam.spliethof@vnhbuilders.com <branam.spliethof@vnhbuilders.com>

Sent: Friday, March 14, 2025 2:39 PM

To: Brian Hall <BHall@lbfooster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brain,

Thank you for your continued communication regarding the Crown Beach project. I tried reaching you by phone earlier without success, so I wanted to follow up with an email to address the outstanding payment situation and propose a specific path forward that works for all parties. I want to emphasize that it was never our intention to have you deliver the building without payment in full. Our understanding has always been that "delivery" means the building is, transported to site, crane pick and properly set on building pad - at which point NET 30 payment terms begin. To clarify our current payment status, VNH has already remitted \$51,355.34 toward this project. After reviewing the latest invoice and our contractual obligations, I'd like to propose the following resolution:

1. Interest Charges:

1. We request that the interest charges (\$36,314.16) be removed from the current invoice. These charges were never previously communicated during our numerous exchanges about project status and delays (see attached emails), and represent an unexpected cost that wasn't factored into our project planning.

2. Storage Fees and Other Costs: We understand the necessity of storage fees but need comprehensive documentation including:

1. Clearly itemized monthly rate for ongoing storage
2. Detailed breakdown of all incurred costs with supporting receipts and documentation
3. Separate breakdowns for materials, labor, and subcontractor costs
4. Any other expenses with proper substantiation

5. This thorough documentation will allow us to:

1. Submit proper documentation to EBRPD for all accumulated charges to date
2. Establish transparent costs for the period until project resumption
3. Include these properly itemized costs in our change order request to the owner
4. Evaluate the change order properly with complete visibility into all charges

4.

5. Payment Schedule:

1. Upon inspection and acceptance of the building at Bragg's yard, VNH will process payment for the remaining sales tax and freight charges, plus half of the outstanding building balance as follows:

1. Half of DN-393: $\$92,741.00 \div 2 = \$46,370.50$
2. Total for half building + freight + tax = $\$46,370.50 + \$15,000.00 + \$9,969.66 = \$71,340.16$
3. Amount already paid: $\$51,355.34$
4. Amount due after inspection: $\$71,340.16 - \$51,355.34 = \mathbf{\$19,984.82}$

1.

2. The final building balance of **\$46,370.50** will be processed on the day the building is delivered to the project site.

1. Storage and remobilization fees will be paid after EBRPD executes the change order including these costs

As a reminder, our contractual relationship is between VNH and CXT, and does not involve EBRPD. While we're working diligently with the owner to secure approvals and funding for these additional costs, we need your partnership in providing clear documentation that helps us substantiate these charges to EBRPD.

I believe this approach represents a fair middle ground that acknowledges:

- Your need for payment
- Our need for completed delivery before final payment
- The unusual circumstances of this extended delay
- Our shared goal of completing this project successfully

Please provide the requested monthly storage rate information at your earliest convenience so we can incorporate it into our owner change order request. I'm available to discuss this proposal and would welcome a call to align on next steps.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Escobar, Hugh <hugh.escobar@braggcrane.com>

Sent: Friday, March 14, 2025 10:49 AM

To: Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>;

branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>;

commercial@vnhbuilders.com <commercial@vnhbuilders.com>; mayza.campos@vnhbuilders.com <mayza.campos@vnhbuilders.com>;

'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Matthew Armitage <MArmitage@lbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

The building is currently stored at our Richmond yard 457 Parr Blvd Richmond Ca 94801, you can inspect the building M-F 7am – 3pm, just let me know when you would like to visit

Thanks

Regards,

Hugh Escobar | Wind Power / Technical Services
Bragg Crane Service

From: Brian Hall <BrianHall@lbfoster.com>

Sent: Friday, March 14, 2025 10:38 AM

To: Bruno Vieira <bruno.vieira@vnhbuilders.com>; branum.spliethof@vnhbuilders.com; commercial@vnhbuilders.com; mayza.campos@vnhbuilders.com; 'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Escobar, Hugh <hugh.escobar@braggcrane.com>; Matthew Armitage <MArmitage@lbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

[WARNING - EXTERNAL EMAIL] This email originated from outside of our organization. Please exercise caution when opening attachments, clicking links, or responding with sensitive information.

Bruno,

Thank you for the reply.

CXT has been very patient during this process. We've fully capitalized this project and continue to experience expenses and have yet to receive full payment. CXT has completed our scope of work under the attached executed agreement.

The executed agreement contains all necessary terms and conditions to cover this type of occurrence. The attached invoice reflects these terms and conditions for this project. It is our understanding VNH has been paid in full for this portion of the project as well. If this is not correct, please let me know.

The building is currently stored in Bragg Crane's yard and Hugh is included on this email to scheduling an inspection. The building will not be released until full payment has cleared and CXT provides this release. Additionally, a remobilization quote will need to be provided by CXT once the original site is ready, or a storage site is chosen. This quote will be dependent upon the site and timing of this additional move due to accumulating storage fees. It may be beneficial for all parties if a storage site is selected, and planning can begin to facilitate this operation.

In closing, the payment terms, storage terms and conditions of interest on unpaid balances are covered within the executed agreement. Please provide a payment schedule by 3/21/2025.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: Bruno Vieira <bruno.vieira@vnhbuilders.com>

Sent: Friday, March 14, 2025 9:25 AM

To: Brian Hall <BrianHall@lbfoster.com>; branum.spliethof@vnhbuilders.com; commercial@vnhbuilders.com; mayza.campos@vnhbuilders.com; 'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; hugh.escobar@braggcrane.com; Matthew Armitage <MArmitage@lbfoster.com>

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Hi Brian,

I hope this message finds you well.

We would like to express our appreciation for your time and cooperation throughout this process. As per our standard practice, we typically make payments for a building once it is in our possession and we have verified its condition. However, in this case, we have already paid 50% of the total amount for the bidding process, despite not having received any tangible deliverables or confirmation regarding the building's location or current state.

To proceed with the remaining 50% payment, we kindly request the exact location of the building so that we can arrange an inspection. This step is crucial for us to verify the building's condition and ensure it meets our expectations before finalizing the transaction.

Once the inspection is completed and the building's location and condition are confirmed, we will promptly process the remaining payment. We believe this approach is fair and aligns with standard business practices, ensuring transparency and mutual satisfaction for both parties.

Please provide the necessary details at your earliest convenience so we can move forward with the inspection and finalize the payment. Should you have any questions or require further clarification, feel free to reach out.

Thank you for your understanding and cooperation. We look forward to your prompt response.

Best,

Get [Outlook for iOS](#)

From: Brian Hall <BHall@lbfooster.com>

Sent: Friday, March 14, 2025 9:10 AM

To: branam.spliethof@vnhbuilders.com <branam.spliethof@vnhbuilders.com>; commercial@vnhbuilders.com <commercial@vnhbuilders.com>; bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; mayza.campos@vnhbuilders.com <mayza.campos@vnhbuilders.com>; 'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>;

hugh.escobar@braggcrane.com <hugh.escobar@braggcrane.com>; Matthew Armitage <MArmitage@lbfooster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

VNH team,

Please find the attached, updated invoice. Additionally, this matter will be turned over to our legal team and CXT will pursue all remedies for collections on this balance.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfooster.com



From: Nate Luna <nluna@ebparks.org>
Sent: Thursday, March 13, 2025 1:50 PM
To: Brian Hall <BBHall@lbfoster.com>; branum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Matthew Norton <MNorton@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

VNH,

Please reply to Brian today.



Nate Luna, PMP
Project Manager | Maintenance and Skilled Trades Administration
East Bay Regional Park District
17930 Lake Chabot Rd, Castro Valley, CA 94546
M: 510-541-9631
nluna@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copies, and delete it from your system.

Please consider the environment before you print

From: Brian Hall <BBHall@lbfoster.com>
Sent: Tuesday, March 11, 2025 9:04 AM
To: branum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Matthew Norton <MNorton@ebparks.org>; Andrea C. Jones <ACJones@ebparks.org>; Eric Bowman <ebowman@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Good morning,

Please provide an update on the \$66,355.32 outstanding balance on this order. It is our understanding VNH has been paid in full for this project. If CXT does not receive an update by COB 3/13/2025 this matter will be turned over to our legal department and CXT will pursue all remedies within the contract.

Your response and support is appreciated.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: Brian Hall <BBHall@lbfoster.com>

Sent: Friday, January 17, 2025 6:22 AM

To: branum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: RE: Crown Beach Restroom Project/DN-393

Hi Branum,

Can you please provide an update on the outstanding balance on the attached invoice? The storage balance will depend on the timing of the installation schedule. Additionally, CXT has been very patient awaiting the open balance on the attached to be paid.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Wednesday, January 15, 2025 9:57 AM

To: Brian Hall <BBHall@lbfoster.com>; Matthew Armitage <marmitage@lbfoster.com>; hugh.escobar@braggcrane.com

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: Re: Crown Beach Restroom Project/DN-393

CAUTION: This email originated from outside of the organization. **Do NOT click links** and **do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian the owner and I had a quick discussion this morning about any extra storage fees that you have due to this project delay that continues to go on from September last year, the plan review process seems to be finally coming to a close once you get them over you final reviewed set from your engineer. Can you please submit to me any extra cost from you or Bragg that needs to be captured, or let me know if your team is good to go.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BrianHall@lbfoster.com>

Sent: Wednesday, January 24, 2024 10:08 AM

To: Matthew Armitage <MArmitage@lbfoster.com>; branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; hugh.escobar@braggcrane.com <hugh.escobar@braggcrane.com>; EHolmes@ebparks.org <EHolmes@ebparks.org>

Cc: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; commercial@vnhbuilders.com <commercial@vnhbuilders.com>

Subject: RE: Crown Beach Restroom Project/DN-393

Hi Branum and Eric,

We are currently working on the remob quote and the storage costs. Once we have everything, we will present this to both of you.

Is the original site ready, or going to be ready soon? If not, is there a location on East Bay property where the building can be stored instead of the crane yard?

We understand site challenges arise, but CXT has fully capitalized this project and Bragg Crane has been storing the building since 4/17/2023.

Please let me know if there is a day and time where we can set up a call to discuss the details.

Thank you.

Brian Hall
Commercial Operations Manager



CXT Incorporated
606 N Pines Rd Suite 202
Spokane, WA 99206
t: 509-892-3218
e: bhall@lbfoster.com

www.cxtinc.com



From: Matthew Armitage <marmitage@lbfoster.com>

Sent: Tuesday, January 23, 2024 7:04 AM

To: branum.spliethof@vnhbuilders.com; hugh.escobar@braggcrane.com; EHolmes@ebparks.org

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Brian Hall <BrianHall@lbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393

I've cc'd our commercial operations manager, Brian Hall, on this reply.

Matt Armitage

Field Operations Manager



t: 509-892-3250

e: marmitage@lbfoster.com

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Tuesday, January 23, 2024 5:00 AM

To: hugh.escobar@braggcrane.com; Matthew Armitage <marmitage@lbfoster.com>; EHolmes@ebparks.org

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: Crown Beach Restroom Project

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the [Phish Alert Button](#) to report suspect emails.

Hi Team,

We wanted to start a chat after hearing the news about wanting the CXT building off Bragg property and Bragg's desire to wash their hands with the project. Let me start by saying as the GC I do share the same frustrations with this project as our bond, insurance, warranty, and liability are all up in the air without finishing this project on time.

That being said, we do want to be reasonable, and we understand that comes at a cost. I just spoke with Eric on the phone yesterday and he is fully aware of the situation at hand. Therefore, he would like to meet with us, bring his engineering team together and give us timelines so we can better understand project completion dates. Would your team be willing to discuss the options and terms of the contract value and timeline and stay on board or is this no longer an option? If we do maintain course, there are some relief options that may add some logistics but relieve Bragg from storage space.

But let's go over those details after we circle the wagons with who everyone wants to bring to the table for discussion. Meaning feel free to bring the upper management into the conversation (just cc them on your reply).

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.



December 8, 2025

Via E-Mail and Overnight Delivery

Bruno Vieira
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnbuilders.com

Re: Crown Beach Grant Street Restroom Project
Contract No. 066M-22-409
Demand for Schedule and Counteroffer

Dear Mr. Vieira:

The District has reviewed your November 26, 2025, letter on behalf of VNH Builders (“VNH”). For the reasons below (as well as the reasons detailed in the District’s November 21, 2025, letter), the District again rejects VNH’s position and arguments. In addition, VNH has not even acknowledged, much less responded to, the District’s offer to resolve the current dispute.

Accordingly, there is currently no reason for the District to meet with VNH. However, if VNH submits a *reasonable counteroffer, and its draft completion schedule based on that counteroffer, by 5:00 p.m. on December 11, 2025*, the District will review them and let VNH know whether a meeting is warranted. If VNH does not timely submit them, the District will immediately proceed with termination.

Your November 26, 2025, letter contains numerous misstatements and invalid arguments:

- Your letter focuses on various delays that occurred during the project. However, the District has already granted time extensions and additional compensation for the various delay issues, and they have been resolved. VNH cannot now ask for more time or more money based on those previously resolved issues. Those issues are irrelevant for present purposes.
- You argue that VNH proactively managed the CXT situation. However, you admit that you did not notify the District until March 20, 2025 even though the issues had existed for over two years. Also, VNH did not adequately manage the CXT situation since (A) VNH never paid CXT the portion of storage fees that the District has already paid to VNH, and (B) now the CXT situation has ballooned into a dispute where CXT is also asking for interest and legal fees. VNH did nothing to mitigate the damages that would be claimed by CXT, contrary to its duty under the contract and law.

Board of Directors

John Mercurio
Ward 6
President

Olivia Sanwong
Ward 5
Vice President

Colin Coffey
Ward 7
Treasurer

Dennis Waespi
Ward 3
Secretary

Elizabeth Echols
Ward 1

Luana España
Ward 4

Lynda Deschambault
Ward 2

Sabrina B. Landreth
General Manager

December 8, 2025

Bruno Vieira

Page | 2

- CXT is VNH's supplier, and therefore VNH has the responsibility to resolve its dispute with CXT. The District only has an obligation to pay additional money or grant additional time to VNH if VNH timely submits requests for money or time that have merit (i.e., they were outside the control of VNH). Here, VNH had control of the storage fee situation for more than two years, but let the situation get completely out of hand before even notifying the District about it in March 2025. If storage fees were accumulating, VNH had the responsibility to promptly pay those fees to CXT to avoid additional charges, or at least to promptly submit requests to the District for additional money so that it could pay those fees, but it never did so. When VNH learned that additional charges were accruing, it had the duty to either pay CXT to stop the accrual of charges or submit a request to the District for such fees, but it never did so.
- You continue to argue that the \$50,300.80 "covered crane mobilization and setup costs only." However, the general description of the item in the beginning of Change Order #7 or in Payment Request #9 does not matter. What matters is the detail in the March 20, 2024, CXT "change order" that explains which items were covered by the \$50,300.80 amount. The CXT "change order" clearly states that it covers "Storage fees through July 2024." Therefore, the \$50,300.80 increase in the contract price included those storage fees.
- The District admits that VNH is entitled to a contract price increase of \$4,675 for storage fees after July 2024. However, VNH has never submitted a change order request for those fees, therefore no payment is owed by the District for them yet. If VNH ever submits a request for this amount, the District will process a change order and then pay it.
- You argue that VNH cannot provide a valid schedule since it does not know when the building will arrive. However, VNH should know when it will arrive because delivery of the building has always been within the control of VNH. All VNH had to do was timely pay the amounts required by VNH's supplier, and the building would have been delivered. If VNH believes that the District is responsible for any portion of the amount paid to CXT, then VNH could submit a change order request to the District for the District's consideration. However, VNH cannot refuse to pay CXT and then try to blame the District. VNH has a contractual obligation to mitigate damages and expeditiously perform the work despite any payment dispute (General Conditions §46(a)), but VNH has breached this obligation.

The District looks forward to VNH's timely submittal of a reasonable counteroffer and its draft schedule.

Sincerely,

Matthew Norton

Matthew Norton
Maintenance Superintendent

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (by U.S. Mail)



VNH BUILDERS

842 Mahler Road
Burlingame, CA 94010

Phone: (415) 670-0661 | Email: bruno.vieira@vnhbuilders.com

December 11, 2025

VIA EMAIL AND OVERNIGHT DELIVERY

Matthew Norton
Maintenance Superintendent
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Crown Beach Grant Street Restroom Project - Contract No. 066M-22-409

COUNTEROFFER AND COMPLETION SCHEDULE

Dear Mr. Norton:

Thank you for your December 8, 2025 letter. In the spirit of moving this project forward and serving the Crown Beach community, VNH Builders hereby submits this counteroffer and draft completion schedule as requested.

I. COUNTEROFFER

VNH Builders proposes the following resolution to immediately move forward with project completion:

A. VNH Builders Will Absorb:

1. ALL interest charges claimed by CXT (approximately \$38,975.40)

VNH acknowledges that while we diligently pursued CXT for documentation, we will accept responsibility with CXT and work with them to sort this out and complete the project in a timely manner propose on this letter.

B. District's Responsibility:

1. Storage Fees for District-Caused Delays (15 months)

The District should pay for storage costs during the period from July 2024 through September 2025 when the project remained delayed:

- Period: July 2024 through September 2025 (15 months)

- Rate: \$550/month (actual CXT storage rate)
- Total: \$550 × 15 months = **\$8,250.00**

Justification: The District issued a Notice to Proceed on October 13, 2022, without approved plans. Plans were not provided until July 22, 2024 (638 days later), and permits were not obtained until April 15, 2025 and the encroachment permit delay and other RFIs as well. This entire period of delay was caused by the District's failure to provide buildable plans and secure necessary permits. The CXT building has been in storage since April 2023, accumulating costs through no fault of VNH.

C. Contract Time Extension Request:

1. 140 calendar days extension to the contract to account for:

- Plan approval delays (638 days, requesting partial)
- RFI response delays (72 days documented)
- CXT payment resolution period

2. 90 working days to complete all remaining work from the date of CXT building delivery to site

FINANCIAL SUMMARY OF COUNTEROFFER

District Pays:

- Storage (Jul 2024 - Sep 2025, 15 months @ \$550): \$8,250.00
- **District Total: \$8,250.00**

VNH Absorbs:

- CXT BALANCE

Time Extensions:

- Contract Extension: 140 calendar days
- Completion Time: 90 working days from building delivery

II. DRAFT 90-DAY COMPLETION SCHEDULE

Upon acceptance of this counteroffer and payment to CXT, VNH commits to completing all work within 90 working days:

PHASE 1: MOBILIZATION & PREPARATION (Days 1-14)

- Days 1-3: Payment confirmation and CXT coordination

- Days 4-7: Site preparation and concrete corrections
- Days 8-10: Equipment mobilization and staging
- Days 11-14: Foundation final preparation

PHASE 2: BUILDING INSTALLATION (Days 15-30)

- Days 15-17: CXT building transport and delivery
- Days 18-20: Crane setup and building placement
- Days 21-25: Building anchoring and connections
- Days 26-30: Weatherproofing and initial testing

PHASE 3: UTILITIES & INFRASTRUCTURE (Days 31-60)

- Days 31-40: Plumbing rough-in and connections
- Days 41-50: Electrical rough-in and connections
- Days 51-55: Drainage and site utilities
- Days 56-60: Systems testing and commissioning

PHASE 4: SITE WORK & FINALIZATION (Days 61-90)

- Days 61-70: Final grading and drainage
- Days 71-75: Concrete walkways and paving
- Days 76-80: Landscaping and site restoration
- Days 81-85: Punch list completion
- Days 86-90: Final inspections and project closeout

SUBSTANTIAL COMPLETION: 90 WORKING DAYS FROM CXT BUILDING DELIVERY

III. CONDITIONS AND COMMITMENTS

This counteroffer and schedule are contingent upon:

1. District's acceptance and payment by December 15th of pay app approved October 17, 2025
2. Approval of 140 calendar day contract extension
3. Agreement on 90 working day completion period
4. No liquidated damages for past delays caused by District
5. Weather and site conditions permitting
6. Immediate processing of pending payment applications

VNH Builders commits to:

- Maintaining full crews throughout the 90-day completion period
- Providing weekly progress reports with photo documentation

- Working extended hours if needed to meet schedule
- Completing all work to contract specifications

IV. CLARIFICATION OF KEY POINTS

Regarding your December 8 letter:

- 1. Time Extension Justification:** The requested 140-day extension represents only a fraction of the 900+ days of District-caused delays. The 90 working days for completion is reasonable given the scope of remaining work and need for proper sequencing.
- 2. Storage Fee Responsibility:** The District should pay for storage during periods when the project could not proceed due to lack of approved plans and permits. The \$8,250 represents actual costs at \$550/month for 15 months.
- 3. Schedule Validity:** The 90-working-day schedule is based on actual work requirements and includes appropriate time for inspections, testing, and weather contingencies.

V. CONCLUSION

This counteroffer represents a reasonable compromise where both parties share responsibility:

- The District pays for storage during the period of their delays (\$8,250)
- VNH absorbs CXT responsibilities
- Both parties focus on completing this important community project

With the time extensions requested, VNH can complete this project professionally and to specification within 90 working days.

We respectfully request your acceptance of this counteroffer by December 15, 2025, so we can immediately proceed with project completion. The Crown Beach community has waited long enough for this essential facility.

Sincerely,

Bruno Vieira

Principal



VNH Builders
License #1064244

Attachments:

- Detailed 90-Day Schedule Gantt Chart
- Resource Allocation Plan
- Change Order Request Form for Time Extension
- Storage Fee Documentation

cc: Michael Stangl, EBRPD

Elizabeth Mackenzie, EBRPD

Lynne Bourgault, EBRPD

American Contractors Indemnity Company (Performance Bond #1001188124)



December 22, 2025

Via Email, Certified Mail Postage Prepaid and Overnight Delivery

American Contractors Indemnity Company
Tokio Marine HCC - Surety Group
Attn: Claims Department
801 South Figueroa Street Suite 700
Los Angeles, CA 90017
suretyclaimsinquiry@tmhcc.co

Re: Tender and Demand for Completion – Contract No. 066M-22-409
Crown Beach Grant Street Restroom Project, Performance Bond No. 1001188124

Dear Claims Department:

On December 19, 2025, the East Bay Regional Park District (“District”) issued a Notice of Termination for Cause to VNH Builders (“VNH”) under Contract No. 066M-22-409 for the Crown Beach Grant Street Restroom Project (“Contract”) effective immediately (“Termination Notice”; see *Attachment A*). The Termination Notice declared VNH in default based on substantial breaches of contract and failure to cure, and terminated VNH’s right to complete the work.

The Termination Notice was sent to VNH via e-mail, U.S. mail, and overnight delivery.

Pursuant to Performance Bond No. 1001188124 (“Bond”), issued by American Contractors Indemnity Company (“Surety”) to VNH and District (see *Attachment B*), this letter is the District’s formal tender and demand to the Surety for completion of the Contract.

As set forth in the Bond, the Surety and VNH are “jointly and severally” bound to ensure that VNH “faithfully keep and perform all the covenants and agreements of the Contract” and that the work is fully completed. The Bond further obligates the Surety to “save and hold harmless the District from any and all loss of damage arising out of the failure of the Contractor . . . to fulfill the Contract . . . and shall fully reimburse and pay to the District all outlay and costs which the District may incur in making good any default of the Contractor.” (Bond, ¶ 3.)

Under the Bond, the Surety’s liability is expressly co-extensive with that of VNH, and the Surety is not discharged, released, or exonerated by any alteration, modification, extension, deviation, or departure from the terms of the Contract, whether or not notice thereof was provided to the Surety. (Bond, ¶ 4 and 6.) The Bond further provides that it remains in full force and effect notwithstanding any contention that the Contract or any applicable law may be invalid. (Bond, ¶ 7.)

Board of Directors

John Mercurio
Ward 6
President

Olivia Sanwong
Ward 5
Vice President

Colin Coffey
Ward 7
Treasurer

Dennis Waespi
Ward 3
Secretary

Elizabeth Echols
Ward 1

Luana España
Ward 4

Lynda Deschambault
Ward 2

Sabrina B. Landreth
General Manager

Accordingly, the District hereby tenders completion of the Contract to the Surety and demands that the Surety promptly elect and implement a remedy available under the Bond:

1. Arranging for expeditious completion of the Project through a replacement contractor acceptable to the District; or
2. Promptly paying the adjusted penal sum of the Bond (equal to the adjusted Contract price), as permitted by the Bond and applicable law.

No further agreement between the District and the Surety is required as a condition precedent to the Surety's performance. The District stands ready to cooperate fully with the Surety to facilitate an expeditious and orderly completion of the Project.

Time is of the essence. The Project has been significantly delayed due to VNH's default, and further delay will increase completion costs and damages (including liquidated damages). Prompt action by the Surety will mitigate additional exposure under the Bond and reduce the costs associated with completing the work.

The District requests that the Surety respond to this tender and demand as soon as possible with its decision, but no later than December 31, 2025. If the Surety does not timely respond, the District will hire a completion contractor itself and hold the Surety and VNH responsible for the completion costs and damages (including liquidated damages).

We look forward to the Surety's acceptance of this tender and completion of the Contract.

Sincerely,

Matthew Norton

Matthew Norton
Maintenance Superintendent
East Bay Regional Park District

cc: Chris Wyckoff, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (U.S.
Mail [certified] and overnight delivery)

Attachment A



2950 PERALTA OAKS COURT • OAKLAND • CALIFORNIA • 94605-0381 • T: 1-888-EBPARKS • F: 510-569-4319 • TRS RELAY: 711 • EBPARKS.ORG

December 18, 2025

Via E-Mail, U.S. Mail, and Overnight Delivery

Bruno Vieira
Principal
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnhbuilders.com

Re: **Notice of Termination for Cause**
Crown Beach Grant Street Restroom Project – Contract No. 066M-22-409

Dear Mr. Vieira:

This letter constitutes the East Bay Regional Park District’s (“District”) Notice of Termination for Cause of VNH Builders’ (“VNH”) performance under Contract No. 066M-22-409 for the Crown Beach Grant Street Restroom Project (“Contract”), effective immediately.

This termination is issued pursuant to Section 59(a) of the General Conditions, and based on VNH’s substantial breaches of contract and its failure to cure the breaches identified in the District’s November 21, 2025, Notice of Intent to Terminate and Demand for Cure (“NIT”).

BACKGROUND

The November 21, 2025, NIT (attached) provided a detailed current accounting, identified multiple material breaches of the Contract, and demanded that VNH cure or reasonably commence cure of those breaches by no later than December 2, 2025. In addition, the NIT offered VNH a proposed resolution that required written acceptance by December 1, 2025. The NIT expressly advised that failure to timely cure or accept the offer would result in termination.

On November 26, 2025, VNH submitted a letter (attached) disputing the District’s accounting, disputing responsibility for storage costs and delays, requesting a meeting, and proposing further negotiations.

VNH did not accept the District’s proposed resolution by December 1, 2025. In addition, VNH did not cure, or reasonably commence cure of, the breaches identified in the NIT by December 2, 2025.

The District issued a further letter on December 8, 2025 (attached) reiterating the bases for termination and affording VNH one final opportunity to submit a reasonable counteroffer and a completion schedule by December 11, 2025.

Board of Directors

John Mercurio Ward 6 President	Olivia Sanwong Ward 5 Vice President	Colin Coffey Ward 7 Treasurer	Dennis Waespl Ward 3 Secretary	Elizabeth Echols Ward 1	Luana España Ward 4	Lynda Deschambault Ward 2	Sabrina B. Landreth General Manager
--------------------------------------	--	-------------------------------------	--------------------------------------	----------------------------	------------------------	------------------------------	--

On December 11, 2025, VNH submitted a counteroffer letter and schedule for completion (attached). However, this submission failed to cure the breaches identified in the NIT, did not satisfy the Contract's requirements, and did not constitute a reasonable basis for the District to allow VNH's performance to continue.

GROUND FOR TERMINATION

Multiple grounds for termination exist, including but not limited to the following:

1. **Failure to Accept the District's Offer of Resolution by December 1, 2025.**
The District offered to resolve the dispute through a change order that would have provided a time extension through January 20, 2026, conditioned on VNH immediately resuming performance and waiving additional claims. VNH did not accept that offer by the stated deadline, and it expired. VNH's November 26, 2025, letter only suggested further discussions.
2. **Failure to Timely Cure, or Commence to Cure, by December 2, 2025.**
The NIT required VNH to cure, or reasonably commence cure of, its breaches by December 2, 2025, including recommencing diligent performance of the work. These breaches were described in the District's November 21, 2025, letter, and they justify termination under General Conditions section 59(a)(1), (5), and (7). VNH did not cure, or reasonably commence cure of, these breaches by the December 2, 2025, deadline.
3. **Failure to Submit an Acceptable Counteroffer.**
Despite VNH's failures to accept the District's offer by the December 1 deadline or commence its cure by the December 2 deadline, the District's December 8 letter gave VNH one more chance to submit a counteroffer. However, VNH's December 11 letter indicated that it would require **90 working days** (about 19 weeks) to complete the work after delivery of the building, even though VNH had indicated in its November 26 letter that it would only need 45 days. VNH also asked the District to pay storage fees through September 2025, even though the permit delay ended in April 2025. In addition, VNH asked for a 140-day time extension, presumably in addition to the time extension already offered by the District. Last, VNH also demanded acceptance and payment by December 15, 2025, which was an impossibility. These terms – especially the time demanded for completion of the work – were unreasonable and unacceptable to the District.

TERMINATION FOR CAUSE

Based on the above grounds, the District terminates VNH's performance of the Contract for cause, pursuant to Section 59(a)(1),(5), and (7) of the General Conditions.

DIRECTIVES

As a result of this termination, VNH is hereby directed to immediately:

- Cease all work under the Contract, except as may be expressly authorized in writing by the District.
- Secure and protect the Contract site, including all work in place pursuant to the contract documents and OSHA standards.

- Transfer possession and control of the Contract site and all District-owned or District-paid materials, equipment, and work to the District.
- Deliver to the District all Contract documents, including schedules, submittals, records, correspondence, and as-built information.
- Direct subcontractors and suppliers to coordinate directly with the District regarding the Contract.

Pursuant to the Contract, the District will tender completion of the work to VNH's surety or hire a contractor to complete the work at the expense of VNH and its surety. (General Conditions §59(c).)

RESERVATION OF RIGHTS

To the extent that this termination is determined not to be supported by sufficient cause, this termination shall alternatively be deemed a termination for convenience, effective as of the date of this letter, pursuant to the Contract's termination-for-convenience provisions.

The District expressly reserves all rights and remedies under the Contract and applicable law, including the right to recover liquidated damages, costs of completion, and attorneys' fees.

Sincerely,



Chris Wyckoff
Division Lead, Maintenance and Skilled Trades Administration
East Bay Regional Park District

Enclosures

- Notice of Intent to Terminate and Demand for Cure, dated November 21, 2025.
- VNH letter, dated November 26, 2025
- District letter, dated December 8, 2025
- VNH letter, dated December 11, 2025

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (U.S.
Mail [certified] and overnight delivery)



November 21, 2025

Via E-Mail, U.S. Mail (Certified) and Overnight Delivery

Bruno Vieira
Principal
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnhbuilders.com

**Re: Crown Beach Grant Street Restroom Project
Contract No. 066M-22-409
Current Accounting; and Notice of Intent to Terminate, and Demand for Cure**

Dear Mr. Vierira:

This letter constitutes the East Bay Regional Park District's ("District") current accounting of the above-captioned contract ("Contract") with VNH Builders ("VNH"). As detailed below, the District does not owe any payment based on Payment Application 13.

This letter also constitutes the District's Notice of Intent to Terminate and Demand for Cure for the Contract. As detailed below, VNH must cure, or a reasonable commence a cure, of its breaches of the Contract ("Work") by December 2, 2025, otherwise the District will terminate VNH's Work and tender completion to its surety.

Alternatively, the District also proposes a resolution to the present dispute that VNH may accept by December 1, 2025. If VNH does not timely accept it, then VNH must cure, or reasonably commence to cure, its breaches of the Contract by December 2, 2025, or the District will terminate the Contract.

CURRENT ACCOUNTING

In response to VNH's recent correspondence and Payment Application 13, it seems that there is some confusion on VNH's part about the contract price and the payment status.

As detailed below, the contract price includes storage fees through July 2024, VNH requested payment on the line item that included those storage fees, and the District made such payment. To the extent that additional storage fees are owed, the District is willing to further increase the contract price by that amount if VNH submits a proper change order request.

Board of Directors

John Mercurio
Ward 6
President

Olivia Sanwong
Ward 5
Vice President

Colin Coffey
Ward 7
Treasurer

Dennis Waespi
Ward 3
Secretary

Elizabeth Echols
Ward 1

Luana España
Ward 4

Lynda Deschambault
Ward 2

Sabrina B. Landreth
General Manager

First, as a prerequisite for any monthly progress payment, VNH has an obligation to submit an updated progress schedule; and if not submitted, the District may withhold payment. (General Conditions §15.)

Accordingly, the District will not make any payment on Payment Application 13 until VNH submits an updated progress schedule.

Second, Payment Application 13 requires adjustment to some of the claimed percentages of completion. The District will forward the necessary adjustments under separate cover.

Third, as shown in the following table, the current withhold items exceed the unpaid contract balance, therefore no payment is possible at this time:

Original Contract Price		\$ 268,000.00
Board-Approved Change Orders (1-10)		556,848.00
Adjusted Contract Price		824,848.00
Payments to Date		(495,941.42)
Unpaid Balance:		328,906.58
- Retention (per current version of Pay App 13)	\$ 29,088.62	
- Other Unpaid Balance	299,817.96	
Withhold Items:		(345,176.30)
- Accrued Liquidated Damages (\$500/day × 98 calendar days of delay [8/15/25 {adjusted contractual completion deadline, per Change Order 8} through 11/21/25])	49,000.00	
- Estimated Future Liquidated Damages (\$500/day × 60 calendar days of delay [11/21/25 through 1/20/26 {estimated completion date ¹ }], plus 50% contingency)	45,000.00	
- Unperformed Work, per current version of Pay App 13	243,676.30	
- Deficient concrete work that requires correction (\$5,000 rough estimate, plus 50% contingency)	7,500.00	
Amount Currently Available for Payment		0.00

If VNH reduces or eliminates any of the withhold items above, then the District will recalculate to determine whether payment is possible.

Fourth, the November 4 and 7, 2025, letters from VNH have argued that it is entitled to immediate payment for various costs, but its arguments have little or no merit:

¹ This estimated completion date assumes that VNH could complete the project in 60 calendar days if VNH diligently prosecutes the work upon receipt of this letter.

- Storage Costs Owed to CXT Through July 2024 – VNH claims that the District has not paid any storage fees being charged by CXT for the Denali restroom building. *However*, as part of Change Order No. 7, the District agreed to pay \$50,876 for the 3/20/24 “change order” from CXT. (See attached copy of Change Order No. 7, including Exhibit 1; and copy of the 3/20/24 CXT change order.) Exhibit 1 to Change Order No. 7 shows that the District agreed to pay \$50,876 for crane mobilization; this dollar amount matches the 3/20/24 CXT “change order” that includes crane mobilization; and that CXT “change order” states that the \$50,876 covered “Storage fees through July 2024.” Therefore, as shown by these documents, the Contract price has already been increased to include storage fees through July 2024. Furthermore, VNH has been paid for these amounts. VNH included Change Order No. 7 (including the storage fees through July 2024) in multiple payment application, including the pending Payment Application 13 (see Line 10). VNH listed Line 10 as 80% complete in Payment Request 9, and the District proceeded to make payment on that basis.
- Storage Costs Owed to CXT After July 2024 – The District acknowledges that VNH was not able to install the building until the City issued the permit, which occurred on April 15, 2025. Therefore, the District agrees that it must pay for an additional 8½ months of storage fees (8/1/24 through 4/15/25). CXT recently advised the District that storage fees are \$550 per month. Therefore, the District will agree to pay \$4,675 for additional storage fees if VNH submits a proposed change order (which it has never done for this cost). *However*, any storage fees after April 15, 2025, are the responsibility of VNH. After the permit was issued, VNH was no longer delayed by the lack of a permit, and VNH should have immediately recommenced construction and had the building delivered to the site. If the site was not ready for the building, then that delay would be VNH’s responsibility. If VNH was not able to obtain release of the building, then that delay would be VNH’s responsibility.
- Interest Owed to CXT – VNH claims that CXT is claiming interest of \$38,975.40, and VNH demands that the District pay this amount. *However*, VNH has not explained how these interest charges were calculated or, more importantly, why it believes that the District is responsible for these interest charges. If CXT was submitting invoices to VNH for storage or other costs, but VNH was not paying CXT, then VNH is responsible for the interest, not the District. VNH has always been responsible to pay all costs invoiced by its subcontractors and suppliers. If VNH incurred storage or other costs that it felt were the District’s responsibility, VNH should have immediately invoiced the District for such costs, but VNH did not do so. Therefore, the District cannot be blamed for VNH’s failure to pay CXT or the resulting interest charges.
- Outstanding Balance on Building – VNH claims that CXT is demanding the “outstanding balance on the building,” and VNH demands that the District pay that amount. *However*, the \$104,000 price for the building was included in the original contract price of \$268,000, the original Contract price has been listed in every payment application from the beginning of the project, and 100% of that amount has been charged to, and paid by, the District (as indicated in Payment Application 12). If VNH has not used the District’s payment of the original Contract price to pay CXT for the building, that is VNH’s fault, not the District’s. The District is not liable for this cost.
- Advance Payment for Remobilization Costs – VNH demands that it must receive advance payment for its remobilization costs. *However*, the adjusted contract price includes these costs, as demonstrated by your November 7 letter. Therefore, nothing in the Contract requires the District to pay for those costs before the work is performed. Once the costs are incurred, then VNH may submit a payment application that reflects completion of that work. Furthermore, the District is actually entitled to a change order credit related to the remobilization. As discussed above, Change Order 7 included payment based on the 3/20/24 CXT “change order” that included night crane work. However, the night crane work is no longer needed, so the District is entitled to a credit for that amount.
- Documents 2 and 3 – VNH refers to “Payment Request #9” in its November 7 letter. The District agrees that it listed an additional \$62,876 for the building, and that it requested payment based on 80% completion of that item. *However*, as discussed above, this item includes the 3/20/24 CXT “change order” that

covered storage fees through July 2024 (as also mentioned in the November 7 letter). Also, VNH has been mostly paid for this item based on VNH's payment applications.

- *Alleged False Claim by the District* – VNH states that the District's claim that it has paid for storage fees is "demonstrably false." *However*, to the contrary, the above analysis demonstrates that the District has increased the contract price to cover storage fees through July 2024, and that the District has made every payment of those costs when requested in a VNH payment application (see Payment Application 9).
- *Demand for Payment* – VNH demands payment of \$67,868.41 to cover storage fees, interest charges, and legal fees. *However*, as discussed above, the District is only responsible for \$4,675 of storage fees after July 2024. The District rejects VNH's demand for any increase in the Contract price other than \$4,675. The other costs were caused by VNH's failure to promptly pay CXT and failure to promptly pay

Based on the above, if VNH wishes to submit a proposed Change Order 11 that includes (A) \$4,675 for 8½ months of additional storage costs beyond July 2024, and (B) an appropriate credit for deletion of the night crane work, the District would approve it. Then VNH could add it to its next application for payment.

Otherwise, no Contract price increase or payment is owed by the District. The other items claimed by VNH do not have any merit based on the information provided by VNH.

VNH is welcome to prepare and submit a detailed and proper proposed change order that includes supporting documentation and explanation for any desired Contract price increase. The District will review it; and if the District approves any additional compensation, VNH could add it to its next payment application.

Fifth, VNH claims in its November 4, 2025, letter that the Contract terms must be revised to reflect the actual project conditions. However, VNH has not submitted any proposed revisions for the District's review. Until VNH does so, the District cannot respond to this demand.

NOTICE OF INTENT TO TERMINATE, AND DEMAND FOR CURE

VNH is currently in substantial breach of the Contract in many respects.

Primarily, VNH's completion of the Work is substantially late, even after taking into account time extensions:

- The original completion deadline was January 12, 2023 (60 working days after the October 13, 2022, notice to proceed).
- Change Order No. 7 extended the completion deadline to February 29, 2024, based on the work added by Change Order 7 and the permitting delays.
- Change Order No. 8 extended the completion deadline to August 15, 2025.
- However, no other time extensions are warranted. VNH was required to resume its work after issuance of the City permit that ended the permitting delay, and the Change Order No. 8 time extension provided ample time to complete the work. Now, in breach of the Contract, VNH is refusing to resume its work due to a payment dispute with a supplier (CXT).² Therefore, all delay since issuance of the permit is the responsibility of VNH and substantially breaches of the Contract.

In addition, VNH has breached the Contract by refusing to perform work as directed. On November 4, 2025, the District directed VNH to supply the CXT building, as required by Section 40(e) of the General Conditions. However, in a letter later that day, VNH not only refused to supply the CXT building, but it also refused to perform any work. VNH asserted that based on the District's alleged "refusal to address these legitimate costs

² The contract prohibits VNH from refusing to work on the basis of a payment dispute. (General Conditions §46(a).)

and the mischaracterization of previous payments,” all work on all EBRPD projects “will cease immediately,” that VNH “will withdraw as the permit holder,” and that “no further work will proceed until there is satisfactory resolution” of the disputed issues.

However, as demonstrated in the first part of this letter, the District has addressed all legitimate cost issues, the District has not mischaracterized previous payments, there is no basis for an increase in the contract price other than \$4,675 for storage costs, and there is no basis for a progress payment at this time.

More importantly, a payment dispute between VNH and the District does not give VNH the right to refuse to perform work – the work must proceed as directed by the District, even if the District is directing a change in the work. (General Conditions §46(a).) VNH cannot hold the progress of the project hostage to its demands for additional compensation.

VNH is also in breach of the Contract since it has not submitted any schedule, much less updated schedules. Schedules are required by the Contract (General Conditions §15) since, in part, they are necessary to demonstrate to the District that VNH has a reasonable and acceptable plan for completion of the Work.

Last, VNH’s recent concrete work is deficient since it requires patching, grinding, and color matching.

Accordingly, the above breaches by VNH justify the District’s termination of VNH’s performance of the Contract, pursuant to Section 59(a)(1), (5), and (7) of the General Conditions.

Pursuant to Section 59(b) of the General Conditions, the District demands that VNH cure, or reasonably commence to cure, its breaches by performing the following by December 2, 2025:

- Commence diligent and expeditious performance of the Work (including correction of the concrete), as required by the Contract (General Conditions §§10, 43(e), and 46(a)).
- Submit a schedule that complies with the Contract’s requirements (General Conditions §15) and indicates a reasonable projected completion date (“Schedule”).
- Continue diligent and expeditious performance of the Work pursuant to the Schedule through completion of the Work.

If VNH fails to perform as directed above, the District will terminate VNH’s performance of the Work, in which case it would either tender completion of the Contract to its surety or hire a contractor to complete the Work at the expense of VNH and its surety. (General Conditions §59(c).)

Please note that failure of VNH to timely perform as directed above will *not* result in automatic termination. The District reserves its right to decide if and when to terminate VNH’s performance of the Contract; and if the District decides to terminate, it will issue written notice to VNH and its surety.

If VNH believes that a Contract price increase is owed, or a time extension is due, for any work being directed by the District in this letter or in the past, then it must follow the Contract’s procedures (as discussed in the first part of this letter) to request additional compensation or a time extension. A mere payment dispute is not a valid basis for refusal to perform the Work as directed above. (General Conditions §46(a).)

Last, we encourage VNH and its surety to comply with the above demand for a cure, otherwise the District will hold VNH and its surety accountable for the District’s attorneys’ fees. (General Conditions §61)

OFFER OF RESOLUTION

Notwithstanding the above notice of intent to terminate and demand for cure, the District offers to resolve the present dispute by immediately processing a change order that would (A) grant a time extension until January 20, 2026, thus waiving \$94,000 of liquidated damages; (B) waive VNH's rights to seek any other compensation, damages (delay or otherwise), or time extensions based on existing or known issues (including but not limited to the items previously demanded by VNH); and (D) require VNH to immediately resume performance of its work.

VNH must accept this offer in writing by 4:00 p.m. on December 1, 2025. If VNH does so, the District will withdraw its notice of intent to terminate and demand for a cure. If VNH does not timely accept this offer, it will expire and VNH must comply with the above notice of intent to terminate, and demand for cure, by December 2, 2025.

The District looks forward to VNH's prompt response. Please let us know if you have any questions.

Sincerely,

Matthew Norton

Matthew Norton
Maintenance Superintendent

Enclosures: Change Order 7, including Exhibit I
CXT Change Order, dated 3/20/24

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (U.S.
Mail [certified] and overnight delivery)

CHANGE ORDER (CO) NO. 7


EAST BAY REGIONAL PARK DISTRICT
 2950 Peralta Oaks Court, P.O. Box 5381 Oakland, CA 94605-0381

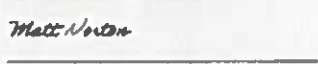
PARK:	Crown Beach	PUR. ORDER NO.:	P222012
AREA:	Grand Street	CONTRACT NO.:	066M-22-409
DESCRIP.:	Construct Restrooms	DATE OF CO.:	8/1/2024
DIST. REP.:	Matt Norton	CONTRACTOR:	VNH Builders
DIST. PHONE:	510-690-6688	CONT. EMAIL:	bruno.vieira@vnhbuilders.com


You are hereby directed to proceed promptly with the following specific changes to the work in conformity with the Contract Documents:

1. Contractor shall use plans titled, "EBRPD CROWN BEACH RESTROOM #3", dated 7/22/2024.
2. Contractor shall obtain necessary City of Alameda permits: building, encroachment, etc. including application and correspondence, cost of permits will be paid by the District.
3. Contractor shall complete work per cost proposal attached as Exhibit 1.

The ADDITIONAL CHANGE or DEDUCTION for the above work is.....	\$ 487,346.00
The original Contract Sum was.....	\$ 268,000.00
Net change by previous Change Orders.....	\$ 40,200.00
The Contract Sum prior to this Change Order was.....	\$ 308,200.00
The Contract Sum will be <input checked="" type="checkbox"/> increased) <input type="checkbox"/> decreased) <input type="checkbox"/> unchanged).....	\$ 487,346.00
The new Contract Sum including this Change Order will be.....	\$ 795,546.00
The Contract Time will be <input checked="" type="checkbox"/> increased) <input type="checkbox"/> decreased) <input type="checkbox"/> unchanged).....	270 days
The completion Date as of the date of this Change Order is.....	2/29/2024

Bruno Vieira, Principal
 Contractor

 Signature
 Aug 5, 2024
 Date

Matt Norton, Superintendent
 District Representative

 Signature
 Aug 7, 2024
 Date

Lisa Goorjian, AGM
 Chief/AGM

 Signature
 Aug 11, 2024
 Date

SIGN AND RETURN ELECTRONIC COPY OF CHANGE ORDER

Exhibit 001

ITEM		DESCRIPTION				UNITS OF WORK					TOTAL COST		DIVISION TOTAL
LINE	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE	LABOR RATE	LABOR HOURS	TOTAL LABOR	TOTAL COST				
			CONCRETE: REINFORCING										
			FORMWORK: BRICKWORK										
			PAINT: INTERIOR										
			PAINT: EXTERIOR										
			ROOFING: ASPH/FLT										
			MECHANICAL: HVAC										
			ELECTRICAL: WIRING										
			PLUMBING: SANITARY										
			FINISHES: CARPET										
			FINISHES: TILE										
			FINISHES: GYP BOARD										
			FINISHES: PAINT										
			FINISHES: TRIM										
			FINISHES: CEILING										
			FINISHES: FLOOR										
			FINISHES: WALL										
			FINISHES: DOOR										
			FINISHES: WINDOW										
			FINISHES: STAIR										
			FINISHES: RAMP										
			FINISHES: SIGNAGE										
			FINISHES: LIGHTING										
			FINISHES: FURNITURE										
			FINISHES: LANDSCAPE										
			FINISHES: SITEWORK										
			FINISHES: UTILITIES										
			FINISHES: SPECIALTIES										
			FINISHES: MISCELLANEOUS										
			FINISHES: TOTAL										



606 N. Pines Road, Suite 202
Spokane Valley, WA 99206
800 696 5766

CHANGE ORDER

Customer:	VNH Builders Crown Beach EBP	
Project/SOA:	429918	
Date:	March 20, 2024	
Description		Price
Remobilize DN-393 and all installation equipment for night operations. CXT trained and certified install crew Crane, crew and equipment Trucking Storage fees through July 2024		50,875.94
Additional Parts	Quantity	Price
	Tax:	
	Total:	\$50,875.94

CXT Incorporated
a subsidiary of L.B. Foster Company

By

Brian Hall
Brian Hall

The above change order is satisfactory and hereby accepted and are subject to the conditions below.

Accepted this day of 20

VNH Builders Crown Beach EBP

Customer Name

CXT Sales Representative

3/20/2024

Date Signature

Date

CXT Precast Concrete Products manufactures restroom, shower and concession buildings in multiple designs, features and colors. The roof and walls are fabricated with high strength precast concrete to meet all local building codes and textured to match local architectural details. All CXT buildings are designed to meet A.D.A. and to withstand heavy snow, high wind and category E seismic loads. All concrete construction also makes the buildings easy to maintain and withstand the rigors of vandalism. The buildings are prefabricated and delivered complete and ready to use including plumbing and electrical where applicable. With thousands of satisfied customers nationwide, CXT is the leader in prefabricated concrete restrooms.

1. ORDERING ADDRESS(ES): CXT Precast Concrete Products, 606 N Pines Road, Suite 202 Spokane Valley, WA 99206

2. ORDERING PROCEDURES: Fax 509-928-8170

3. PAYMENT ADDRESS(ES):

Remitting by check: CXT, Inc., PO Box 676208, Dallas, TX 75267-6208

Remitting by ACH or wire transfer: Beneficiary CXT Inc.

Beneficiary Bank: PNC Bank, Pittsburgh, PA
Account: 1077766005 ABA/Routing: 043000096

Email remittance details to Al@lbfoster.com

4. WARRANTY PROVISIONS: CXT provides a one (1) year warranty. The warranty is valid only when concrete is used within the specified loadings. Furthermore, said warranty includes only the related material necessary for the construction and fabrication of said concrete components. All other non-concrete components will carry a one (1) year warranty. CXT warrants that all goods sold pursuant hereto will, when delivered, conform to specifications set forth above. Goods shall be deemed accepted and meeting specifications unless notice identifying the nature of any non-conformity is provided to CXT in writing within the specified warranty. CXT, at its option, will repair or replace the goods or issue credit for the customer provided CXT is first given the opportunity to inspect such goods. It is specifically understood that CXT's obligation hereunder is for credit, repair or replacement only, FOB CXT's manufacturing plants, and does not include shipping, handling, installation or other incidental or consequential costs unless otherwise agreed to in writing by CXT.

This warranty shall not apply to:

1. Any goods which have been repaired or altered without CXT's express written consent, in such a way as in the reasonable judgment of CXT, to adversely affect the stability or reliability thereof.

2. To any goods which have been subject to misuse, negligence, acts of God or accidents; or

3. To any goods which have not been installed to manufacturer's specifications and guidelines, improperly maintained, or used outside of the specifications for which such goods were designed.

5. TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE): All prices subject to the "Conditions of Sale" listed on the CXT quote on form.

Customers are responsible for marking exact location building is to be set: providing clear and level site, free of overhead and/or underground obstructions, and providing site accessible to normal highway trucks and sufficient area for the crane to install and other equipment to perform the contract requirements. Customer shall provide notice in writing of low bridges, roadway width or grade, unimproved roads or any other possible obstacles to access. CXT reserves the right to charge

the customer for additional costs incurred for special equipment required to perform delivery and installation. Customers will negotiate installation on a project-by-project basis, which shall be priced as separate line items. For more information regarding installation and truck turning radius guidelines please see our website at <http://www.cxtinc.com>

In the event delivery of the building's ordered is not completed within 30 days of the agreed to schedule through no fault of CXT, an invoice for the full contract value (excluding shipping and installation costs) will be submitted for payment. Delivery and installation charges will be invoiced at the time of delivery and installation.

Should the delivery and installation costs increase due to changes in the delivery period, this increase will be added to the price originally quoted, and will be subject to the contract payment terms.

In the event that the delivery is delayed more than 90 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of 1-1/2% of contract price per month or any part of any month will be charged.

**Customer is responsible for all local permits and fees.

6. DELIVERY CHARGE: All prices FOB origin prepaid and added to invoice. CXT operates three (3) manufacturing plants in the United States and will deliver from the closest location on our carriers.

7. PAYMENT TERMS: All orders are cash in advance. At CXT's discretion, credit may be given after approval of credit application. Payment to CXT by the purchaser of any approved credit amount is not 30 days after submission of invoice to purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning with the 35th day (includes five (5) day grace period) from the date of the invoice. Under no circumstance can retention be taken. If CXT initiates legal proceedings to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys fees and costs of any appeal.

8. LIMITATION OF REMEDIES: In the event of any breach of any obligations hereunder, breach of any warranty regarding the goods, or any neglect, act or omission of any party, the parties agree to submit all claims to binding arbitration. Any settlement reached shall include all reasonable costs including attorney fees. In no event shall CXT be subject to or liable for any incidental or consequential damages. Without limitation on the foregoing, in no event shall CXT be liable for damages in excess of the purchase price of the goods herein offered.

9. DELIVERY INFORMATION: All prices FOB origin prepaid and added to invoice. CXT operates three (3) manufacturing plants in the United States and will deliver from the closest location on our carriers. Use the information below to determine the origin:
• F.O.B. 6701 E. Flamingo Avenue, Building 300 Mopco, ID 83687 applies to AK, CA, HI, IL, IN, MD, NY, OR, SD, UT, WA, WY
• F.O.B. 901 North Highway 77, Millsboro TX 76645 applies to AR, AZ, CO, IA, KS, LA, MN, MO, MS, NE, NM, OK, TX
• F.O.B. 362 Waverly Road, Wilkesstown, WV 26183 applies to AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, PR, RI, SC, TN, VA, VT, WA, WV.

• Prices exclude all federal/state/local taxes. Tax will be charged where applicable if customer is unable to provide proof of exemption.

VNH BUILDERS

842 Mahler Road
Burlingame, CA 94010

Phone: (415) 670-0661 | Email: bruno.vieira@vnhbuilders.com

November 26, 2025

VIA EMAIL AND CERTIFIED MAIL

Michael Stangl
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

Re: Crown Beach Grant Street Restroom Project - Contract No. 066M-22-409

Response to November 21, 2025 Letter - Request for Collaborative Resolution

Dear Mr. Stangl:

We appreciate your November 21 letter and welcome the opportunity to clarify the facts and work toward a collaborative resolution. VNH Builders remains committed to completing this important community project and believes that through good-faith negotiations, we can resolve the current impasse and deliver the Crown Beach Restroom facility that the community needs and deserves.

We request an immediate meeting with all stakeholders to resolve these issues constructively rather than through confrontation.

I. HOW WE ARRIVED HERE - THE CASCADE EFFECT

To understand the current situation, it's essential to recognize how a series of initial challenges created a cascade of delays that neither party anticipated:

A. The Original Challenge - Starting Without Approved Plans

On October 13, 2022, the District issued a Notice to Proceed with a 60-working-day completion deadline (January 12, 2023), but without approved construction plans. This created an impossible situation that set the stage for everything that followed:

- We could not obtain building permits without approved plans
- We could not order the CXT building without confirmed specifications
- We could not begin site work without knowing final elevations and dimensions

B. The Domino Effect - 638 Days Waiting for Plans

The District didn't provide updated plans until July 22, 2024 - 638 days after the Notice to Proceed. During this extended period:

- CXT manufactured the building based on preliminary specifications (completed April 14, 2023)
- The building had to be stored at CXT's facility, accumulating storage costs
- We continued paying for bonds, insurance, and overhead without ability to work
- Material costs escalated due to inflation

C. Discovery of Plan Deficiencies - Another 52 Days

When we finally received plans and began work, we discovered critical errors and omissions requiring extensive RFI submissions:

- **RFI #009 - Critical Dimensional Error:** Plans showed 6.2 feet instead of 6.24 feet for slab-on-grade. This 0.5" discrepancy would have caused catastrophic misalignment between the prefabricated building and foundation.
- **RFI #011 - Missing Drainage Details:** Plans showed drain rock and perforated pipe but no outlet locations or connections. We waited 26 days for this critical information.
- **Multiple Other RFIs:** Missing sections, foundation details, code compliance issues - each requiring work stoppage while awaiting responses.

These weren't minor clarifications - they were fundamental design elements necessary for construction.

II. VNH'S PROACTIVE MANAGEMENT OF THE CXT SITUATION

Contrary to any suggestion that we've been passive, VNH has been actively managing the CXT storage situation from day one:

A. Our Documented Efforts (February 2023 - March 2025)

- 1. Early 2023:** Began requesting detailed storage fee documentation from CXT
- 2. Throughout 2023-2024:** Multiple emails and calls to CXT requesting:
 - Itemized storage costs
 - Monthly storage rates

- Documentation for change order processing
- Options to minimize costs

3. January 2024: Negotiated with CXT and Hugh Escobar (Bragg Crane) about alternative storage locations

4. March 14, 2025: CXT finally provides comprehensive invoice after nearly two years of requests

5. March 20, 2025: We immediately notified the District and requested payment authorization

B. Why This Matters

This timeline demonstrates that:

- We didn't ignore storage costs - we actively pursued documentation for two years
- We tried to minimize costs through alternative arrangements
- We immediately brought the issue to the District when documentation was received
- The delay in invoice presentation was CXT's, not ours

III. CLARIFYING KEY MISCONCEPTIONS

We believe several misconceptions need clarification to move forward productively:

A. Misconception: Storage Fees Were Paid in Change Order #7

Reality: Change Order #7's \$50,300.80 for "Denali Building" covered crane mobilization and setup costs only. This is documented in:

- The Change Order description itself
- Payment Application #9 line items
- CXT's March 2025 statement that no storage fees have been paid

We understand how this confusion arose and are happy to provide detailed documentation in our proposed meeting.

B. Misconception: VNH Refuses to Work

- Direct District payment to CXT vs. payment through VNH
- Partial payments to secure building release
- Payment terms and timing

2. Storage Cost Resolution:

- Negotiated rate reduction with CXT
- Shared responsibility for certain periods
- Interest waiver if resolved quickly

3. Completion Schedule:

- Accelerated schedule options
- Phased completion milestones
- Liquidated damages waiver for good-faith effort

4. Delay Claims:

- Mutual waiver of delay damages
- Focus on completion rather than fault
- No-cost change order for time extensions

C. Our Commitments

If we can reach agreement on payment, VNH commits to:

- Complete all work within 45 days of CXT building delivery
- Provide weekly progress reports with photos
- Address all punch list items promptly
- Maintain open communication throughout
- Work collaboratively to minimize further costs

V. THE REALITY OF OUR SITUATION

Let's be candid about where we stand:

What We Both Want:

- A completed restroom facility for the Crown Beach community
- Resolution without costly litigation

- Fair compensation for work performed
- Professional reputations intact

The Obstacles:

- \$66,355.34 owed to CXT preventing building release
- Accumulated storage and interest charges
- Miscommunication about payment status
- Frustration on both sides

The Simple Solution:

Pay CXT → Get building → Complete project → Serve community

CONCLUSION

This project has faced unprecedented challenges - starting without approved plans, waiting 638 days for documentation, discovering critical design errors, and now the CXT payment impasse. Each delay cascaded into the next, creating a situation neither party anticipated or wanted.

However, we're at a critical juncture where we can either:

1. Continue down a path of confrontation, litigation, and further delay, or
2. Come together, acknowledge the challenges, negotiate fairly, and complete this project

We strongly prefer option 2 and believe you do too.

We respectfully request that instead of proceeding with termination, the District join us in a collaborative effort to resolve these issues. We've been proactive from day one in managing the CXT situation, we've navigated extraordinary delays caused by factors beyond anyone's control, and we remain ready and eager to deliver this important community facility.

Please contact us immediately to schedule a meeting. Time is of the essence, but with good faith on both sides, we can resolve this matter quickly and successfully.

Respectfully submitted with hope for immediate resolution,

Bruno Vieira
Principal
VNH Builders
License #1064244
Direct: (415) 670-0661
Email: bruno.vieira@vnhbuilders.com

Attachments:

1. CXT Email Exchange (showing our proactive efforts from 2023-2025)
2. Timeline of VNH's Storage Fee Management Efforts
3. Draft 45-Day Completion Schedule (ready to implement)
4. RFI Log Showing Design-Related Delays

cc: CXT, Inc. - Brian Hall (for meeting coordination)
Bragg Crane Service - Hugh Escobar
[Legal Counsel - if engaged]

Re: Crown Beach Restroom Project/DN-393 429918

From branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Date Fri 3/21/2025 9:12 AM

To Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com <branum.spliethof@outlook.com>

Oh that's weird must have been a glitch, please attend 3/24/25 at 8am do you need me to resend ?

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfoster.com>

Sent: Friday, March 21, 2025 8:54 AM

To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com <branum.spliethof@outlook.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

I received an invite for 3/24/2025 at 8:00am PST and multiple other canceled invites. Can you please confirm the meeting date and time?

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Friday, March 21, 2025 8:12 AM

To: Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Hugh Escobar <hugh.escobar@braggcrane.com>; branum.spliethof@outlook.com

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

Thank you for offering meeting times. I'd like to schedule a video conference for Monday, March 24 at 12:00pm PST to discuss this matter. I'll be creating and sending a Microsoft Teams meeting invitation shortly.

I look forward to working toward a resolution that addresses both our concerns.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfoster.com>
Sent: Friday, March 21, 2025 6:21 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; 'Escobar, Hugh' <hugh.escobar@braggcrane.com>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

Agreed, we have an executed contract in place that sets the expectation of this project. That contract includes (1) mobilization delivery and off load. It does not include multiple mobilizations, crane picks and specialized equipment. This is clearly covered in the terms of the agreement. It does not include delivery to multiple sites, multiple crane picks, and specialized equipment.

As Hugh with Bragg Crane (included) communicated a week ago on Friday March 14, the building is ready for inspection per the below communication.

The building is currently stored at our Richmond yard 457 Parr Blvd Richmond Ca 94801, you can inspect the building M-F 7am – 3pm, just let me know when you would like to visit

I have a handful of meetings today and my availability window is 11:00am-2:30pm PST. If that does not work, I am free Monday 3/24 8:00am-9:00am and 12:00pm-2:00pm PST. Hugh does not need to be on this call. This call should include at a minimum, CXT and VNH. If EBPD is available that would be preferred as well.

Just so we are all on the same page, CXT expects payment of \$66,355.34 by 3/28/2025. Anything outside of this and we intend to hand this over to our legal team and pursue all remedies within the agreement CXT has fully capitalized the project and needs to be compensated for the work performed on 4/14/2023, almost two years ago.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Thursday, March 20, 2025 7:44 PM
To: Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

We are not an adversary here. We want to pay you, but the building is simply not delivered. We've even agreed to pay CXT an extra \$19k (upon inspection) until delivery, despite CXT driven and owner driven delays. We're being extremely reasonable here, as a trade partner, we need your team to acknowledge this fact.

As outlined in my previous email with detailed timeline evidence, **delivery** under our agreement means transportation to site, crane pick, and proper setting on the building pad - none of which has occurred.

I propose one final opportunity to resolve this matter constructively: a meeting with all stakeholders this week. If you decline this meeting, we will proceed with our legal options to protect our contractual rights.

Please confirm your availability for a video conference this week or Monday at the latest with representatives from CXT, VNH, and Bragg Crane present.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfoster.com>
Sent: Thursday, March 20, 2025 9:10 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

The payment CXT has requested by 3/28/2025, \$66,355.34 is the original balance and does not include any storage, or interest fees. On our 3/15/2024 conference between all parties, it was agreed CXT would receive payment for all operations completed through this date. It is CXT's understanding VNH has received this payment.

If CXT does not receive this payment by 3/28/2025, it will be turned over to our legal department and all remedies will be pursued.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

[E bhall@lbfoster.com](mailto:bhall@lbfoster.com)



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Thursday, March 20, 2025 8:53 AM
To: Brian Hall <BHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian,

Thank you for your recent email. After reviewing your position regarding payment terms, I feel it's important to establish a clear timeline of events regarding this project, as there appears to be a fundamental misunderstanding about what constitutes "delivery" under our contract.

The building was never delivered to the project site. This is the central issue at hand and is evident in our documented communication history:

1. Original timeline: Contract schedule dated 12/06/2022 showed completion on 02/16/2023.
2. Initial delay by CXT: On 02/02/2023, you notified us that "LB Foster ran into a hiccup on the building completion" due to back-ordered fiberglass doors, pushing the timeline approximately 10 weeks to "early-mid April." (Email from Matt Armitage dated 02/02/2023)
3. Multiple requests from VNH: Between 02/21/2023 and 03/09/2023, we sent multiple emails requesting updates and exact delivery dates, expressing concern about project impacts.
4. Alternative solutions rejected: On 03/02/2023, I specifically asked "Why are the doors such an integral part of delivery? Why can't they come at a later date?" noting that "the owner is not very happy with me about this delay." (Email dated 03/02/2023)
5. Refusal to ship separately: On 03/13/2023, Matt Armitage responded: "Unfortunately we cannot ship the building without doors as the building will not be useable or secure." (Email dated 03/13/2023)
6. Formal notice of impacts: On 04/03/2023, VNH sent formal "Notice of Project Impacts and Schedule Delays" documenting the timeline of delays caused by CXT's procurement issues.
7. Last-minute changes: On 04/11/2023, just days before the rescheduled installation, CXT suddenly required a change order for an additional \$12,000 for a larger crane, further complicating the process.
8. Project halt: The building was ultimately never delivered to or installed at the project site due to owner-driven design changes that occurred after the initial delays.

Your current position that "CXT has provided delivery and off load per the executed agreement" contradicts the reality of the situation. The building remains at Bragg's yard and has never been transported to or installed at the project site as required under our contract.

While I understand your stance on the payment terms, it's important to recognize that:

9. VNH did not bill EBRPD for the CXT building until September 18, 2024, as we were anticipating project resumption. Furthermore, due to EBRPD's standard NET60 payment terms, we didn't receive payment from them until December 2024, which is why our payment to CXT was processed in early January 2025.
10. Interest charges were never previously communicated to us during our ongoing correspondence about project status.
11. The extraordinary length of the storage period is due to circumstances outside both our companies' control, requiring a more collaborative approach to resolution.

I remain committed to finding a reasonable solution while maintaining our contractual rights. My position remains as originally proposed:

12. We will schedule an inspection of the building at Bragg's yard within the next 7 days
13. Following inspection and verification of the building's condition, we will process payment of \$19,984.82, which covers the remaining freight charges, sales tax, and half of the outstanding building balance (accounting for our previous payment of \$51,355.34)
14. The final building balance of \$46,370.50 will be processed when the building is delivered to the project site and properly installed
15. Storage fees that can be properly documented will be submitted to EBRPD for approval through our change order process

This payment structure appropriately balances our mutual obligations in light of the unique circumstances of this project and aligns with standard industry practice regarding payment for incomplete deliveries.

To be clear, the March 28, 2025 deadline for payment is not feasible given that we do not have possession of the building, which remains in Bragg's yard. No contractor would reasonably be expected to make full payment for a building that has not been delivered to the project site. Nor would that stand up in arbitration or litigation.

Again, I request that we schedule a meeting with all stakeholders by the end of this week to resolve these issues constructively. Without such a meeting to establish mutual understanding, we cannot proceed with any payment until proper delivery terms are agreed upon.

I look forward to your response and am available to discuss this further at your convenience.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BrianHall@lbfoster.com>
Sent: Thursday, March 20, 2025 6:56 AM
To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

Has VNH received payment from EBPD for this portion of the project?

Please see the terms sections to your email below in **BLUE** from the executed attached agreement. The terms are very clear to cover this occurrence.

CXT received payment for \$51,355.34 on 1/2/2025. Remaining original balance was \$66,355.34. CXT will not consider removing any interest, or storage charges until the original balance is paid. This will need to be paid by 3/28/2025. If payment is not received by 3/25/2025, CXT will initiate and pursue all remedies and costs per the executed agreement.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Tuesday, March 18, 2025 12:45 PM
To: Brian Hall <BrianHall@lbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>
Cc: Hugh Escobar <hugh.escobar@braggcrane.com>; Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Hi Brian, et al,

Thank you for your prompt response. I appreciate you bringing clarity to your position and including all stakeholders in this conversation for transparency. After reviewing the executed agreement and your latest email, I need to emphasize some critical points:

1. According to standard construction practice and our understanding of the original agreement, full payment is contingent on complete delivery and installation of the building at the project site. Currently, the building remains at Bragg's yard and has not been transported to the site or placed on the foundation as intended in our agreement.

PAYMENT TERMS: All orders are cash in advance. At CXT's discretion, credit may be given after approval of credit application. Payment to CXT by the purchaser of any approved credit amount is net 30 days after submission of invoice to purchaser. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning with the 35th day (includes five (5) day grace period) from the date of the invoice. Under no circumstance can retention be taken. If CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs, expenses and attorneys' fees and costs of any appeal.

Should the delivery and installation costs increase due to changes in the delivery period, this increase will be added to the price originally quoted, and will be subject to the contract payment terms. In the event that the delivery is delayed more than 90 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of 1-1/2% of contract price per month or any part of any month will be charged.

2. As a demonstration of our good faith and commitment to this project, I propose the following payment structure:
- We will schedule an inspection of the building at Bragg's yard within the next 7 business days
 - Upon verification of the building's condition, we will process payment of \$19,984.82, which covers the remaining freight charges, sales tax, and half of the outstanding building balance
 - The final building payment of \$46,370.50 will be processed when the building is delivered to the project site and properly installed

CXT has completed all work in accordance with the executed agreement and per the included terms. The balance on the attached invoice is overdue and delinquent.

3. Regarding interest charges, we request documentation showing when and how these charges were communicated to VNH prior to the recent invoice. These charges represent a significant unexpected cost that was never addressed in our numerous communications throughout the ongoing project delay.
4. Regarding the new storage fees, we still require detailed documentation of monthly storage rates to properly submit these ongoing costs to EBRPD through our change order process.

Storage and interest fees are clearly defined in executed agreement and above notes.

I believe this approach honors our contractual obligations while recognizing the unusual circumstances of this project. I would welcome the opportunity to discuss this further on a call with all stakeholders to establish a clear path forward. Please confirm receipt of this email and your availability for a call early next week.

The executed agreement clearly defines the contractual obligations.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall
Sent: Tuesday, March 18, 2025 10:05
To: branum.spliethof@vnhbuilders.com; Bruno Vieira
Cc: Hugh Escobar; Matthew Norton; Nate Luna
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Branum,

It's good we have the communication lines reestablished as CXT has been requesting updates for months on the payment status. I am attaching the executed agreement and the invoice that reflects the terms of the agreement. I am also adding representatives from East Bay Parks for full transparency on this project due to the break in communications and overdue balance on this project.

As of shipment date 4/14/2023, the original balance on the project was \$117,710.68 (email and updated invoice attached). On 3/15/2024 we conducted a conference between CXT, VNH and EBP. During this call, CXT requested payment be made for all operations completed

through this date. This was agreed to by all parties.

CXT received payment for \$51,355.34 on 1/2/2025. Remaining original balance was \$66,355.34. CXT will not consider removing any interest, or storage charges until the original balance is paid. This will need to be paid by 3/28/2025. It is our understanding VNH has been paid in full for this portion of the project. Please confirm, as this has not been answered in previous requests.

CXT has provided delivery and off load per the executed agreement and all work has been completed under this agreement. The payment terms, storage terms and interest charges are covered in the executed agreement. The attached invoice dated 3/14/2025 accounts the interest on the unpaid balances throughout the duration of this project.

Please provide a response to this email and include a payment schedule by 3/21/2025.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@bfoster.com



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Friday, March 14, 2025 2:39 PM

To: Brian Hall <BBhall@bfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>

Cc: Hugh Escobar <hugh.escobar@bragccrane.com>

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. **Do NOT click links** and **do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brain,

Thank you for your continued communication regarding the Crown Beach project. I tried reaching you by phone earlier without success, so I wanted to follow up with an email to address the outstanding payment situation and propose a specific path forward that works for all parties. I want to emphasize that it was never our intention to have you deliver the building without payment in full. Our understanding has always been that "delivery" means the building is, transported to site, crane pick and properly set on building pad - at which point NET 30 payment terms begin. To clarify our current payment status, VNH has already remitted \$51,355.34 toward this project. After reviewing the latest invoice and our contractual obligations, I'd like to propose the following resolution:

1. Interest Charges:

1. We request that the interest charges (\$36,314.16) be removed from the current invoice. These charges were never previously communicated during our numerous exchanges about project status and delays (see attached emails), and represent an unexpected cost that wasn't factored into our project planning.

2. Storage Fees and Other Costs: We understand the necessity of storage fees but need comprehensive documentation including:

1. Clearly itemized monthly rate for ongoing storage
2. Detailed breakdown of all incurred costs with supporting receipts and documentation
3. Separate breakdowns for materials, labor, and subcontractor costs
4. Any other expenses with proper substantiation

5. This thorough documentation will allow us to:

1. Submit proper documentation to EBRPD for all accumulated charges to date
2. Establish transparent costs for the period until project resumption
3. Include these properly itemized costs in our change order request to the owner
4. Evaluate the change order properly with complete visibility into all charges

4.

5. Payment Schedule:

1. Upon inspection and acceptance of the building at Bragg's yard, VNH will process payment for the remaining sales tax and freight charges, plus half of the outstanding building balance as follows:

1. Half of DN-393: $\$92,741.00 \div 2 = \$46,370.50$
2. Total for half building + freight + tax = $\$46,370.50 + \$15,000.00 + \$9,969.66 = \$71,340.16$
3. Amount already paid: $\$51,355.34$
4. Amount due after inspection: $\$71,340.16 - \$51,355.34 = \$19,984.82$

1.

2. The final building balance of **\$46,370.50** will be processed on the day the building is delivered to the project site.

1. Storage and remobilization fees will be paid after EBRPD executes the change order including these costs

As a reminder, our contractual relationship is between VNH and CXT, and does not involve EBRPD. While we're working diligently with the owner to secure approvals and funding for these additional costs, we need your partnership in providing clear documentation that helps us substantiate these charges to EBRPD.

I believe this approach represents a fair middle ground that acknowledges:

- Your need for payment
- Our need for completed delivery before final payment
- The unusual circumstances of this extended delay
- Our shared goal of completing this project successfully

Please provide the requested monthly storage rate information at your earliest convenience so we can incorporate it into our owner change order request. I'm available to discuss this proposal and would welcome a call to align on next steps.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Escobar, Hugh <hugh.escobar@braggcrane.com>

Sent: Friday, March 14, 2025 10:49 AM

To: Brian Hall <BHall@jbfoster.com>; Bruno Vieira <bruno.vieira@vnhbuilders.com>;

branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>;

commercial@vnhbuilders.com <commercial@vnhbuilders.com>; mayza.campos@vnhbuilders.com <mayza.campos@vnhbuilders.com>;

'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Matthew Armitage <MArmitage@jbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

The building is currently stored at our Richmond yard 457 Parr Blvd Richmond Ca 94801, you can inspect the building M-F 7am – 3pm, just let me know when you would like to visit

Thanks

Regards,

Hugh Escobar | Wind Power / Technical Services
Bragg Crane Service

Office: (510) 232-7222 | Mobile: (510) 685-8341

From: Brian Hall <BrianHall@lbfoster.com>

Sent: Friday, March 14, 2025 10:38 AM

To: Bruno Vieira <bruno.vieira@vnhbuilders.com>; branum.spliethof@vnhbuilders.com; commercial@vnhbuilders.com; mayza.campos@vnhbuilders.com; 'Enefino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; Escobar, Hugh <hugh.escobar@braggcrane.com>; Matthew Armitage <MArmitage@lbfoster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

[WARNING - EXTERNAL EMAIL] This email originated from outside of our organization. Please exercise caution when opening attachments, clicking links, or responding with sensitive information.

Bruno,

Thank you for the reply.

CXT has been very patient during this process. We've fully capitalized this project and continue to experience expenses and have yet to receive full payment. CXT has completed our scope of work under the attached executed agreement.

The executed agreement contains all necessary terms and conditions to cover this type of occurrence. The attached invoice reflects these terms and conditions for this project. It is our understanding VNH has been paid in full for this portion of the project as well. If this is not correct, please let me know.

The building is currently stored in Bragg Crane's yard and Hugh is included on this email to scheduling an inspection. The building will not be released until full payment has cleared and CXT provides this release. Additionally, a remobilization quote will need to be provided by CXT once the original site is ready, or a storage site is chosen. This quote will be dependent upon the site and timing of this additional move due to accumulating storage fees. It may be beneficial for all parties if a storage site is selected, and planning can begin to facilitate this operation.

In closing, the payment terms, storage terms and conditions of interest on unpaid balances are covered within the executed agreement. Please provide a payment schedule by 3/21/2025.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfoster.com



From: Bruno Vieira <bruno.vieira@vnhbuilders.com>

Sent: Friday, March 14, 2025 9:25 AM

To: Brian Hall <BrianHall@lbfoster.com>; branum.spliethof@vnhbuilders.com; commercial@vnhbuilders.com; mayza.campos@vnhbuilders.com; 'Enefino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>; hugh.escobar@braggcrane.com; Matthew Armitage <MArmitage@lbfoster.com>

Subject: Re: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. **Do NOT click links and do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Hi Brian,

I hope this message finds you well.

We would like to express our appreciation for your time and cooperation throughout this process. As per our standard practice, we typically make payments for a building once it is in our possession and we have verified its condition. However, in this case, we have already paid 50% of the total amount for the bidding process, despite not having received any tangible deliverables or confirmation regarding the building's location or current state.

To proceed with the remaining 50% payment, we kindly request the exact location of the building so that we can arrange an inspection. This step is crucial for us to verify the building's condition and ensure it meets our expectations before finalizing the transaction.

Once the inspection is completed and the building's location and condition are confirmed, we will promptly process the remaining payment. We believe this approach is fair and aligns with standard business practices, ensuring transparency and mutual satisfaction for both parties.

Please provide the necessary details at your earliest convenience so we can move forward with the inspection and finalize the payment. Should you have any questions or require further clarification, feel free to reach out.

Thank you for your understanding and cooperation. We look forward to your prompt response.

Best,

Get [Outlook for iOS](#)

From: Brian Hall <BHall@lbfooster.com>

Sent: Friday, March 14, 2025 9:10 AM

To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; commercial@vnhbuilders.com <commercial@vnhbuilders.com>; bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; mayza.campos@vnhbuilders.com <mayza.campos@vnhbuilders.com>; 'Enedino Neto' <enedino.neto@vnhbuilders.com>

Cc: Matthew Norton <MNorton@ebparks.org>; Nate Luna <nluna@ebparks.org>;

hugh.escobar@braggcrane.com <hugh.escobar@braggcrane.com>; Matthew Armitage <MArmitage@lbfooster.com>

Subject: RE: Crown Beach Restroom Project/DN-393 429918

VNH team,

Please find the attached, updated invoice. Additionally, this matter will be turned over to our legal team and CXT will pursue all remedies for collections on this balance.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

E bhall@lbfooster.com



From: Nate Luna <nluna@ebparks.org>
Sent: Thursday, March 13, 2025 1:50 PM
To: Brian Hall <BHall@lbfoster.com>; brnum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Matthew Norton <MNorton@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

CAUTION: This email originated from outside of the organization. **Do NOT click links** and **do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

VNH,

Please reply to Brian today.



Nate Luna, PMP
Project Manager | Maintenance and Skilled Trades Administration
East Bay Regional Park District
17930 Lake Chabot Rd, Castro Valley, CA 94546
M: 510-541-9631
nluna@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copies, and delete it from your system.

Please consider the environment before you print

From: Brian Hall <BHall@lbfoster.com>
Sent: Tuesday, March 11, 2025 9:04 AM
To: brnum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfoster.com>; hugh.escobar@braggcrane.com
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Matthew Norton <MNorton@ebparks.org>; Andrea C. Jones <ACJones@ebparks.org>; Eric Bowman <ebowman@ebparks.org>; Nate Luna <nluna@ebparks.org>
Subject: RE: Crown Beach Restroom Project/DN-393 429918

Good morning,

Please provide an update on the \$66,355.32 outstanding balance on this order. It is our understanding VNH has been paid in full for this project. If CXT does not receive an update by COB 3/13/2025 this matter will be turned over to our legal department and CXT will pursue all remedies within the contract.

Your response and support is appreciated.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

[E bhall@lbfooster.com](mailto:bhall@lbfooster.com)



From: Brian Hall <BBHall@lbfooster.com>

Sent: Friday, January 17, 2025 6:22 AM

To: branum.spliethof@vnhbuilders.com; Matthew Armitage <MArmitage@lbfooster.com>; hugh.escobar@braggcrane.com

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: RE: Crown Beach Restroom Project/DN-393

Hi Branum,

Can you please provide an update on the outstanding balance on the attached invoice? The storage balance will depend on the timing of the installation schedule. Additionally, CXT has been very patient awaiting the open balance on the attached to be paid.

Thank you.

Brian Hall
Commercial Operations Manager



T 509-892-3218

606 N. Pines Road, Suite 202
Spokane Valley, WA 99206

[E bhall@lbfooster.com](mailto:bhall@lbfooster.com)



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Wednesday, January 15, 2025 9:57 AM

To: Brian Hall <BBHall@lbfooster.com>; Matthew Armitage <marmitage@lbfooster.com>; hugh.escobar@braggcrane.com

Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com

Subject: Re: Crown Beach Restroom Project/DN-393

CAUTION: This email originated from outside of the organization. Do **NOT** click links and do **NOT** open attachments unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Brian the owner and I had a quick discussion this morning about any extra storage fees that you have due to this project delay that continues to go on from September last year, the plan review process seems to be finally coming to a close once you get them over your final reviewed set from your engineer. Can you please submit to me any extra cost from you or Bragg that needs to be captured, or let me know if your team is good to go.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Brian Hall <BHall@lbfooster.com>
Sent: Wednesday, January 24, 2024 10:08 AM
To: Matthew Armitage <MArmitage@lbfooster.com>; branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>; hugh.escobar@braggcrane.com <hugh.escobar@braggcrane.com>; EHolmes@ebparks.org <EHolmes@ebparks.org>
Cc: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>; commercial@vnhbuilders.com <commercial@vnhbuilders.com>
Subject: RE: Crown Beach Restroom Project/DN-393

Hi Branum and Eric,

We are currently working on the remob quote and the storage costs. Once we have everything, we will present this to both of you.

Is the original site ready, or going to be ready soon? If not, is there a location on East Bay property where the building can be stored instead of the crane yard?

We understand site challenges arise, but CXT has fully capitalized this project and Bragg Crane has been storing the building since 4/17/2023.

Please let me know if there is a day and time where we can set up a call to discuss the details.

Thank you.

Brian Hall
Commercial Operations Manager



CXT Incorporated
606 N Pines Rd Suite 202
Spokane, WA 99206
t: 509-892-3218
e: bhall@lbfooster.com

www.cxtinc.com



From: Matthew Armitage <marmitage@lbfooster.com>
Sent: Tuesday, January 23, 2024 7:04 AM
To: branum.spliethof@vnhbuilders.com; hugh.escobar@braggcrane.com; EHolmes@ebparks.org
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com; Brian Hall <BHall@lbfooster.com>
Subject: RE: Crown Beach Restroom Project/DN-393

I've cc'd our commercial operations manager, Brian Hall, on this reply.

Matt Armitage
Field Operations Manager



t: 509-892-3250
e: marmitage@lbfooster.com

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Tuesday, January 23, 2024 5:00 AM
To: hugh.escobar@braggcrane.com; Matthew Armitage <marmitage@lbfooster.com>; EHolmes@ebparks.org
Cc: bruno.vieira@vnhbuilders.com; commercial@vnhbuilders.com
Subject: Crown Beach Restroom Project

CAUTION: This email originated from outside of the organization. **Do NOT click links** and **do NOT open attachments** unless you recognize the sender and know the content is safe. Please use the **Phish Alert Button** to report suspect emails.

Hi Team,

We wanted to start a chat after hearing the news about wanting the CXT building off Bragg property and Bragg's desire to wash their hands with the project. Let me start by saying as the GC I do share the same frustrations with this project as our bond, insurance, warranty, and liability are all up in the air without finishing this project on time.

That being said, we do want to be reasonable, and we understand that comes at a cost. I just spoke with Eric on the phone yesterday and he is fully aware of the situation at hand. Therefore, he would like to meet with us, bring his engineering team together and give us timelines so we can better understand project completion dates. Would your team be willing to discuss the options and terms of the contract value and timeline and stay on board or is this no longer an option? If we do maintain course, there are some relief options that may add some logistics but relieve Bragg from storage space.

But let's go over those details after we circle the wagons with who everyone wants to bring to the table for discussion. Meaning feel free to bring the upper management into the conversation (just cc them on your reply).

Cordially,



Branum Spillethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.



December 8, 2025

Via E-Mail and Overnight Delivery

Bruno Vieira
VNH Builders
842 Mahler Road
Burlingame, CA 94010
bruno.vieira@vnhbuilders.com

Re: Crown Beach Grant Street Restroom Project
Contract No. 066M-22-409
Demand for Schedule and Counteroffer

Dear Mr. Vieira:

The District has reviewed your November 26, 2025, letter on behalf of VNH Builders (“VNH”). For the reasons below (as well as the reasons detailed in the District’s November 21, 2025, letter), the District again rejects VNH’s position and arguments. In addition, VNH has not even acknowledged, much less responded to, the District’s offer to resolve the current dispute.

Accordingly, there is currently no reason for the District to meet with VNH. However, if VNH submits a *reasonable counteroffer, and its draft completion schedule based on that counteroffer, by 5:00 p.m. on December 11, 2025*, the District will review them and let VNH know whether a meeting is warranted. If VNH does not timely submit them, the District will immediately proceed with termination.

Your November 26, 2025, letter contains numerous misstatements and invalid arguments:

- Your letter focuses on various delays that occurred during the project. However, the District has already granted time extensions and additional compensation for the various delay issues, and they have been resolved. VNH cannot now ask for more time or more money based on those previously resolved issues. Those issues are irrelevant for present purposes.
- You argue that VNH proactively managed the CXT situation. However, you admit that you did not notify the District until March 20, 2025 even though the issues had existed for over two years. Also, VNH did not adequately manage the CXT situation since (A) VNH never paid CXT the portion of storage fees that the District has already paid to VNH, and (B) now the CXT situation has ballooned into a dispute where CXT is also asking for interest and legal fees. VNH did nothing to mitigate the damages that would be claimed by CXT, contrary to its duty under the contract and law.

Board of Directors

John Mercurio
Ward 6
President

Olivia Sanwong
Ward 5
Vice President

Colln Coffey
Ward 7
Treasurer

Dennis Waespi
Ward 3
Secretary

Elizabeth Echols
Ward 1

Luana España
Ward 4

Lynda Deschambault
Ward 2

Sabrina B. Landreth
General Manager

- CXT is VNH's supplier, and therefore VNH has the responsibility to resolve its dispute with CXT. The District only has an obligation to pay additional money or grant additional time to VNH if VNH timely submits requests for money or time that have merit (i.e., they were outside the control of VNH). Here, VNH had control of the storage fee situation for more than two years, but let the situation get completely out of hand before even notifying the District about it in March 2025. If storage fees were accumulating, VNH had the responsibility to promptly pay those fees to CXT to avoid additional charges, or at least to promptly submit requests to the District for additional money so that it could pay those fees, but it never did so. When VNH learned that additional charges were accruing, it had the duty to either pay CXT to stop the accrual of charges or submit a request to the District for such fees, but it never did so.
- You continue to argue that the \$50,300.80 "covered crane mobilization and setup costs only." However, the general description of the item in the beginning of Change Order #7 or in Payment Request #9 does not matter. What matters is the detail in the March 20, 2024, CXT "change order" that explains which items were covered by the \$50,300.80 amount. The CXT "change order" clearly states that it covers "Storage fees through July 2024." Therefore, the \$50,300.80 increase in the contract price included those storage fees.
- The District admits that VNH is entitled to a contract price increase of \$4,675 for storage fees after July 2024. However, VNH has never submitted a change order request for those fees, therefore no payment is owed by the District for them yet. If VNH ever submits a request for this amount, the District will process a change order and then pay it.
- You argue that VNH cannot provide a valid schedule since it does not know when the building will arrive. However, VNH should know when it will arrive because delivery of the building has always been within the control of VNH. All VNH had to do was timely pay the amounts required by VNH's supplier, and the building would have been delivered. If VNH believes that the District is responsible for any portion of the amount paid to CXT, then VNH could submit a change order request to the District for the District's consideration. However, VNH cannot refuse to pay CXT and then try to blame the District. VNH has a contractual obligation to mitigate damages and expeditiously perform the work despite any payment dispute (General Conditions §46(a)), but VNH has breached this obligation.

The District looks forward to VNH's timely submittal of a reasonable counteroffer and its draft schedule.

Sincerely,

Matthew Norton

Matthew Norton
Maintenance Superintendent

cc: Michael Stangl, EBRPD (e-mail only)
Elizabeth Mackenzie, EBRPD (e-mail only)
Lynne Bourgault, EBRPD (e-mail only)
American Contractors Indemnity Company, Performance Bond no. 1001188124 (by U.S. Mail)



VNH BUILDERS

842 Mahler Road

Burlingame, CA 94010

Phone: (415) 670-0661 | Email: bruno.vieira@vnhbuilders.com

December 11, 2025

VIA EMAIL AND OVERNIGHT DELIVERY

Matthew Norton
Maintenance Superintendent
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605

**Re: Crown Beach Grant Street Restroom Project - Contract No. 066M-22-409
COUNTEROFFER AND COMPLETION SCHEDULE**

Dear Mr. Norton:

Thank you for your December 8, 2025 letter. In the spirit of moving this project forward and serving the Crown Beach community, VNH Builders hereby submits this counteroffer and draft completion schedule as requested.

I. COUNTEROFFER

VNH Builders proposes the following resolution to immediately move forward with project completion:

A. VNH Builders Will Absorb:

1. ALL interest charges claimed by CXT (approximately \$38,975.40)

VNH acknowledges that while we diligently pursued CXT for documentation, we will accept responsibility with CXT and work with them to sort this out and complete the project in a timely manner propose on this letter.

B. District's Responsibility:

1. Storage Fees for District-Caused Delays (15 months)

The District should pay for storage costs during the period from July 2024 through September 2025 when the project remained delayed:

- Period: July 2024 through September 2025 (15 months)

- Rate: \$550/month (actual CXT storage rate)
- Total: \$550 × 15 months = **\$8,250.00**

Justification: The District issued a Notice to Proceed on October 13, 2022, without approved plans. Plans were not provided until July 22, 2024 (638 days later), and permits were not obtained until April 15, 2025 and the encroachment permit delay and other RFIs as well. This entire period of delay was caused by the District's failure to provide buildable plans and secure necessary permits. The CXT building has been in storage since April 2023, accumulating costs through no fault of VNH.

C. Contract Time Extension Request:

1. 140 calendar days extension to the contract to account for:

- Plan approval delays (638 days, requesting partial)
- RFI response delays (72 days documented)
- CXT payment resolution period

2. 90 working days to complete all remaining work from the date of CXT building delivery to site

FINANCIAL SUMMARY OF COUNTEROFFER

District Pays:

- Storage (Jul 2024 - Sep 2025, 15 months @ \$550): \$8,250.00
- District Total: **\$8,250.00**

VNH Absorbs:

- CXT BALANCE

Time Extensions:

- Contract Extension: 140 calendar days
- Completion Time: 90 working days from building delivery

II. DRAFT 90-DAY COMPLETION SCHEDULE

Upon acceptance of this counteroffer and payment to CXT, VNH commits to completing all work within 90 working days:

PHASE 1: MOBILIZATION & PREPARATION (Days 1-14)

- Days 1-3: Payment confirmation and CXT coordination

- Days 4-7: Site preparation and concrete corrections
- Days 8-10: Equipment mobilization and staging
- Days 11-14: Foundation final preparation

PHASE 2: BUILDING INSTALLATION (Days 15-30)

- Days 15-17: CXT building transport and delivery
- Days 18-20: Crane setup and building placement
- Days 21-25: Building anchoring and connections
- Days 26-30: Weatherproofing and initial testing

PHASE 3: UTILITIES & INFRASTRUCTURE (Days 31-60)

- Days 31-40: Plumbing rough-in and connections
- Days 41-50: Electrical rough-in and connections
- Days 51-55: Drainage and site utilities
- Days 56-60: Systems testing and commissioning

PHASE 4: SITE WORK & FINALIZATION (Days 61-90)

- Days 61-70: Final grading and drainage
- Days 71-75: Concrete walkways and paving
- Days 76-80: Landscaping and site restoration
- Days 81-85: Punch list completion
- Days 86-90: Final inspections and project closeout

SUBSTANTIAL COMPLETION: 90 WORKING DAYS FROM CXT BUILDING DELIVERY

III. CONDITIONS AND COMMITMENTS

This counteroffer and schedule are contingent upon:

1. District's acceptance and payment by December 15th of pay app approved October 17, 2025
2. Approval of 140 calendar day contract extension
3. Agreement on 90 working day completion period
4. No liquidated damages for past delays caused by District
5. Weather and site conditions permitting
6. Immediate processing of pending payment applications

VNH Builders commits to:

- Maintaining full crews throughout the 90-day completion period
- Providing weekly progress reports with photo documentation

- Working extended hours if needed to meet schedule
- Completing all work to contract specifications

IV. CLARIFICATION OF KEY POINTS

Regarding your December 8 letter:

- 1. Time Extension Justification:** The requested 140-day extension represents only a fraction of the 900+ days of District-caused delays. The 90 working days for completion is reasonable given the scope of remaining work and need for proper sequencing.
- 2. Storage Fee Responsibility:** The District should pay for storage during periods when the project could not proceed due to lack of approved plans and permits. The \$8,250 represents actual costs at \$550/month for 15 months.
- 3. Schedule Validity:** The 90-working-day schedule is based on actual work requirements and includes appropriate time for inspections, testing, and weather contingencies.

V. CONCLUSION

This counteroffer represents a reasonable compromise where both parties share responsibility:

- The District pays for storage during the period of their delays (\$8,250)
- VNH absorbs CXT responsibilities
- Both parties focus on completing this important community project

With the time extensions requested, VNH can complete this project professionally and to specification within 90 working days.

We respectfully request your acceptance of this counteroffer by December 15, 2025, so we can immediately proceed with project completion. The Crown Beach community has waited long enough for this essential facility.

Sincerely,

Bruno Vieira

Principal



VNH Builders
License #1064244

Attachments:

- Detailed 90-Day Schedule Gantt Chart
- Resource Allocation Plan
- Change Order Request Form for Time Extension
- Storage Fee Documentation

cc: Michael Stangl, EBRPD
Elizabeth Mackenzie, EBRPD
Lynne Bourgault, EBRPD
American Contractors Indemnity Company (Performance Bond #1001188124)

Attachment B

FINAL CONTRACT AMOUNTS THAT EXCEED THE ORIGINAL CONTRACT AMOUNT WILL BE CHARGED ADDITIONAL PREMIUM AND FEE. INCLUDE THESE CHARGES IN YOUR CHANGE ORDERS

Bond #: 1001188124

PERFORMANCE BOND
EAST BAY REGIONAL PARK DISTRICT

KNOW ALL PERSONS BY THESE PRESENTS:

That VNH Builders as Principal, hereinafter called Contractor, and American Contractors Indemnity Company as Surety of Sureties, hereinafter called Surety, are held firmly bound unto the East Bay Regional Park District, as Obligee, herein after called District, in the sum of Two Hundred Sixty Eight Thousand and 00/100 Dollars (\$ 268,000.00), for which payment Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, a certain written Agreement, dated September 8th, 2022, was made and executed by and between the District, as Owner, and the Contractor, which agreement is hereinafter called the Contract and is by reference made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor shall well and faithfully keep and perform *all* the covenants and agreements of Contract, and all alterations, modifications and extensions thereof, by the Contractor to be kept and performed, and shall fully complete all of the work described in the Contract, and all alterations, modifications and extensions thereof, and shall save and hold harmless the District from any and all loss of damage arising out of the failure of the Contractor and/or any and all subcontractors, to fulfill the Contract, and all alterations, modifications and extensions thereof, and shall fully reimburse and pay to the District all outlay and costs which the District may incur in making good any default of the Contractor and/or subcontractors, and in replacing and/or making good any defective material or faulty material or workmanship in the work of the Contractor and/or any and all subcontractors, which may be discovered within one (1) year subsequent to the completion and acceptance of the work provided for in the Contract, then the above obligation shall be void; otherwise, it shall be and remain in full force and effect.

It is expressly covenanted and agreed by and between the Contractor and the Surety that the liability of the Contractor and the Surety shall at all times, and under all circumstances, be co-extensive, and that the Surety shall not be discharged, released or exonerated from liability under this bond, in whole or in part, by an alteration and/or modification of the Contract, whether notice thereof is given the Surety or not, and that the Surety shall be bound thereby, and also bound by any departure or deviation on the part of the District from the terms of the Contract.

It is further expressly covenanted and agreed that in the event that more than one Surety is obligated hereunder, then, in that event, the co-Sureties, bind themselves in the above stated sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of them, and for all other purposes each Surety binds itself, jointly and severally with the Contractors for the payment of such above stated sum only to the extent of the amount set forth opposite the Surety's name in Appendix A to this bond, which Appendix A is attached hereto and by this reference made a part hereof.

No change or alteration or modification of the Contract or of the work required thereunder shall release or exonerate any Surety or Sureties on the bond.

This bond shall remain in full force and effect notwithstanding that the Contract or any applicable law or statute of the State of California shall be held to be invalid.

IN WITNESS WHEREOF, the Contractor and the Surety or Sureties have hereunto signed their names this 5th day of October, 2022.

VNH Builders

Contractor

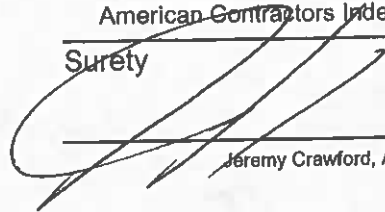


Signature

Bruno Vieira or Ernest Herrera, Partner

American Contractors Indemnity Company

Surety



Jeremy Crawford, Attorney-In-Fact



**TOKIO MARINE
HCC**

**POWER OF ATTORNEY
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Jeremy Crawford, Michael D. Williams, William J. Nemec, Tanya Fukushima, William Gerber,
Bradford J. Quiri, Amanda M. Quigley, or Andrea Haight of Golden Valley, Minnesota

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed ***** Five Million and 00/100 ***** Dollars (**\$5,000,000.00**). This Power of Attorney shall expire without further action on January 31st, 2024. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.


Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 23rd day of September, 2021.

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

State of California
County of Los Angeles



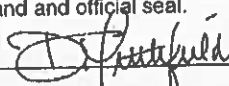
By: 
Daniel P. Aguilar, Vice President

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

On this 23rd day of September, 2021, before me, D. Littlefield, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature  (seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 5th day of October, 2022.

Corporate Seals
Bond No. 1001188124
Agency No. 19903 - PDF POA




Kio Lo, Assistant Secretary

ACKNOWLEDGMENT

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


State of Minnesota
County of Hennepin)

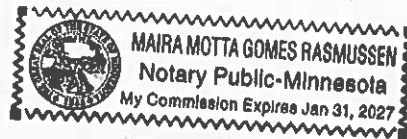
On 10/5/2022 before me, Maira Motta Gomes Rasmussen, Notary Public
(insert name and title of the officer)

personally appeared Jeremy Crawford, Attorney-In-Fact
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature  (Seal)





TOKIO MARINE
HCC

Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017 USA
Tel: 310-649-0990

VIA E-MAIL ONLY

February 23, 2026

Elizabeth Mackenzie
Assistant General Counsel II | General Counsel's Office
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605
emackenzie@ebparks.org

RE: Surety: American Contractors Indemnity Company
Principal: VNH Builders
Obligee: East Bay Regional Park District
Bond No.: 1001188124
Project: Crown Beach Grant Street Restroom Project – Contract No. 066M-22-409

Dear Ms. Mackenzie:

Please recall American Contractors Indemnity Company (“ACIC” or “Surety”) executed bonds on behalf of VNH Builders (“VNH”) with respect to the above-referenced project. As you are aware, ACIC is conducting an investigation of the claim against the Performance Bond asserted by East Bay Regional Park District (“District”).

ACIC’s investigation to date includes receipt and review of various documentation from the District; initial discussion with you and the District’s attorney, Arne Sandberg; and a site visit by ACIC’s construction consultant Drew Brouwer.

The investigation has raised significant questions regarding the District’s administration of the bonded contract and the Surety’s liability, if any, under the Performance Bond. Though no final conclusion has been reached by ACIC, we present the issues here for your review, consideration and response and will extend the claim investigation for up to an additional thirty (30) days to allow for such response.

As you know, ACIC issued the Performance Bond on, or about, August 29, 2022 in connection with Contract No. 066M-22-409, dated May 3, 2022. The original contract amount was \$268,000, though the bond appears to have been issued in the amount of \$262,000.

As we advised in our initial correspondence of December 30, 2025, ACIC received the enclosed October 2024 status request form completed by the District, which provided a final contract price of \$308,200; a completion date of March 2024; and an acceptance date of April 18, 2024. Based

on the District's representations that the project was accepted as complete, ACIC closed its bond file.

During our call of January 12, 2025, the District advised that the project was never completed and that Nate Luna, who signed the status request form, did not have the authority to state the project had been completed and accepted. However, based on the documentation provided by the District, the administration of the bonded contract appears to support the statements made by Luna within the status request form.

In looking at the pay applications submitted by VNH, Payment Requests 1 through 6 appear to track as would be expected for the bonded project. Payment Request 6¹, through the work date of January 8, 2024², includes 14 line items and evidences a project that was 61% complete, with \$178,716.64 paid on an adjusted contract amount of \$308,200. Payment Request 6 also shows 5% withheld retention in the amount of \$9,406.13. Per the Contract, "The District shall withhold a five percent (5%) retention from each payment which may be requested thirty-five (35) days after completion and formal acceptance of the work."

Two further pay applications were submitted and approved on the original bonded contract. Both were signed by the District on April 18, 2024, which is also the acceptance date of the contract per the October 2024 status request form.

Payment Request 7 billed out the project at 95 percent; while Payment Request 8 billed for the 5% retention amount of \$15,273.62. As noted above, per the contract, retention was to be withheld until thirty-five days after completion and formal acceptance of the work.

With Payment Requests 7 and 8, including the billing and payment of withheld retention, VNH and the District closed out the original bonded contract. This is consistent with the status request form, which listed a completion date of March 2024 and an acceptance date of April 18, 2024.

It is believed, but not confirmed, that the approval of Payment Requests 7 and 8 were related to a determination by the City of Alameda that the project site falls within Flood Zone AE, as indicated by FEMA's Flood Insurance Rate Map (FIRM).³ Per the District's report and authorization for what became Change Order No. 7, the determination caused "the District to redesign the restroom from a finished floor elevation (FFE) of 9.52 feet up to 11.3 feet." The District further stated, "Given the significant alterations required to raise the building to the required elevation, an additional change order of up to \$497,000 will be appropriated ... when combined with the existing change orders, this will result in a total contract cost of up to \$805,200."

¹ Copies of all referenced pay applications are enclosed herewith.

² Payment Request 6 lists the "Work Date Range: through 1/08/2023." It is believed this is a typographical error as the Request is stamped "EBRPD Maintenance Received 1/11/2024; and the Request is signed by VNH on 1/10/2024 and by the District on 1/11/2024.

³ See July 30, 2024 Agenda Staff Report and July 30, 2024 Authorization to Execute Contract Amendment and Appropriate Funds for the Grand Street Restroom Improvements in the Total Amount of \$497,000: Robert W. Crown Memorial State Beach.

It is ACIC's understanding that the flood zone determination made the performance of the original bonded contract work impossible. The Surety further understands, based on its review of documentation provided to date and the site inspection of February 11, 2026 that VNH's work under the original bonded contract was removed and/or demolished and that the current work in place is related solely to Change Order No. 7.

While the District has classified Change Order No. 7 as an amendment to the bonded contract, it appears, in practice, to be an entirely new job. As referenced above, Payment Requests No. 7 and No. 8 closed out the original bonded scope. Further, Payment Request No. 9 and ensuing pay applications, present an entirely new project.⁴

Payment Request 9, with a Work Date Range of 9/1/2024, presents an entirely new schedule of values. The "Original Contract Amount," which previously consisted of 14 separate line items, was condensed into a single line item in the amount of \$268,000, and listed as 100% complete and paid per prior requests.⁵ Similarly, Change Orders 1-6, all executed prior to April 18, 2024, were listed as 100% paid per prior requests. Thus, as previously referenced, the original bonded contract, including retention, was 100% completed and paid as of April 18, 2024, three and a half months prior to the execution of Change Order No. 7.

Further, Payment Request 9 included an entirely new Schedule of Values associated with Change Order No. 7. These included line items for mobilization; submittals; supervision; bond & insurance; and OH & profit in addition to the labor and material items. In other words, Change Order No. 7 was being administrated as an entirely new contract. There were not increases to the original mobilization, submittal, supervision or bond & insurance costs; nor was Change Order 7 included as a single line item in addition to the Original Contract work. Instead, an entirely new schedule of values was used for Payment Request 9 and future pay applications.

It also must be noted that Nate Luna signed Payment Request 9 on behalf of the District on September 18, 2024. He signed Payment Request 10 on behalf of the District on January 28, 2025. In between those two pay applications, and after the District entered into Change Order 7 with VNH, Luna executed the status request form stating that the original bonded contract had been completed in March 2024 and accepted on April 18, 2024. The contemporaneous Payment Requests support those statements.

ACIC anticipates the District will attempt to rely on bond provisions cited within its December 22, 2025 demand under the Performance Bond, which relate to alteration, modification, extension, deviation or departure from the terms of the bonded contract. However, based on its investigation to date, ACIC disputes the relevancy of said provisions based on the administration of the project by the District, which appears to include two separate jobs; the latter of which was a result of plans and a contract that arose after the completion and acceptance of the original bonded work. Based thereon, ACIC questions whether there is liability under the Performance Bond it executed.

⁴ In addition, the July 2024 re-design and Change Order No. 7 required entirely new permits for the project.

⁵ It should be noted that this is inconsistent with Payment Request 8, which did not bill out the entirety of the original \$268,000 contract, but did bill out the 5% retention.

February 23, 2026

Page 4

Any documentation or information in response to this letter may be submitted via email, with a copy to ACIC's attorney, Natasha Buchanan. ACIC, its attorney and/or its consultant are also available for further meetings and/or discussion to the extent it is warranted.

As stated above, the claim investigation is ongoing and no final determination has been made. ACIC will extend its investigation for up to an additional thirty (30) days to allow the District to review and respond to the issues raised herein.

Nothing herein is an admission of liability on the part of ACIC. All rights and defenses under the bonds, the law or otherwise are reserved.

Sincerely,



Patrick F. Lavery, Vice President, Bond Claims
On behalf of American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
Direct Line: 310-330-1341
Email: plavery@tmhcc.com

Enclosures

CCI Surety, Inc.
Status Report
To Be Completed By Obligee

Please email/fax/mail to: rcrawford@ccisurety.com 763-512-0430 1710 N Douglas Dr. Ste 100, Golden Valley, MN 55422

PRINCIPAL: VNH Builders

BOND NO: 1001188124

Bond Amount: \$268,000.00

Original Contract Amount: \$268,000.00

TO: East Bay Regional Park District

P.O. Box 5381

Oakland, CA 94605

IT IS UNDERSTOOD THAT THE INFORMATION CONTAINED HEREIN IS FURNISHED AS A MATTER OF COURTESY FOR THE CONFIDENTIAL USE OF THE SURETY AND IS MERELY AN EXPRESSION OF OPINION. IT IS ALSO AGREED THAT IN FURNISHING THIS INFORMATION, NO GUARANTY OR WARRANTY OF ACCURACY OR CORRECTNESS IS MADE AND NO RESPONSIBILITY IS ASSUMED AS A RESULT OF RELIANCE BY THE SURETY. WHETHER SUCH INFORMATION IS FURNISHED BY THE OWNER OR BY AN ARCHITECT OR ENGINEER AS THE AGENT OF THE OWNER.

DESCRIPTION: Grand Street Restroom Improvements - Alameda, CA

Obligee: East Bay Regional Park District

CCI Surety, Inc. is the bonding agent on the above bond. We will appreciate your cooperation in providing the information requested below. Please return this form to us so that we may have current status information on the captioned job. Thank you for your assistance.

Please Complete ONLY One Section Below

IF THE CONTRACT HAS BEEN COMPLETED

- 1. What was the completion date? MARCH 2024
Date of acceptance: APRIL 10, 2024
- 2. What was the final contract price? \$308,200.00
Has the full amount been paid? YES YES
- 3. Was the work satisfactory? YES
- 4. Have all labor & material bills been paid? YES

IF THE CONTRACT HAS NOT BEEN COMPLETED

- 1. What percentage of work has been completed to date? _____
- 2. Total amount paid to Contractor to date? _____
- 3. What is amount of retainage? _____
- 4. What is the anticipated date of completion? _____
- 5. Is the contractor paying labor and material bills? _____
- 6. Is the work progressing satisfactory? _____
- 7. What is the correct contract price? _____

[Signature]
By - Signature

EAST BAY REGIONAL PARKS
(Representing)

NATE LUNA
By - (Type or print name)

Date: 10/23/2024
Phone: 510 541-9631

Remarks: _____

**EBRPD
MAINTENANCE
RECEIVED
1/11/2024**

PAYMENT REQUEST 6

East Bay Regional Park District

Park: Crown Beach
Area: Grand Street
Project: Construct Restrooms

Contract No.: 066M-22-409
Purchase Order No.: P222012
Work Date Range: through 01/08/2023

The Contractor,

VNH Builders has completed work in

accordance with the contract and is entitled to payment in the amount of:

\$ 20,195.05

CONTRACTOR FILLS IN YELLOW HIGHLIGHTED FIELDS ONLY									
	Description of Work	Prior Request			This Request		To Date		
		\$	%	\$	%	\$	%	\$	
1	Mobilization	\$ 15,000.00	100.00	\$ 15,000.00		\$ -	100	\$ 15,000.00	
2	Submittals	\$ 9,750.00	100.00	\$ 9,750.00		\$ -	100	\$ 9,750.00	
3	Supervision	\$ 18,500.00	85.00	\$ 15,725.00		\$ -	85	\$ 15,725.00	
4	Bond & Insurance	\$ 8,950.00	100.00	\$ 8,950.00		\$ -	100	\$ 8,950.00	
5	OH & Profit	\$ 19,350.00	85.00	\$ 16,447.50		\$ -	85	\$ 16,447.50	
6	Demolition & Clean Out	\$ 17,000.00	100.00	\$ 17,000.00		\$ -	100	\$ 17,000.00	
7	Sand Wall	\$ 18,450.00	100.00	\$ 18,450.00		\$ -	100	\$ 18,450.00	
8	Grading	\$ 10,000.00	100.00	\$ 10,000.00		\$ -	100	\$ 10,000.00	
9	Concrete Pad	\$ 18,000.00	70.00	\$ 12,600.00		\$ -	70	\$ 12,600.00	
10	Denali Building	\$ 104,000.00	0.00	\$ -		\$ -	0	\$ -	
11	Plumbing Work	\$ 20,000.00	100.00	\$ 20,000.00		\$ -	100	\$ 20,000.00	
12	Finished Plumbing	\$ 2,500.00	0.00	\$ -		\$ -	0	\$ -	
13	Metalf Work	\$ 4,000.00	100.00	\$ 4,000.00		\$ -	100	\$ 4,000.00	
14	Closeout	\$ 2,500.00	0.00	\$ -		\$ -	0	\$ -	
15		\$ -	0.00	\$ -		\$ -	0	\$ -	
16		\$ -	0.00	\$ -		\$ -	0	\$ -	
17		\$ -	0.00	\$ -		\$ -	0	\$ -	
18		\$ -	0.00	\$ -		\$ -	0	\$ -	
19		\$ -	0.00	\$ -		\$ -	0	\$ -	
20		\$ -	0.00	\$ -		\$ -	0	\$ -	
21		\$ -	0.00	\$ -		\$ -	0	\$ -	
	SUBTOTAL	\$ 268,000.00		\$ 147,922.50		\$ -		\$ 147,922.50	
	Fully executed Change Order 1:	\$ 4,011.05	100.00	\$ 4,011.05		\$ -	100	\$ 4,011.05	
	Fully executed Change Order 2:	\$ 14,931.00	100.00	\$ 14,931.00		\$ -	100	\$ 14,931.00	
	Fully executed Change Order 3:	\$ 2,852.00	0.00	\$ -	100	\$ 2,852.00	100	\$ 2,852.00	
	Fully executed Change Order 4:	\$ 18,405.95	0.00	\$ -	100	\$ 18,405.95	100	\$ 18,405.95	
	Fully executed Change Order 5:	\$ -	0.00	\$ -		\$ -	0	\$ -	
	TOTAL	\$ 308,200.00		\$ 166,864.55		\$ 21,257.95		\$ 188,122.50	

Work completed to date: \$ 188,122.50
Total 5% Retention: \$ 9,406.13
 Total earned less retention: \$ 178,716.37
 Prior Payments: \$ 158,521.32
Payment requested this date: \$ 20,195.05

RETENTION THIS REQUEST \$ 1,062.90

NOTE: The Contractor hereby certifies that current payroll records are accurate and have been submitted and that the required AS BUILTS documents and construction schedule are also current and complete.

 Contractor Signature
Bruno Vieira, Principal
 Print Name
 Date: Jan 10, 2024

ER

 District Representative Signature
Eric Holmes
 Print Name
 Date: Jan 11, 2024

**APPROVED FOR
PAYMENT**

 01/30/24
 Chief of MAST

PAYMENT REQUEST 7

East Bay Regional Park District

Park: Crown Beach
Area: Grand Street
Project: Construct Restrooms

Contract No.: 066M-22-409
Purchase Order No.: P222012
Work Date Range: _____

The Contractor,

VNH Builders has completed work in

accordance with the contract and is entitled to payment in the amount of:

\$ 98,800.00

CONTRACTOR FILLS IN YELLOW HIGHLIGHTED FIELDS ONLY									
	Description of Work	Prior Request				This Request		To Date	
		\$	%	\$	\$	%	\$	\$	
1	Mobilization	\$ 15,000.00	100.00	\$ 15,000.00	\$ -	100	\$ 15,000.00		
2	Submittals	\$ 9,750.00	100.00	\$ 9,750.00	\$ -	100	\$ 9,750.00		
3	Supervision	\$ 18,500.00	85.00	\$ 15,725.00	\$ -	85	\$ 15,725.00		
4	Bond & Insurance	\$ 8,950.00	100.00	\$ 8,950.00	\$ -	100	\$ 8,950.00		
5	OH & Profit	\$ 19,350.00	85.00	\$ 16,447.50	\$ -	85	\$ 16,447.50		
6	Demolition & Clean Out	\$ 17,000.00	100.00	\$ 17,000.00	\$ -	100	\$ 17,000.00		
7	Sand Wall	\$ 18,450.00	100.00	\$ 18,450.00	\$ -	100	\$ 18,450.00		
8	Grading	\$ 10,000.00	100.00	\$ 10,000.00	\$ -	100	\$ 10,000.00		
9	Concrete Pad	\$ 18,000.00	70.00	\$ 12,600.00	\$ -	70	\$ 12,600.00		
10	Denali Building	\$ 104,000.00	0.00	\$ -	100	\$ 104,000.00	\$ 104,000.00		
11	Plumbing Work	\$ 20,000.00	100.00	\$ 20,000.00	\$ -	100	\$ 20,000.00		
12	Finished Plumbing	\$ 2,500.00	0.00	\$ -	\$ -	0	\$ -		
13	Metal Work	\$ 4,000.00	100.00	\$ 4,000.00	\$ -	100	\$ 4,000.00		
14	Closeout	\$ 2,500.00	0.00	\$ -	\$ -	0	\$ -		
15		\$ -	0.00	\$ -	\$ -	0	\$ -		
16		\$ -	0.00	\$ -	\$ -	0	\$ -		
17		\$ -	0.00	\$ -	\$ -	0	\$ -		
18		\$ -	0.00	\$ -	\$ -	0	\$ -		
19		\$ -	0.00	\$ -	\$ -	0	\$ -		
20		\$ -	0.00	\$ -	\$ -	0	\$ -		
21		\$ -	0.00	\$ -	\$ -	0	\$ -		
SUBTOTAL		\$ 268,000.00		\$ 147,922.50	\$ 104,000.00		\$ 251,922.50		
Fully executed Change Order 1:		\$ 4,011.05	100.00	\$ 4,011.05	\$ -	100	\$ 4,011.05		
Fully executed Change Order 2:		\$ 14,931.00	100.00	\$ 14,931.00	\$ -	100	\$ 14,931.00		
Fully executed Change Order 3:		\$ 2,852.00	100.00	\$ 2,852.00	\$ -	100	\$ 2,852.00		
Fully executed Change Order 4:		\$ 18,405.95	100.00	\$ 18,405.95	\$ -	100	\$ 18,405.95		
Fully executed Change Order 5:		\$ (16,077.50)	0.00	\$ -	\$ -	0	\$ -		
Fully executed Change Order 6:		\$ 16,077.50	0.00	\$ -	\$ -	0	\$ -		
TOTAL		\$ 308,200.00		\$ 188,122.50	\$ 104,000.00		\$ 292,122.50		

Work completed to date: \$ 292,122.50
 Total 5% Retention: \$ 14,606.13
 Total earned less retention: \$ 277,516.37
 Prior Payments: \$ 178,716.37

Payment requested this date:

\$ 98,800.00

RETENTION THIS REQUEST \$ 5,200.00

NOTE: The Contractor hereby certifies that current payroll records are accurate and have been submitted and that the required AS BUILTS documents and construction schedule are also current and complete.

 Contractor Signature

 District Representative Signature

Print Name _____
 Date: Apr 18, 2024

Print Name Matt Norton
 Date: Apr 18, 2024

PAYMENT REQUEST 8

East Bay Regional Park District

Park: Crown Beach
Area: Grand Street
Project: Construct Restrooms

Contract No.: 066M-22-409
Purchase Order No.: P222012
Work Date Range :

The Contractor,

VNH Builders has completed work in

accordance with the contract and is entitled to payment in the amount of:

\$ 15,273.62

CONTRACTOR FILLS IN YELLOW HIGHLIGHTED FIELDS ONLY									
	Description of Work	Prior Request		This Request		To Date			
		\$	%	\$	%	\$	%		
1	Mobilization	\$ 15,000.00	100.00	\$ 15,000.00		\$ -	100	\$ 15,000.00	
2	Submittals	\$ 9,750.00	100.00	\$ 9,750.00		\$ -	100	\$ 9,750.00	
3	Supervision	\$ 18,500.00	85.00	\$ 15,725.00		\$ -	85	\$ 15,725.00	
4	Bond & Insurance	\$ 8,950.00	100.00	\$ 8,950.00		\$ -	100	\$ 8,950.00	
5	OH & Profit	\$ 19,350.00	85.00	\$ 16,447.50		\$ -	85	\$ 16,447.50	
6	Demolition & Clean Out	\$ 17,000.00	100.00	\$ 17,000.00		\$ -	100	\$ 17,000.00	
7	Sand Wall	\$ 18,450.00	100.00	\$ 18,450.00		\$ -	100	\$ 18,450.00	
8	Grading	\$ 10,000.00	100.00	\$ 10,000.00		\$ -	100	\$ 10,000.00	
9	Concrete Pad	\$ 18,000.00	70.00	\$ 12,600.00		\$ -	70	\$ 12,600.00	
10	Denali Building	\$ 104,000.00	100.00	\$ 104,000.00		\$ -	100	\$ 104,000.00	
11	Plumbing Work	\$ 20,000.00	100.00	\$ 20,000.00		\$ -	100	\$ 20,000.00	
12	Finished Plumbing	\$ 2,500.00	0.00	\$ -		\$ -	0	\$ -	
13	Metal Work	\$ 4,000.00	100.00	\$ 4,000.00		\$ -	100	\$ 4,000.00	
14	Closeout	\$ 2,500.00	0.00	\$ -		\$ -	0	\$ -	
15		\$ -	0.00	\$ -		\$ -	0	\$ -	
16		\$ -	0.00	\$ -		\$ -	0	\$ -	
17		\$ -	0.00	\$ -		\$ -	0	\$ -	
18		\$ -	0.00	\$ -		\$ -	0	\$ -	
19		\$ -	0.00	\$ -		\$ -	0	\$ -	
20		\$ -	0.00	\$ -		\$ -	0	\$ -	
21		\$ -	0.00	\$ -		\$ -	0	\$ -	
SUBTOTAL		\$ 268,000.00		\$ 251,922.50		\$ -		\$ 251,922.50	
	Fully executed Change Order 1:	\$ 4,011.05	100.00	\$ 4,011.05		\$ -	100	\$ 4,011.05	
	Fully executed Change Order 2:	\$ 14,931.00	100.00	\$ 14,931.00		\$ -	100	\$ 14,931.00	
	Fully executed Change Order 3:	\$ 2,852.00	100.00	\$ 2,852.00		\$ -	100	\$ 2,852.00	
	Fully executed Change Order 4:	\$ 18,405.95	100.00	\$ 18,405.95		\$ -	100	\$ 18,405.95	
	Fully executed Change Order 5:	\$ (16,077.50)	0.00	\$ -		\$ -	0	\$ -	
	Fully executed Change Order 6:	\$ 16,077.50	0.00	\$ -	100	\$ 16,077.50	100	\$ 16,077.50	
TOTAL		\$ 308,200.00		\$ 292,122.50		\$ 16,077.50		\$ 308,200.00	

Work completed to date:	\$ 308,200.00
Total 5% Retention:	\$ 15,410.01
Total earned less retention:	\$ 292,789.99
Prior Payments:	\$ 277,516.37
Payment requested this date:	\$ 15,273.62

RETENTION THIS REQUEST \$ 803.88

NOTE: The Contractor hereby certifies that current payroll records are accurate and have been submitted and that the required AS BUILTS documents and construction schedule are also current and complete.

Contractor Signature

Print Name
Date: Apr 18, 2024

District Representative Signature

Matt Norton

Print Name
Date: Apr 18, 2024

PAYMENT REQUEST 9

East Bay Regional Park District

Park: Crown Beach
Area: Grand Street
Project: Construct Restrooms

Contract No.: 066M-22-409
Purchase Order No.: P222012
Work Date Range: 9/1/2024

The Contractor,

VNH Builders has completed work in

accordance with the contract and is entitled to payment in the amount of:

\$ 108,310.73

CONTRACTOR FILLS IN YELLOW HIGHLIGHTED FIELDS ONLY									
	Description of Work	Prior Request		This Request		To Date			
		\$	%	\$	%	\$	%		
1	Original Contract Amount	\$ 268,000.00	100.00	\$ 268,000.00	-	100	\$ 268,000.00		
2	Mobilization	\$ 8,000.00	0.00	\$ -	100	\$ 8,000.00	100		
3	Submittals	\$ 12,000.00	0.00	\$ -	75	\$ 9,000.00	75		
4	Supervision	\$ 43,900.00	0.00	\$ -	25	\$ 10,975.00	25		
5	Bond & Insurance	\$ 20,807.00	0.00	\$ -	100	\$ 20,807.00	100		
6	OH & Profit	\$ 59,714.00	0.00	\$ -	25	\$ 14,928.50	25		
7	Rough Carpentry	\$ 16,456.00	0.00	\$ -	-	\$ -	0		
8	Grading	\$ 45,612.00	0.00	\$ -	-	\$ -	0		
9	Rebar, Forming and Concrete	\$ 164,000.00	0.00	\$ -	-	\$ -	0		
10	Denali Building	\$ 62,876.00	0.00	\$ -	80	\$ 50,300.80	80		
11	Plumbing Rough In	\$ 6,639.00	0.00	\$ -	-	\$ -	0		
12	Plumbing Finish Work	\$ 4,800.00	0.00	\$ -	-	\$ -	0		
13	Stainless Steel Hand Rail and Guardrail	\$ 42,542.00	0.00	\$ -	-	\$ -	0		
14		\$ -	0.00	\$ -	-	\$ -	0		
15		\$ -	0.00	\$ -	-	\$ -	0		
16		\$ -	0.00	\$ -	-	\$ -	0		
17		\$ -	0.00	\$ -	-	\$ -	0		
18		\$ -	0.00	\$ -	-	\$ -	0		
19		\$ -	0.00	\$ -	-	\$ -	0		
20		\$ -	0.00	\$ -	-	\$ -	0		
21		\$ -	0.00	\$ -	-	\$ -	0		
	SUBTOTAL	\$ 755,346.00	0.00	\$ 268,000.00	114,011.30	100	\$ 382,011.30		
	Fully executed Change Order 1:	\$ 4,011.05	100.00	\$ 4,011.05	-	100	\$ 4,011.05		
	Fully executed Change Order 2:	\$ 14,931.00	100.00	\$ 14,931.00	-	100	\$ 14,931.00		
	Fully executed Change Order 3:	\$ 2,852.00	100.00	\$ 2,852.00	-	100	\$ 2,852.00		
	Fully executed Change Order 4:	\$ 18,405.95	100.00	\$ 18,405.95	-	100	\$ 18,405.95		
	Fully executed Change Order 5:	\$ (16,077.50)	100.00	\$ (16,077.50)	-	100	\$ (16,077.50)		
	Fully executed Change Order 6:	\$ 16,077.50	100.00	\$ 16,077.50	-	100	\$ 16,077.50		
	Fully executed Change Order 7: (Items 2-13 above)	\$ -	0.00	\$ -	-	0	\$ -		
	TOTAL	\$ 795,546.00	0.00	\$ 308,200.00	114,011.30	100	\$ 422,211.30		

Work completed to date: \$ 422,211.30
 Total 5% Retention: \$ 21,110.58
 Total earned less retention: \$ 401,100.72
 Prior Payments: \$ 292,789.99

Payment requested this date: **\$ 108,310.73**

RETENTION THIS REQUEST \$ 5,700.57

NOTE: The Contractor hereby certifies that current payroll records are accurate and have been submitted and that the required AS BUILTS documents and construction schedule are also current and complete.

Bruno Viera
 Contractor Signature
 Bruno Viera
 Print Name
 Date: Sep 18, 2024

Nate Luna
 District Representative Signature
 Nate Luna
 Print Name
 Date: 09/18/2024

APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702

TO OWNER:
East Bay Regional Parks
 P.O. Box 5381
 Oakland, CA 94605
 Tel: (510) 544-2563
 ATTN: **Nata Luna**

PROJECT:
Crown Beach Grand Street Construction Restrooms
 1701 Shoreline Drive
 Alameda, CA 94501

APPLICATION NO : **009**
 APPLICATION DATE : **09-06-24**
 PERIOD TO : **09-01-24**
 DIR PROJECT NUMBER : **438659**

Distribution to:
 East Bay Parks
 VNH Builders
 Inspector of Record

FROM CONTRACTOR:
VNH Builders
 842 Mahler Road
 Burlingame, Ca 94010
 Tel: 415-670-0661

CONTRACT DATE : **08-10-22**
 CONTRACT NO. : **066M-22-409**

FOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
A. Change Orders Approved in Previous Months by Owner.	\$56,275.95	(\$16,077.50)
B. Approved this Month		
1)	\$487,346.00	
2)		
3)		
4)		
5)		
TOTALS	\$543,621.95	(\$16,077.50)
NET CHANGES by Change Order	\$527,544.45	

1. ORIGINAL CONTRACT SUM.....	\$	268,000.00
2. NET CHANGE BY AMENDMENT.....	\$	-
3. NET CHANGE BY CHANGE ORDERS.....	\$	527,544.45
4. CONTRACT SUM TO DATE (Line 1 + 2 + 3).....	\$	795,544.45
5. TOTAL COMPLETED & STORED TO DATE.....	\$	422,209.75
(Column G on G703)		
6. RETAINAGE		
a. 5.00 % of Completed Work.....	\$	21,110.49
(Column J on G703)		
b. N/A % of Stored Materials (included in Item 6.a).....	\$	-
(Columns F, not shown on G703)		
Total Retainage (Line 6.a + 6.b) or Grand Total in Column J on G703.....	\$	21,110.49
7. TOTAL EARNED LESS RETAINAGE.....	\$	401,099.26
(Line 5 less Line 6 Total)		
8. LESS PREVIOUS CERTIFICATES FOR PAYMENT.....	\$	308,198.45
(Line 7 from prior Certificate)		
9. CURRENT PAYMENT DUE.....	\$	114,011.30
10. BALANCE TO FINISH, INCLUDING RETAINAGE.....	\$	394,445.19
(Line 4 less Line 7)		

Notes:

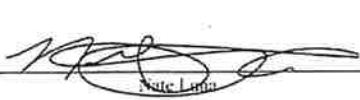
The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payments were issued and payments received from the Owner, and that current payment shown herein is now due.

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Owner certifies that to the best of the Owner's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the amount certified. This certificate is non-negotiable and is payable only to the Contractor.

CONTRACTOR:
VNH Builders

OWNER, Reviewed:
East Bay Regional Parks

By:  Date: 9/6/2024
 Branum Spliethor

By:  Date: 09/18/2024
 Nata Luna

Signature: 
 Email: Nluna@ebparks.org

PAYMENT REQUEST 10

East Bay Regional Park District

Park: Crown Beach
Area: Grand Street
Project: Construct Restrooms

Contract No.: 066M-22-409
Purchase Order No.: P222012
Work Date Range: 1/23/2025

The Contractor,

VNH Builders has completed work in

accordance with the contract and is entitled to payment in the amount of:

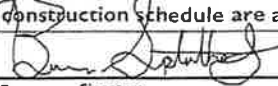
\$ 19,697.01

CONTRACTOR FILLS IN YELLOW HIGHLIGHTED FIELDS ONLY									
	Description of Work	Prior Request		This Request		To Date			
		\$	%	\$	%	\$	%		
1	Original Contract Amount	\$ 268,000.00	100.00	\$ 268,000.00	0	\$ -	100	\$ 268,000.00	
2	Mobilization	\$ 8,000.00	100.00	\$ 8,000.00	0	\$ -	100	\$ 8,000.00	
3	Submittals	\$ 12,000.00	75.00	\$ 9,000.00	13	\$ 1,560.00	88	\$ 10,560.00	
4	Supervision	\$ 43,900.00	25.00	\$ 10,975.00	5	\$ 2,195.00	30	\$ 13,170.00	
5	Bond & Insurance	\$ 20,807.00	100.00	\$ 20,807.00	0	\$ -	100	\$ 20,807.00	
6	OH & Profit	\$ 59,714.00	25.00	\$ 14,928.50	5	\$ 2,985.70	30	\$ 17,914.20	
7	Rough Carpentry	\$ 16,456.00	0.00	\$ -	0	\$ -	0	\$ -	
8	Grading	\$ 45,612.00	0.00	\$ -	0	\$ -	0	\$ -	
9	Rebar, Forming and Concrete	\$ 164,000.00	0.00	\$ -	0	\$ -	0	\$ -	
10	Denali Building	\$ 62,876.00	80.00	\$ 50,300.80	10	\$ -	90	\$ 50,300.80	
11	Plumbing Rough In	\$ 6,639.00	0.00	\$ -	0	\$ -	0	\$ -	
12	Plumbing Finish Work	\$ 4,800.00	0.00	\$ -	0	\$ -	0	\$ -	
13	Stainless Steel Hand Rail and Guardrail	\$ 42,542.00	0.00	\$ -	0	\$ -	0	\$ -	
14		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
15		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
16		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
17		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
18		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
19		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
20		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
21		\$ -	0.00	\$ -	0	\$ -	0	\$ -	
	SUBTOTAL	\$ 755,346.00	0.00	\$ 382,011.30	0	\$ 6,740.70	0	\$ 388,752.00	
	Fully executed Change Order 1:	\$ 4,011.05	100.00	\$ 4,011.05	0	\$ -	100	\$ 4,011.05	
	Fully executed Change Order 2:	\$ 14,931.00	100.00	\$ 14,931.00	0	\$ -	100	\$ 14,931.00	
	Fully executed Change Order 3:	\$ 2,852.00	100.00	\$ 2,852.00	0	\$ -	100	\$ 2,852.00	
	Fully executed Change Order 4:	\$ 18,405.95	100.00	\$ 18,405.95	0	\$ -	100	\$ 18,405.95	
	Fully executed Change Order 5:	\$ (16,077.50)	100.00	\$ (16,077.50)	0	\$ -	100	\$ (16,077.50)	
	Fully executed Change Order 6:	\$ 16,077.50	100.00	\$ 16,077.50	0	\$ -	100	\$ 16,077.50	
	Fully executed Change Order 7: (Items 2-13 above)	\$ -	0.00	\$ -	0	\$ -	0	\$ -	
	Fully executed Change Order 8: GCs 9/24-01/25	\$ 13,993.00	0.00	\$ -	100	\$ 13,993.00	100	\$ 13,993.00	
	TOTAL	\$ 809,539.00	0.00	\$ 422,211.30	0	\$ 20,733.70	0	\$ 442,945.00	

Work completed to date:	\$ 442,945.00
Total 5% Retention:	\$ 22,147.27
Total earned less retention:	\$ 420,797.73
Prior Payments:	\$ 401,100.72
Payment requested this date:	\$ 19,697.01


RETENTION THIS REQUEST \$ 1,036.69

NOTE: The Contractor hereby certifies that current payroll records are accurate and have been submitted and that the required AS BUILTS documents and construction schedule are also current and complete.



Contractor Signature
 Branum Splietthof

Print Name
 Date: 01/23/2025



District Representative Signature

Nate Luna
 Print Name
 Date: 01/28/2025



March 24, 2026

VIA E-MAIL ONLY

Patrick F. Laverty
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017
plaverty@tmhcc.com

**Re: Crown Beach Grant Street Restroom Project
East Bay Regional Park District
Contract No. 066M-22-409
ACIC Bond No. 1001188124**

Dear Mr. Laverty:

This letter responds to your letter of February 23, 2026, on behalf of American Contractors Indemnity Company (“ACIC”) that permitted the East Bay Regional Park District (District) to submit a response within 30 days.

Your letter essentially raised just one argument that ACIC was not obligated to complete the project: The performance bond for the project (see attached) does not cover the restroom project’s change orders after Change Order 6 (especially Change Order 7) since they constituted a separate contract.

However, as detailed below, the facts demonstrate that Change Orders 7-9 are covered by the performance bond beyond any reasonable doubt, and ACIC cannot avoid its obligation to complete the contract by arguing that Change Orders 7-9 were essentially a separate contract.

Accordingly, the District demands that ACIC agree within seven (7) days of the date of this letter to fully and unconditionally agree to complete the project pursuant to its bond. A response is needed quickly so that project will be completed as soon as possible for the public’s use during the summer. If ACIC fails or refuses to agree to complete the contract, the District will immediately hire a contractor to complete the work, and the District will pursue all damages from ACIC for its breaches and the breaches of contract by VNH (including liquidated damages).

There are many reasons that ACIC’s position has no merit.

First, the contract language and the law strongly favors the District’s position.

Most importantly, the scope of the bond *expressly* includes all “alterations, modifications and extensions.” This broad language includes all future change orders in the scope of the underlying construction project and, more importantly, the scope of the bond. This language “shall be construed most strongly against the surety and in favor of all persons for whose benefit the bond is given.” (Civil Code §8154(a).) By expressly consenting in the bond to future changes in the scope of the construction contract, the surety’s obligations are not exonerated by such a change. (*Bloom v. Bender* (1957) 48 Cal.2d 793, 801.) “A change, alteration, or modification to a contract” shall not release a surety from liability on a bond. (Civil Code §8152(a).)

Also, ACIC’s bond incorporated the construction contract language by reference. Therefore, the bond expressly agreed to allow the owner to change the scope of the contract and accordingly execute change orders to increase the contract price per General Conditions section 46. (*Pacific Employers Ins. Co. v. City of Berkeley* [1984] 158 Cal.App.3d 145, 151-152; *R.P. Richards, Inc. v. Chartered Construction Corporation* [2000] 83 Cal.App.4th 146, 157.)

Even the United States Supreme Court has ruled that a significant change is still within the scope of a performance bond. (*Equitable Surety Co. v. United States to use of W. McMillan & Son* [1914] 234 U.S. 448, 457-458.)

In contrast, we are aware of no California appellate court decision where the scope of a change order has been held to be outside the scope of a performance bond that expressly consented in advance to “alterations, modifications and extensions.”

Second, Change Orders 7-9 were clearly modifications of the original contract, rather than a separate contract, because all of the evidence shows that both the District and VNH (*your principal*) administered the original contract and Change Orders 1-9 as one contract. VNH never asked for a separate contract, and the parties never executed a separate contract, for Change Order 7 or later change orders. Change Order 7 amended the original contract exactly like Change Orders 1-6 had done, including the same forms. When Change Order 7 was taken to the Board, the staff report and resolution repeatedly referred to “amendment” to the contract “prior to project completion,” and the “total contract” cost to “complete the construction.” Importantly, the price of Change Order 7 included the added bond premium of \$13,734 (3% of \$457,810) – therefore ACIC was fully and fairly paid for adding the scope of Change Order 7 to the scope of the bond.¹ Change Orders 7-9 and Payment Requests 9-10 all referred to the same park, area, and project names as the previous change orders and payment requests. After Change Order 7, VNH submitted continuing payment requests with the same base price, but VNH added Change Order 7 for the new larger total contract price. Later change orders were also added to later PRs, but with the same base price plus change orders for a larger total contract price.

Third, the nature of the work added by Change Order 7 related to the ultimate purpose of the original project: Installation of a new restroom building. Change Order 7 may have changed the design of the foundation of that building. However, Change Order 7 did not add work that was unrelated to the installation of the restroom building – it was clearly related to the same purpose. Also, Change Order 7 was necessary due to *the City’s* added requirements for the installation of the restroom building – the District did not choose to change the design during the project.

Fourth, you argue that the contract was completed and accepted in 2024, and therefore any subsequent change order was a new project and outside the scope of the bond. However, the overwhelming weight of evidence

¹ Change Orders 8 and 9 also included additional bond premium cost.

demonstrates that contract was not complete in March 2024 and that District did not accept it as complete on April 18, 2024.

Regarding completion of the work, the contract was obviously not complete in March 2024 since the modular restroom building was not installed at that time, nor was it ever installed. Attached are photographs from March and April 2024 showing that no building had been installed. ACIC has provided no evidence that the CXT building was ever installed.

Regarding acceptance of the project, acceptance may only be done by the District's governing body (*Dep't of Industrial Relations v. Fidelity Roof Co.* [1997] 60 Cal.App.4th 411). However, acceptance was never agendized for the Board, and the Board never accepted it. In fact, the documentation for the Board's approval of Change Order 7 (see attached) makes it clear that the project was never finished and never accepted, which is why the board approved Change Order 7.

In short, ACIC has no proof of completion of the work by VNH or acceptance of the work by the District.

Fifth, you contend that the October 23, 2024, Status Report signed by Nate Luna establishes completion or acceptance of the base contract and COs 1-6, which would indicate that Change Orders 7-9 are a different contract. However, for several reasons, this argument fails.

Most importantly, ACIC is not allowed to rely on the status report. That form – *which was drafted by ACIC* – states that the “**INFORMATION CONTAINED HEREIN IS FURNISHED AS A MATTER OF COURTESY FOR THE CONFIDENTIAL USE OF THE SURETY AND IS MERELY AN EXPRESSION OR OPINION. IT IS ALSO AGREED THAT IN FURNISHING THIS INFORMATION, NO GUARANTY OR WARRANTY OF ACCURACY OR CORRECTNESS IS MADE AND NO RESPONSIBILITY IS ASSUMED AS A RESULT OF RELIANCE BY THE SURETY ...**” (emphasis added). Due to ACIC's own disclaimers, ACIC is not permitted to rely on the status report as being accurate, correct, or factual.

Furthermore, the status report is not a contract document and did not bind the District, no employee ever accepted the work as complete, and Mr. Luna's statements did not act as acceptance. Also, the status report only contains unauthorized hearsay statements that are not admissible. Last, the status report is not actual documentation of any completion or acceptance, and no such documentation exists because the building was never installed, completed, or accepted.

Sixth, the other contract documents cited in your letter do not establish completion of the contract prior to Change Order 7. ACIC misrepresents their content.

Payment Request 7 does not prove completion of the base contract and Change Orders 1-6. Payment Request 7 only claimed that work was just 94.78% complete ($292,122.50 \div 308,200$). It does not state that it was 100% complete, as claimed by ACIC.

Payment Request 8 does not prove completion of the base contract and COs 1-6 since Payment Request 8 did not claim retention (which was \$15,410.01 [5% of \$308,200]). Again, ACIC misrepresents this document. This document was merely an attempt to claim the remaining contract balance (which was \$15,273.62 [292,789.99 - 277,516.37]). In fact, VNH never requested payment of retention, and the District never had an obligation to pay it under Public Contract Code section 7107 since the work was never completed (as discussed above, the modular building was never placed on the concrete pad).

Payment Request 8 contained mathematical errors, and actually indicated that the work was *not* complete. For the base contract work, it only indicated 94.0% completion (\$251,922.50 ÷ \$268,000). The change orders added \$40,200 to the contract price, but VNH claimed \$56,277.50 for the change order work. VNH did not include Change Order 5 in this payment request, which would have been a \$16,077.50 credit to the District. Also, District never stamped it “approved for payment,” like it did for Payment Request 6.

Last, the fact that Payment Request 9 listed the original contract as 100% complete after the change in design (Change Order 7) does not mean that the original scope actually was 100% complete. It obviously was not actually complete since the modular building was never installed. It was only treated as “complete” for purposes of subsequent payment requests since the design of the foundation had been changed.

The District looks forward to ACIC’s prompt response.

Sincerely,

/s/ Elizabeth Mackenzie

Elizabeth Mackenzie
Assistant General Counsel

Enclosures (Provided via Dropbox link):

https://www.dropbox.com/scl/fo/y4ruapn0g8kqgpeyr0sg4/APrf7zrhREQYYICuHv_gvWk?rlkey=m79rlc7iit5qh7dv8g7izl46n&dl=0

- Performance Bond No. 1001188124
- Agenda Staff Report for Change Order 7, dated July 30, 2024
- Resolution No. 2024-07-155, dated July 30, 2024
- Photos from March/April 2024

cc: Drew Brouwer (e-mail only)
Natasha Buchanan, Lanak Hanna (e-mail only)
SuretyClaims (e-mail only)
Lynne Bourgalt, EBRPD (e-mail only)
Arne Sandberg, Lozano Smith (e-mail only)



TOKIO MARINE
HCC

Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017 USA
Tel: 310-649-0990

VIA E-MAIL ONLY

March 31, 2026

Elizabeth Mackenzie
Assistant General Counsel II | General Counsel's Office
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605
emackenzie@ebparks.org

RE: Surety: American Contractors Indemnity Company (“Surety”)
Principal: VNH Builders (“VNH”)
Obligee: East Bay Regional Park District (“District”)
Bond No.: 1001188124
Project: Crown Beach Grant Street Restroom Project – Contract No. 066M-22-409

Dear Ms. Mackenzie:

Pursuant to the terms and conditions of the Bonds, the Surety, under an express reservation of all rights and defenses, writes this letter in response to your letter dated March 24, 2026 wherein you demand that “ACIC agree within seven (7) days of the date of this letter to fully and unconditionally agree to complete the project pursuant to its bond.” We appreciate your patience as we work through these issues, and we would like to clarify several key points that form the basis of our position.

1. Change Order as a New Contract

It is the Surety’s firm position that the Change Orders in question fundamentally altered the scope of the original Contract, essentially creating a new agreement between VNH and the District. The communications exchanged between VNH and the District in early 2024 (specifically the correspondence attached as "FW_Crown Beach – Grand Street Plans") indicate concerns from VNH regarding the nature of the CO. These communications suggest that the District was requesting a process akin to that of an open, public bidding, despite the fact that the change was being integrated into the existing contract.

The Surety maintains that the District should have sought an entirely new bid, but rather than undergoing the appropriate bidding process, this was compressed into the existing contract without any notice to the Surety. Notably, the District itself needed board authorization for these changes, and there was ample opportunity for them to notify the Surety during the status request process, however, no notice was provided.

The Surety has very serious concerns over how the District managed this Project as it relates to VNH. The District's avoidance of the appropriate bidding process for this new scope of work and failing to notify the Surety has prejudiced the Surety and denied it the ability to mitigate its damages. To the extent the Surety was prejudiced, the Surety can assert the defense that the surety bond has been exonerated and the Surety has been discharged from any liability.

2. Bond Premium and Change Order

In response to your assertion that the Surety received the bond premium in connection with the Change Orders, the Surety would like to clarify that no additional premium was received by the Surety. The District advised the Surety that the job had been completed with a final contract price of \$308,000 **after** Change Order No. 7 was entered into, and no further premium was sought by, or paid to, the Surety. This is a critical distinction, as the Surety was not made aware of any further obligations or premiums related to the revised contract.

3. Contract Deductions and Closeout

The Surety further notes that the administration of the original Contract by the District in April 2024, as well as the subsequent Change Orders, reinforces the view that the original Contract was effectively closed out. Specifically, Change Order No. 5, dated April 15, 2024, included deductions from the contract amount for items such as 15% supervision, 15% overhead and profit, 30% concrete pad, finished plumbing, and closeout. The only reasonable conclusion for these deductions is they were made because the project was no longer being performed as initially contemplated, particularly due to the discovery of the flood basin issue.

Thus, on April 16, 2024, the District proceed to close out the original Contract by issuing these deductions and on the same date, issued Change Order No. 6, which increased the contract amount for schedule impacts and erosion control. The subsequent Pay Requests 7 and 8 were signed two days later on April 18, 2024, all of which align with the representations made by the District in the Status Report indicating a completion date for the original Contract in April.

4. Need for Discovery

Given the complexity of this matter and particularly the legal issues and administration of the Contract, the Surety believes that significant discovery is necessary to fully understand how the Contract was handled and why the changes were made in the manner they were. To that end, the Surety requests the District produce all communications related to the flood basin issue and Change Order 7, which appears to have been based on an estimate dated May 15, 2024 – after the April closeout referenced above.

5. Additional Documentation

The Surety would also like to draw attention to two additional documents that may clarify the scope of the changes and the relationship between the District and VNH:

- The “CO Scope” document, which uses the term “construction pause” and references “all outstanding building storage and transportation costs accrued,” as well as “all outstanding contract costs accrued.”
- The “066M-22-409_CO#7_NL_Draft” District Contract Checklist, which was completed by Luna and references the contract amount as \$487,346 (the amount for CO7), with a proposed start date of July 30, 2024, and a proposed end date of July 30, 2026.

We believe that these documents are crucial to understanding the full context of the changes and the overall impact on the Contract.

6. Completion Contractors and Mediation

Given the ongoing complexity of this matter, the Surety, under an express reservation of rights and defenses, will solicit bids for potential completion contractors. ACIC has asked its construction consultant, Drew Brouwer of Nicholson Professional Consulting, to prepare bid solicitation documents and contact potential completion contractors.

While bids are being solicited, and to better determine the Surety’s potential liability, if any, under the bond, the Surety believes that mediation would be the next appropriate step. However, the Surety believes that a more detailed review of the facts and additional discovery will be essential prior to mediation to ensure that all parties are fully informed.

Please note that this letter is sent to you for investigatory purposes only. It should not be construed by you or the District as an admission of liability or a promise to perform or pay the District’s claim in whole or in part. Our investigation is undertaken with a full reservation of the Surety’s rights and defenses under the terms of its bonds, the contracts, and the law.

Sincerely,



Patrick Laverty, Vice President, Bond Claims
Tokio Marine HCC – Surety Group
On behalf of American Contractors Indemnity Company
Direct: 213-330-1341
Email: plaverty@tmhcc.com

Enclosures as stated

Laverty, Patrick

From: Matthew Norton
Sent: Wednesday, March 13, 2024 12:09 PM
To: Helen Wu
Subject: FW: Crown Beach - Grand Street Plans
Attachments: PCO 01, VNH Builders, 066M-22-409, Crown Beach - Grand Street Restrooms, signed.pdf; RE: Crown Beach Restroom Project/DN-393; COR-001 Design Change.xlsx



Matthew Norton
Sanitation/Recycling Supervisor | Sanitation
East Bay Regional Park District
17930 Lake Chabot Rd., Castro Valley, CA 94546
T: 510-690-6680 | M: 510-305-8466 | F: 510-247-9853
MNorton@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this message, and do not disseminate it.

Please consider the environment before you print

From: Matthew Armitage <marmitage@lbfoster.com>
Sent: Wednesday, March 13, 2024 9:43 AM
To: branum.spliethof@vnhbuilders.com; Robert Kennedy <RKennedy@ebparks.org>; Eric Holmes <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com
Cc: Eric Bowman <ebowman@ebparks.org>; Matthew Norton <MNorton@ebparks.org>; Andrea C. Jones <ACJones@ebparks.org>; Brian Hall <BHall@lbfoster.com>
Subject: RE: Crown Beach - Grand Street Plans

Adding Brian Hall.

Matt Armitage

Field Operations Manager
CXT Incorporated

T: 509-892-3250
E: marmitage@lbfoster.com



CXT Incorporated
606 N. Pines
Suite 202
Spokane Valley, WA 9906



From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Wednesday, March 13, 2024 9:14 AM
To: 'Robert Kennedy' <RKennedy@ebparks.org>; 'Eric Holmes' <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com; Matthew Armitage <marmitage@lbfoster.com>
Cc: 'Eric Bowman' <ebowman@ebparks.org>; 'Matthew Norton' <MNorton@ebparks.org>; 'Andrea C. Jones' <ACJones@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

CAUTION: This email originated from outside of the organization. Do NOT click links and do NOT open attachments unless you recognize the sender and know the content is safe. Please use the Phish Alert Button to report suspect emails.

Team,

I sent an email out 3/8/2024 and have not heard back. This seems to be the theme on this project. I did receive a phone call from Eric Bowman and he attested to EBRPs willingness to help get this project over the hump. But I have yet to see any response from the back office team to schedule a meeting with VNH to go over our concerns. Please get back to us today with next steps.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Friday, March 8, 2024 11:16 AM
To: 'Robert Kennedy' <RKennedy@ebparks.org>; 'Eric Holmes' <EHolmes@ebparks.org>; 'bruno.vieira@vnhbuilders.com' <bruno.vieira@vnhbuilders.com>; marmitage@lbfoster.com
Cc: 'Eric Bowman' <ebowman@ebparks.org>; 'Matthew Norton' <MNorton@ebparks.org>; 'Andrea C. Jones' <ACJones@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

Hi Robert,

Adding CXT and our Crane operations team, Briggs to the chat. We would like to schedule a meeting with your team to go over where we are at on the project and how we need to agree this is not a bidding process to eventually tack this on to our current contract. When is your team available next week? I am open Monday afternoon and Tuesday afternoon. Please let us know and I will send out a team's invite and an agenda for topics of discussion.

I would like to emphasize one of my biggest concerns highlighted below. VNH will not provide pricing just to negotiate an added change order to the project. The plans and specifications need to be issued to us as a record document change to the current contract documents. Again, this feels like a pricing exercise that could easily turn back into opening public bidding, after your team receives a price that VNH won't negotiate on. I know that is speculation but this happens all too often. Great example is a recent press release on a \$1.7M public restroom in Noe Valley follow the link for details: <https://abc7news.com/noe-valley-town-square-public-toilet-san-francisco-bathrooms-17-million-dollar-restroom/14397156/>

CONTRACTOR: VNH Builders 842 Mahler Road Burlingame, CA 94010	DATE OF ISSUE: CONTRACT No.: PROJECT No.:	2/16/2024 066M-22-409 153400
--	---	------------------------------------


The following change is being considered for the subject project. The contractor shall quote in accordance with General Conditions Section VIII "Change Orders" on the attached "Request for Change Order Cost Breakdown" form, any changes in the Contract price and/or changes in the Contract time which would be required if the District were to order this proposed change.
THIS IS NOT AN ORDER FOR CHANGES TO THE CONTRACT.

Provide all labor, material, equipment, tools and incidentals including all indirect costs for work, as noted below, in conformity with the Contract Documents.

1. Change contract Plans dated March 11, 2022 to Plans dated February 9, 2024.
Modify previously constructed improvements to meet new Plans.
2. All outstanding building storage and transportation costs accrued due to construction pause.
3. All outstanding contract costs accrued due to construction pause.

Note: Attached email is the last correspondence with the subcontractor team that is bearing the load of stowing the bathroom unit. We have not gotten a response to Brain's concerns. So we will want to address that in the meeting as well.

Most Current Drawings:

 EBRPD Crown Beach Restroom #3 - Drawings 2024-02-09.pdf

CXT/Briggs we do need your team to provide cost impacts for the current price that pays for all the logistics and storage of the structure at your yard up to date.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Wednesday, March 6, 2024 11:08 AM
To: 'Robert Kennedy' <RKennedy@ebparks.org>; 'Eric Holmes' <EHolmes@ebparks.org>; 'bruno.vieira@vnhbuilders.com' <bruno.vieira@vnhbuilders.com>
Cc: 'Eric Bowman' <ebowman@ebparks.org>; 'Matthew Norton' <MNorton@ebparks.org>; 'Andrea C. Jones' <ACJones@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

The people cc'd on this email Bruno and I are all that need to be there for now. We can bring others into the conversation once we run these issues to ground. Appreciate your help on this please let us know your next avail.

From: Robert Kennedy <RKennedy@ebparks.org>

Sent: Wednesday, March 6, 2024 9:49 AM

To: branam.spliethof@vnhbuilders.com; Eric Holmes <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com

Cc: Eric Bowman <ebowman@ebparks.org>; Matthew Norton <MNorton@ebparks.org>; Andrea C. Jones <ACJones@ebparks.org>

Subject: RE: Crown Beach - Grand Street Plans

Branum,

Yes, we can coordinate a meeting to discuss the next steps. I'm adding my team to the email so they are aware of the changes and are ready to keep the project moving. CC'd are Maintenance Superintendent Eric Bowman and Sanitation Supervisor Matt Norton. For scheduling purposes I have cc'd Andrea C Jones who will find a date and time that works for all of us, can you respond with your team names and email addresses?

Thanks and talk soon-



Robert Kennedy

Chief of Maintenance and Skilled Trades | Maintenance and Skilled Trades Administration

East Bay Regional Park District

2950 Peralta Oaks Court, Oakland, CA 94605

T: 510-544-2561 | F: 510-569-1432

RKennedy@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this message, and do not disseminate it to any other person. Thank you for your cooperation.

 Please consider the environment before you print

From: branam.spliethof@vnhbuilders.com <branam.spliethof@vnhbuilders.com>

Sent: Wednesday, March 6, 2024 9:16 AM

To: Eric Holmes <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com

Cc: Robert Kennedy <RKennedy@ebparks.org>

Subject: RE: Crown Beach - Grand Street Plans

Ok thanks Eric, Robert can we have a meeting to discuss next steps ?

From: Eric Holmes <EHolmes@ebparks.org>

Sent: Wednesday, March 6, 2024 8:18 AM

To: branam.spliethof@vnhbuilders.com; bruno.vieira@vnhbuilders.com

Cc: Robert Kennedy <RKennedy@ebparks.org>

Subject: RE: Crown Beach - Grand Street Plans

Branum,

Confirming receipt of email.

This project is transitioning to a new EBRPD District Representative. The new contact is Robert Kennedy, rkennedy@ebparks.org who is cc'd on this email.

Eric Holmes

Administrative Analyst II | Management Services

East Bay Regional Park District



2950 Peralta Oaks Court, Oakland, CA 94605
T: 510-544-2014

EHolmes@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy on your system.

Please consider the environment before you print

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Monday, March 4, 2024 2:09 PM
To: Eric Holmes <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com
Cc: Robert Kennedy <RKennedy@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

Eric ?

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>
Sent: Friday, March 1, 2024 8:18 AM
To: 'Eric Holmes' <EHolmes@ebparks.org>; 'bruno.vieira@vnhbuilders.com' <bruno.vieira@vnhbuilders.com>
Cc: 'Robert Kennedy' <RKennedy@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

Hi Eric,

I caution our team to provide pricing on this new scope of work without this being issued to us as a change to the contract documents (this feels like shopping for a price). The new drawing sheets should be updated to reflect the record document change and the date that the change was issued to the general contractor. I am in agreement that this does not need to come in the form of a CCD but it should be at a minimum issued as a design bulletin (DB) or Architect’s Supplemental Instructions (ASI) is a document that contains revisions, changes, and/or additional information that an architect issues to the contractor to supplement the original construction plans, specs that were originally provided.

Can you please get with your team and issue this record document change to us. If we send over pricing without proper issuance of the change in record documents that puts my team at risk. Maybe next steps are to have a meeting to discuss this with the board of directors ?

Cordially,




Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Eric Holmes <EHolmes@ebparks.org>
Sent: Thursday, February 29, 2024 10:03 AM
To: bruno.vieira@vnhbuilders.com; branum.spliethof@vnhbuilders.com
Cc: mayza.campos@vnhbuilders.com; Robert Kennedy <RKennedy@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

Bruno,

Below are the revised Plans dated February 23, 2024 for Grand Street including the updated demolition sheet:

 EBRPD Crown Beach Restroom #3 - Drawings 2024-02-23.pdf

My understanding of the main concern from VNH to provide a price has been what the difference is between the original Plans and the new set. To address this, note that Sheet C2.0 has been replaced to reflect the current site conditions including the previously constructed improvements including utilities, sand drift walls, and rock base. All existing improvements constructed within the shaded area "Landscaping Demolition" are to be removed. Note that the constructed sewer crossing the trail (Note 4) and a portion of the constructed sand drift wall (Note 14) remain.

The pricing should reflect the cost to conduct the demolition, cost to construct the new Plan set, and credit for work originally bid but not constructed (i.e. concrete pour).

Additionally, provide the cost for:

1. All outstanding building storage and transportation costs accrued due to construction pause.
2. All outstanding contract costs accrued due to construction pause.
3. Removal of previously removed rebar.
4. Secure necessary City of Alameda permits: building, encroachment, etc. EBRPD's contracted engineer will provide City of Alameda required FEMA preconstruction Elevation Certificate.

For process, as stated in a previous email:

This is not a directive to command the change. As far as the process, EBRPD is requesting VNH provide a quote per the attached documents. Once we come to terms on the price, the additional cost will need to go to the EBRPD Board of Directors for approval, then we would amend the contract via the standard EBRPD change order form.



Eric Holmes

Administrative Analyst II | Management Services

East Bay Regional Park District

2950 Peralta Oaks Court, Oakland, CA 94605

T: 510-544-2014

EHolmes@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, please notify the sender immediately. If you have been hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this message, and do not disseminate it to any other person.

 Please consider the environment before you print

From: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>

Sent: Wednesday, February 28, 2024 5:26 PM

To: Eric Holmes <EHolmes@ebparks.org>; brnum.spliethof@vnhbuilders.com

Cc: mayza.campos@vnhbuilders.com; Robert Kennedy <RKennedy@ebparks.org>

Subject: RE: Crown Beach - Grand Street Plans

Hi Eric,

I hope you are doing well. I would like to know where we are with the narrative that was going to be submitted to us. The sooner we get this the sooner we can get this job of the ground.

Thanks,



Bruno Vieira | VNH Builders
 842 Mahler Road License #1064244
 Burlingame, CA 94010
 Tel.: (415) 629-9005

From: Eric Holmes <EHolmes@ebparks.org>
Sent: Thursday, February 22, 2024 8:06 AM
To: branam.spliethof@vnhbuilders.com; bruno.vieira@vnhbuilders.com
Cc: mayza.campos@vnhbuilders.com; Robert Kennedy <RKennedy@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

Branum,

Our engineer is working on providing clarification. I should have it by the end of this week.



Eric Holmes
Administrative Analyst II | Management Services
 East Bay Regional Park District
 2950 Peralta Oaks Court, Oakland, CA 94605
 T: 510-544-2014
EHolmes@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are notified that disclosing, distributing, or copying this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this e-mail, and delete this e-mail from your system.

Please consider the environment before you print

From: branam.spliethof@vnhbuilders.com <branam.spliethof@vnhbuilders.com>
Sent: Wednesday, February 21, 2024 6:28 PM
To: Eric Holmes <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com
Cc: mayza.campos@vnhbuilders.com; Robert Kennedy <RKennedy@ebparks.org>
Subject: RE: Crown Beach - Grand Street Plans

Hi Eric any word on getting this issued to us as a change to our contract. Meaning we want this officially issued to us as design bulletin #1 and it needs to include a narrative that describes the change in work and tie in to existing work that has been already done. There is no current coordination with the current contract documents and we cannot proceed with pricing until this is corrected. Please have your team respond to us as soon as possible.

Cordially,



Branum Spliethof | VNH Builders
 842 Mahler Road License #1064244
 Burlingame, CA 94010
 Cell: (707) 536-5139

From: Branum Spliethof <branam.spliethof@vnhbuilders.com>
Sent: Friday, February 16, 2024 1:37 PM
To: Eric Holmes <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com

Cc: mayza.campos@vnhbuilders.com; Robert Kennedy <RKennedy@ebparks.org>

Subject: Re: Crown Beach - Grand Street Plans

Eric can you give me a call I'm a little confused by your response.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Eric Holmes <EHolmes@ebparks.org>

Sent: Friday, February 16, 2024 08:19

To: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>;

bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>

Cc: mayza.campos@vnhbuilders.com <mayza.campos@vnhbuilders.com>; Robert Kennedy <RKennedy@ebparks.org>

Subject: RE: Crown Beach - Grand Street Plans

Branum,

This is not a directive to command the change. As far as the process, EBRPD is requesting VNH provide a quote per the attached documents. Once we come to terms on the price, the additional cost will need to go to the EBRPD Board of Directors for approval, then we would amend the contract via the standard EBRPD change order form.

The below link is the final Plan set for the Grand Street redesign:

 [EBRPD Crown Beach Restroom #3 - Drawings 2024-02-09.pdf](#)



Eric Holmes

Administrative Analyst II | Management Services

East Bay Regional Park District

2950 Peralta Oaks Court, Oakland, CA 94605

T: 510-544-2014

EHolmes@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are hereby notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this e-mail, and do not disseminate it to any other person.

 Please consider the environment before you print

From: branum.spliethof@vnhbuilders.com <branum.spliethof@vnhbuilders.com>

Sent: Wednesday, February 14, 2024 3:57 PM

To: Eric Holmes <EHolmes@ebparks.org>; bruno.vieira@vnhbuilders.com

Cc: mayza.campos@vnhbuilders.com

Subject: RE: Crown Beach - Grand Street Plans

Eric for all intents and purposes can we call this CCD#1 Crown Beach Restroom Design Modifications. That will help us track all cost and issue these new documents to the subcontractors we have on board. Also can you

please issue us a narrative that goes along with this ? Unless I am missing something I don't see a narrative that goes along with this.

Cordially,



Branum Spliethof | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Cell: (707) 536-5139

From: Eric Holmes <EHolmes@ebparks.org>
Sent: Wednesday, February 14, 2024 12:45 PM
To: bruno.vieira@vnhbuilders.com
Cc: mayza.campos@vnhbuilders.com; 'Branum Spliethof' <branum.spliethof@vnhbuilders.com>
Subject: Crown Beach - Grand Street Plans

Bruno and Branum,

The below link is the final Plan set for the Grand Street redesign:

 [EBRPD Crown Beach Restroom #3 - Drawings 2024-02-09.pdf](#)

Please provide a cost to:

1. Change contract Plans to Plans dated February 9, 2024. Modifying previously constructed improvements to meet new Plans.
2. All outstanding building storage and transportation costs accrued due to construction pause.
3. All outstanding contract costs accrued due to construction pause.
4. Removal of previously removed rebar.
5. Secure necessary City of Alameda permits: building, encroachment, etc.
6. EBRPD's contracted engineer will provide City of Alameda required FEMA preconstruction Elevation Certificate.
7. Note the EBRPD supplied bench materials, page C4.0, Paving note 7.
8. Clean-outs shown in sand shall be placed in minimum 24" square poured concrete collar, 6" thick. Same concrete specification as all other.
9. Sanitary sewer: field verify location of new sewer line exiting building with District Representative, no 90 degree turns in sewer line.



Eric Holmes
Administrative Analyst II | Management Services
East Bay Regional Park District
2950 Peralta Oaks Court, Oakland, CA 94605
T: 510-544-2014
EHolmes@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are notified that use, distribution, or copying of this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this e-mail, and do not disseminate it to any other person.

 Please consider the environment before you print

From: Eric Holmes
Sent: Tuesday, February 6, 2024 12:35 PM
To: 'bruno.vieira@vnhbuilders.com' <bruno.vieira@vnhbuilders.com>


Cc: 'mayza.campos@vnhbuilders.com' <mayza.campos@vnhbuilders.com>; 'Branum Spliethof' <branam.spliethof@vnhbuilders.com>
Subject: RE: Crown Beach Restroom "Pay App #06"

Bruno,

I have asked our Accounts Payable group for a status update on Payment Request 6.

Attached is signed Change Order 4. With this approved change order, can you please plan to conduct the erosion control replacement per the change order? Additionally, the storm battered the fence line, can you make sure the fence is secure? Park Staff stood it back up and got it temporarily secured.

As far as the status, EBRPD received the below draft Plans. Our engineer is currently reworking the sewer design/route and should have that to us by the end of the week.

 Draft EBRPD Crown Beach Restroom #3 - Drawings 2024-01-26.pdf



Eric Holmes
Administrative Analyst II | Management Services
East Bay Regional Park District
2950 Peralta Oaks Court, Oakland, CA 94605
T: 510-544-2014
EHolmes@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are notified that disclosing, distributing, or copying this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this e-mail, and do not disseminate it.

 Please consider the environment before you print

From: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>
Sent: Tuesday, February 6, 2024 11:08 AM
To: Eric Holmes <EHolmes@ebparks.org>
Cc: mayza.campos@vnhbuilders.com; 'Branum Spliethof' <branam.spliethof@vnhbuilders.com>
Subject: RE: Crown Beach Restroom "Pay App #06"

Hi Eric,

Do you have an update on these pay app 6 for Crown Beach? Also, where we are with this project?

Looking forward to your response.

Thanks,



Bruno Vieira | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Tel.: (415) 629-9005

From: Eric Holmes <EHolmes@ebparks.org>
Sent: Wednesday, January 10, 2024 4:08 PM
To: bruno.vieira@vnhbuilders.com

Cc: mayza.campos@vnhbuilders.com; 'Branum Spliethof' <branum.spliethof@vnhbuilders.com>
Subject: RE: Crown Beach Restroom "Pay App #06"

Bruno,

Thank you. I have sent Payment Request 6 via Adobe Sign for your review and signature.



Eric Holmes
Administrative Analyst II | Management Services
East Bay Regional Park District
2950 Peralta Oaks Court, Oakland, CA 94605
T: 510-544-2014
EHolmes@ebparks.org | www.ebparks.org

STATEMENT OF CONFIDENTIALITY | This electronic message and any files or attachments transmitted with it may be confidential, privileged, or proprietary information of the East Bay Regional Park District. The information is solely for the use of the individual or entity to which it was intended to be addressed. If the reader of this message is not the intended recipient, you are notified that disclosing, distributing, or copying this e-mail is strictly prohibited. If you received this e-mail in error, please notify the sender immediately, destroy any copy of this e-mail, and do not use the information contained herein.

 Please consider the environment before you print

From: bruno.vieira@vnhbuilders.com <bruno.vieira@vnhbuilders.com>
Sent: Monday, January 8, 2024 10:07 AM
To: Eric Holmes <EHolmes@ebparks.org>
Cc: mayza.campos@vnhbuilders.com; 'Branum Spliethof' <branum.spliethof@vnhbuilders.com>
Subject: Crown Beach Restroom "Pay App #06"

Good Morning Eric,

Please find attached pay app #06 for your review and approval. If you have any questions don't hesitate to contact me.

Thanks,



Bruno Vieira | VNH Builders
842 Mahler Road License #1064244
Burlingame, CA 94010
Tel.: (415) 629-9005

The content of this email is confidential and intended for the recipient specified in this message only. Any unauthorized review, use, or distribution is prohibited. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

Crow Beach Change Order Scope

1. Change contract Plans dated March 11, 2022 to Plans dated February 9, 2024. Modify previously constructed improvements to meet new Plans.
2. All outstanding building storage and transportation costs accrued due to construction pause.
3. All outstanding contract costs accrued due to construction pause.
4. Secure necessary City of Alameda permits: building, encroachment, etc. including application and correspondence, cost of permits will be paid by the District.

Furnish all labor, materials, services and equipment to complete the project according to the changes indicated in the attached plans dated **7/11/2024**.

Complete project as per the attached pricing proposal dated 5/15/2024. Pricing includes all remaining outstanding costs associated with the project delay. Pricing also includes conducting all necessary actions to obtain and abide by City required permits. The costs of the permits will be on the burden of the Park District.

EAST BAY REGIONAL PARK DISTRICT CONTRACT CHECKLIST

CONTRACT INFORMATION

Originator: Nate Luna Return Contract to: _____ (if different than Originator)
 Department: MAST Work Location: South County Phone: 510-541-9631
 Name of Contractor: VNH Builders Contract Amount: \$487,346.00
 Contract No./Project No.: 066M-22-409 Proposed Start Date: 07/30/2024 End Date: 07/30/2026
 Purpose/Description of Services: Change Order #7 to install CXT per attached proposal. Change Order #7 amount approved with Resolution 2024-07-XXX

Contract Type: Level 3 Select One: New Contract Amendment# 7 (Attach original contract + Scope of Work)
 (Short/Standard/LP/L3/Concessionaire/Special Use etc.)

- Board Approval Needed: No Yes Board Resolution No.: 2024-07-XXX (Attach copy)
 Insurance Required: No Yes (Must obtain approval from Risk prior to routing contract. Email certificates and endorsements to jan@ebparks.org)
 Sole Source Supplier/Vendor: No Yes (Attach approved Sole Source Approval Form)
 Emergency Contract: No Yes (Attach approved Emergency Contract Approval Form)
 Pesticide/Herbicide Use: No Yes (Attach Integrated Pest Management Approval email)
 Drone Use: No Yes (Attach drone permit)

AUTHORITY LEVEL

Indicate authority level (person who will sign contract) by selecting one of the options below:

- GM to sign contracts up to \$50,000 and those approved by the Board (over \$50,000)
 AGM to sign contracts up to \$25,000
 CHIEF to sign contracts up to \$10,000

ROUTE FOR REVIEW AND INITIAL

1. Chief Signature: _____ 2. AGM Signature: _____
 (If contract amount is over \$10,000, both Chief and AGM must initial above.)

3. Audit Manager Signature: _____ Notes, if applicable _____

4. District Counsel Signature: _____ Notes, if applicable _____

5. Risk – Insurance Approval: _____ Notes, if applicable _____

(For all contracts requiring insurance, attach certificate of insurance and endorsements. Questions, please call Janet Lan x2163.)

6. General Manager Signature: _____
 (All contracts over \$25,000)

INSTRUCTIONS TO ORIGINATOR

After routed and approved, distribute signed contract as follows:

1. Retain original contract for your file.
2. Send copy to contractor/consultant.
3. Scan/Upload signed contract and attach to purchase order request (PR) in OneSolution along with:
 - Completed contract/agreement checklist
 - Board resolution (if applicable)
 - Approved Sole Source Approval Form or Emergency Contract Approval Form (if applicable)

CHANGE ORDER (CO) NO. 7

EAST BAY REGIONAL PARK DISTRICT
 2950 Peralta Oaks Court, P.O. Box 5381 Oakland, CA 94605-0381

PARK:	Crown Beach	PUR. ORDER NO.:	P222012
AREA:	Grand Street	CONTRACT NO.:	066M-22-409
DESCRIP.:	Construct Restrooms	DATE OF CO:	8/1/2024
DIST. REP.:	Matt Norton	CONTRACTOR:	VNH Builders
DIST. PHONE:	510-690-6688	CONT. EMAIL:	bruno.vieira@vnhbuilders.com

You are hereby directed to proceed promptly with the following specific changes to the work in conformity with the Contract Documents:

1. Contractor shall use plans titled "EBRPD CROWN BEACH RESTROOM #3", dated February 9, 2024, attached as Exhibit 1.
2. Contractor shall obtain necessary City of Alameda permits: building, encroachment, etc. including application and correspondence, cost of permits will be paid by the District.
3. Contractor shall complete work per cost proposal attached as Exhibit 2.

The ADDITIONAL CHANGE or DEDUCTION for the above work is.....	\$	487,346.00
The original Contract Sum was.....	\$	268,000.00
Net change by previous Change Orders.....	\$	40,200.00
The Contract Sum prior to this Change Order was.....	\$	308,200.00
The Contract Sum will be (<input checked="" type="checkbox"/> increased) (<input type="checkbox"/> decreased) (<input type="checkbox"/> unchanged).....	\$	487,346.00
The new Contract Sum including this Change Order will be.....	\$	795,546.00
The Contract Time will be (<input checked="" type="checkbox"/> increased) (<input type="checkbox"/> decreased) (<input type="checkbox"/> unchanged).....		120 days
The completion Date as of the date of this Change Order is.....		2/29/2024

Bruno Vieira, Principal
Contractor

Matt Norton, Superintendent
District Representative

Lisa Goorjian, AGM
Chief/AGM

Signature

Signature

Signature

Date

Date

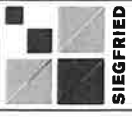
Date

SIGN AND RETURN ELECTRONIC COPY OF CHANGE ORDER

Exhibit 1

EBRPD CROWN BEACH RESTROOM #3

ALAMEDA, CALIFORNIA



3108 (Issue 06 Rev'd)
2008 (04-23-2007) - 10/17/19
www.siegfried.com

- CIVIL
- ELECTRICAL
- MECHANICAL
- PLUMBING
- SANITARY
- STRUCTURAL
- WATER

REVISIONS
No. Date Description



EBRPD CROWN BEACH RESTROOM #3

ALAMEDA, CA



DATE: 03/20/2024
SHEET TITLE

TITLE SHEET

Proj No: 21122
Drawn By: AF
Date: 03/20/2024
Job No: 21122
SHEET NO. 1 OF 1



LEGEND
PROPOSED PROJECT
SITE



INDEX OF SHEETS:

SHEET NO.	SHEET TITLE
C10	TITLE SHEET
C11	WATER
C12	STORM DRAIN
C13	SANITARY SEWER
C14	PRECAST RESTROOM
C15	CONSTRUCTION DETAILS

PROJECT CONTACTS:

OWNER
LOS ANGELES PARK DISTRICT
2800 VAN NIMMEN COURT
LOS ANGELES, CA 90008
CONTACT: JEFF MORGAN
PHONE: 213-440-1000
EMAIL: jmorgan@lapd.org

CIVIL ENGINEER
SIEGFRIED
3108 (Issue 06 Rev'd)
2008 (04-23-2007) - 10/17/19
CONTACT: ANTHONY BERENZI P.E.
PHONE: 925-933-8800
FAX: 925-933-8254
EMAIL: anberenzi@siegfried.com

WATER
SANITARY SEWER DISTRICT
375 11TH STREET
EMERALD, CA 94607

STORM DRAIN
DEPARTMENT OF PUBLIC WORKS, CITY OF ALAMEDA
955 W HALL SQUARE, SUITE 110
ALAMEDA, CA 94601

SANITARY SEWER
DEPARTMENT OF PUBLIC WORKS, CITY OF ALAMEDA
955 W HALL SQUARE, SUITE 110
ALAMEDA, CA 94601

PRECAST RESTROOM
3600 SULLIVAN ROAD BLDG 7
EMERALD, CA 94607
CONTACT: ARIEL REZ
PHONE: 925-261-2200
EMAIL: arez@emerald.com

PARTIAL LIST OF APPLICABLE CODES:

2022 CALIFORNIA BUILDING CODE (CBC) PART 1, TITLE 1, CHAPTER 1
2018 IFC CALIFORNIA IFCO

CONTRACT FOR COST PURCHASE
NOT A BIDDING DOCUMENT
CITY INCORPORATED
BY RESOLUTION 148
11/19/2008



CXT FLUSH RESTROOM (DENIAL)

BENCHMARK	
CORNERS POINT	Z207
NORTH	2107N US
EAST	6017N US
ELEVATION	8.15

VERTICAL LOCAL BENCHMARKS NOT PROVIDED THROUGH THE SURVEY OF OTHER BENCH-HEIGHTS ARE PROVIDED BY QUADRA VERTICAL. ALL BENCHMARKS LOCATED 5 FT SURVEY TO 10 FT TALL.



Know what's below.
Call before you dig.

GRAND STREET

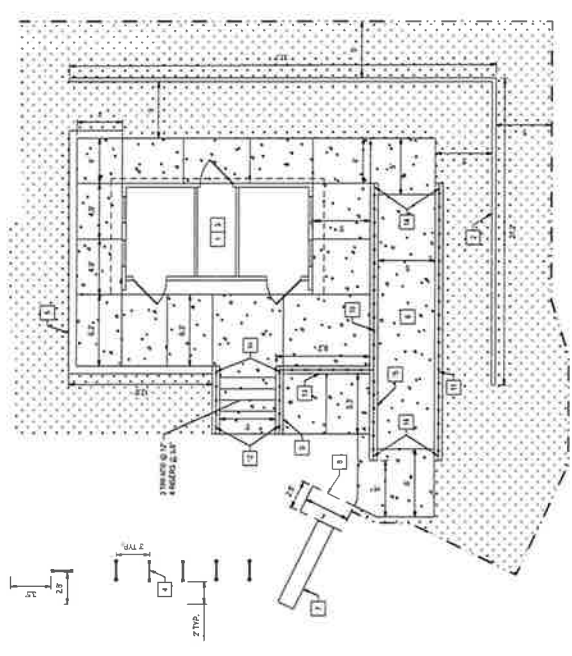
SHORELINE DRIVE

PAVING LEGEND:

- 1. REGISTERAL CONCRETE
CONSTRUCT GRAB AND SET CURB WITH 18" O.C. OVERLAP
REFER TO PAVING NOTE A. PROVIDE JOINTS AND SPOOLS PER
SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1.
INTEGRAL CONCRETE COLOR. CURBWAY FINISH IN DAVIS COLORS
ON APPROVED COLOR.
- 2. FROGGED LANDSCAPE BY OTHERS.
CONFORM WITH OWNER'S REPRESENTATIVE.
- 3. EXISTING CONCRETE TO REMAIN. PROTECT IN PLACE.
- 4. EXISTING ASPHALT PAVS. TO REMAIN. PROTECT IN PLACE.
- 5. EXISTING GRASS TO REMAIN. PROTECT IN PLACE.
- 6. EXISTING SAW.

PAVING KEY NOTES:

1. DEMOLISH RESTROOM WITH ACCESSIBLE DRINKING FOUNTAIN. REFER TO RESTROOM BUILDING DRAWINGS BY OTHERS.
2. CONSTRUCT 2.5" COMPACT HIGH DENSITY SMALL PER SHEET C&E DETAIL 3. S&T GRANITE ROCK. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
3. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
4. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
5. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
6. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
7. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
8. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
9. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
10. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
11. CONSTRUCT 18" RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1. CONSTRUCT THROUGH EDGE PER SHEET C&E DETAIL 1. IN PLACE. CUT RESTROOM BUILDING OVERLAP. CURBWAY FINISH COMPACTED TO 18" HAVING COMPACTED PER SHEET C&E DETAIL 3. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 1.
12. 18" MIN LEVEL SURFACE. 1" MIN LEVEL WINDWARD EXTENSION.
13. CONSTRUCT 30" MAX RETAINING WALL WITH GLAND PER SHEET C&E DETAIL 4 (CASE B).
14. 1" MIN LEVEL WINDWARD EXTENSION.
15. CONSTRUCT RAMP CURB WITH 18" O.C. OVERLAP. PROVIDE JOINTS AND SPOOLS PER SHEET C&E DETAIL 3 (CASE A).



SIEGFRIED
 3458 N. 17th St. #100
 Stockton, California 95210
 Tel: 925-938-0714
 Fax: 925-938-0714
 www.siegfried.com

- 1. ASPHALT
- 2. CONCRETE
- 3. GRANITE
- 4. SAND
- 5. GRAVEL
- 6. CURB
- 7. FOUNTAIN
- 8. SIGNAGE
- 9. LIGHTING
- 10. FURNITURE
- 11. PLANTING
- 12. PAINTING
- 13. ELECTRICAL
- 14. MECHANICAL
- 15. PLUMBING
- 16. OTHER

REV	Date	Description

East Bay Regional Park District
 1500 Broadway, Suite 200
 Oakland, CA 94612
 Tel: 510-436-7000
 Fax: 510-436-7001
 www.eastbayregional.org

PROJECT

EBRDP CROWN BEACH RESTROOM #3

ALAMEDA, CA



DATE: 07/22/2014
 SHEET TITLE

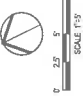
PAVING AND DIMENSIONING

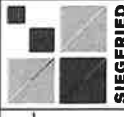
Scale:	1"=10'
Drawn by:	07/22/2014
Date:	07/22/2014
Job No.:	31122
Sheet No.:	C3.0

4. OF 64 SHEETS

PAVING NOTES:

1. ALL SURFACE SHALL BE PREPARED IN ACCORDANCE WITH THE PROJECT GEOTECHNICAL REPORT, PREPARED BY ENGEO CONSULTANTS INC. (SEE ATTACHED REPORT).
2. SUBGRADE SHALL BE COMPACTED TO 95% RELATIVE COMPACTION.





SIEGFRIED
 5850 Wilshire Blvd.
 Suite 1000
 Los Angeles, California 90048
 Phone: 310.202.0914
 Fax: 310.202.0914
 www.siegfried.com

NO. 001	NO. 002	NO. 003	NO. 004	NO. 005	NO. 006	NO. 007	NO. 008	NO. 009	NO. 010
CONTRACTOR	DESIGNER	DATE	PROJECT	NO.	DATE	DESCRIPTION	REVISIONS	NO.	DATE



East Bay
 Regional Park District
 1500 Broadway
 Oakland, CA 94612
 Phone: 510.434.2000
 Fax: 510.434.2000
 www.eastbayregional.com

**EBRPD CROWN
 BEACH
 RESTROOM #3**

ALAMEDA, CA



DATE: 08/14/2014
 SHEET TITLE: EROSION CONTROL PLAN

NO. 001
 NO. 002
 NO. 003
 NO. 004
 NO. 005
 NO. 006
 NO. 007
 NO. 008
 NO. 009
 NO. 010

PROJECT: EBRPD CROWN BEACH RESTROOM #3
 SHEET NO.: 07222024
 JOB NO.: 31329
 SHEET NO.: C5.0
 OF 10 SHEETS

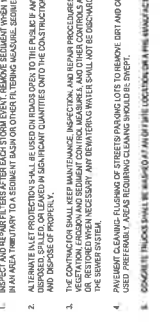
EROSION CONTROL GENERAL NOTES:

- INSPECT AND REPORT TO THE EROSION CONTROL SPECIALIST. REMOVE SEDIMENT FROM THE SITE OF THE EROSION AS DESCRIBED. UNCONTROLLED SEDIMENT SHALL BE REPORTED TO THE EROSION CONTROL SPECIALIST. SEDIMENT SHALL BE MANAGED TO PREVENT EROSION. SEDIMENT SHALL BE MANAGED TO PREVENT EROSION. SEDIMENT SHALL BE MANAGED TO PREVENT EROSION.
- ALTERNATE INLET PROTECTION SHALL BE USED ON SLOPES TO THE PUBLIC IF ANY HAZARDOUS MATERIALS OR WASTES WHOSE PRESENCE HAS BEEN IDENTIFIED. SEDIMENT SHALL BE MANAGED TO PREVENT EROSION. SEDIMENT SHALL BE MANAGED TO PREVENT EROSION. SEDIMENT SHALL BE MANAGED TO PREVENT EROSION.
- THE CONTRACTOR SHALL MAINTAIN THE EROSION CONTROL MEASURES THROUGHOUT THE CONSTRUCTION PERIOD. THE CONTRACTOR SHALL MAINTAIN THE EROSION CONTROL MEASURES THROUGHOUT THE CONSTRUCTION PERIOD. THE CONTRACTOR SHALL MAINTAIN THE EROSION CONTROL MEASURES THROUGHOUT THE CONSTRUCTION PERIOD.
- PROTECT EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IDENTIFYING AND PROTECTING EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IDENTIFYING AND PROTECTING EXISTING UTILITIES AND STRUCTURES.
- CONCRETE TRUCKS SHALL BE WASHED AT ALL PUBLIC LOCATIONS AND MANUFACTURING SITES. CONCRETE TRUCKS SHALL BE WASHED AT ALL PUBLIC LOCATIONS AND MANUFACTURING SITES. CONCRETE TRUCKS SHALL BE WASHED AT ALL PUBLIC LOCATIONS AND MANUFACTURING SITES.

EROSION CONTROL LEGEND:



EROSION CONTROL LEGEND (continued):



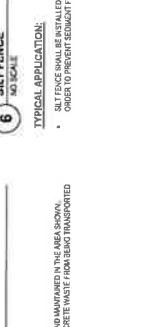
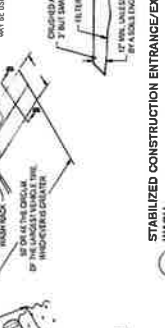
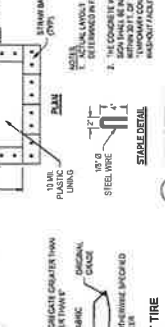
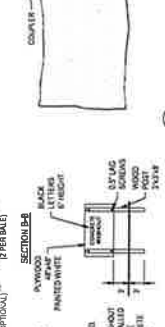
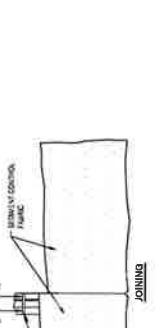
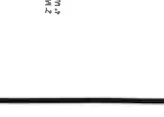
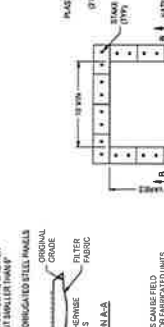
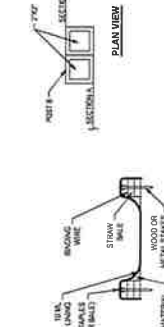
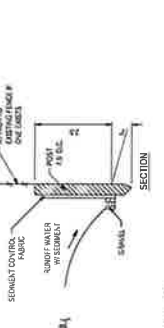
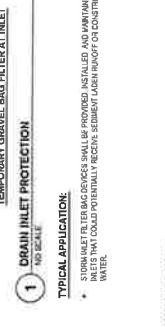
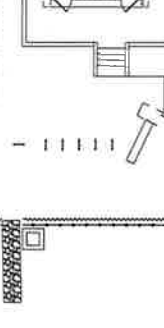
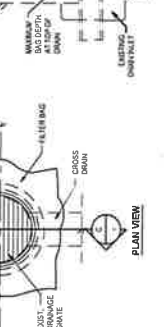
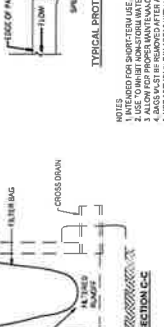
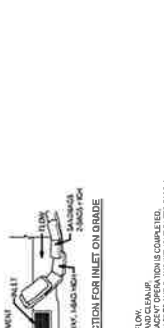
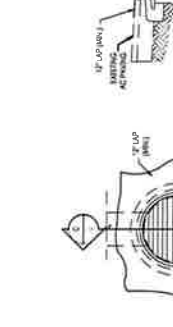
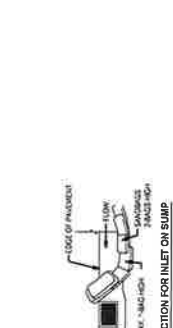
EROSION CONTROL LEGEND (continued):



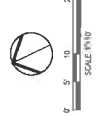
EROSION CONTROL LEGEND (continued):

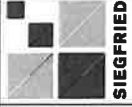


EROSION CONTROL LEGEND (continued):



Know what's below.
 Call before you dig.





3400 Divisadero Blvd
 San Francisco, California 94118
 Tel: 415.774.1100
 Fax: 415.774.1104
 www.siefried.com

- CIVIL
- STRUCTURAL
- LANDSCAPE ARCHITECTURE
- PLANNING
- ELECTRICAL
- MECHANICAL
- PLUMBING
- CONSTRUCTION

REVISIONS
 No. Date Description



EBRPD CROWN BEACH RESTROOM #3

ALAMEDA, CA

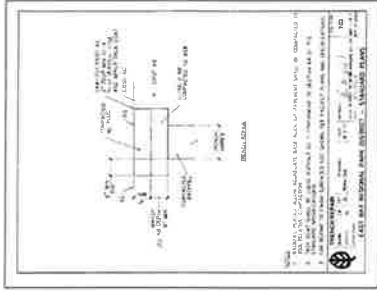


DATE: 08/08/2014
 SHEET TITLE

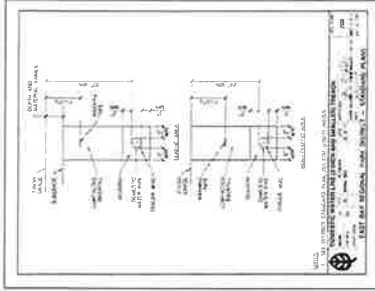
CONSTRUCTION DETAILS I

Project No.	11122
Client No.	01272024
Date	07/27/2014
Job No.	11122
Sheet No.	C6.0

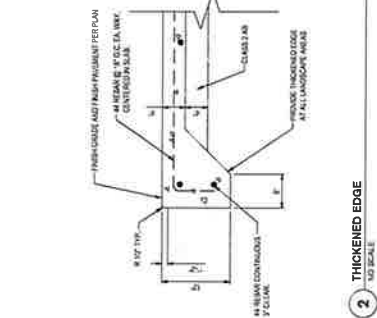
1 OF 13 SHEETS



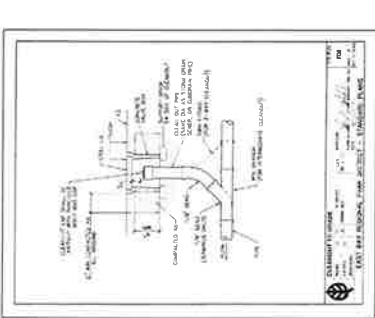
3 TRENCH REPAIR
 EBRPD STD. PLAN 702
 NO SCALE



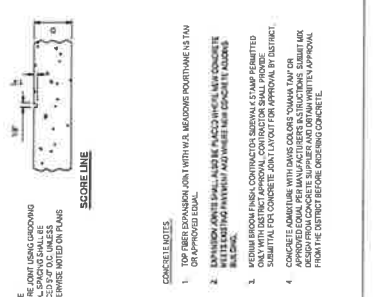
7 DOMESTIC WATER LINE (3" AND SMALLER) TRENCH
 EBRPD STD. PLAN 703
 NO SCALE



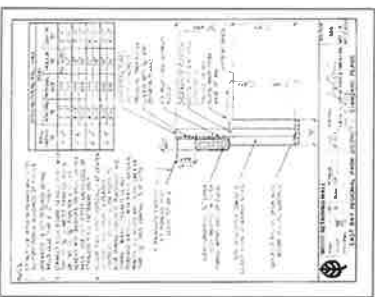
2 THICKENED EDGE
 EBRPD STD. PLAN 706
 NO SCALE



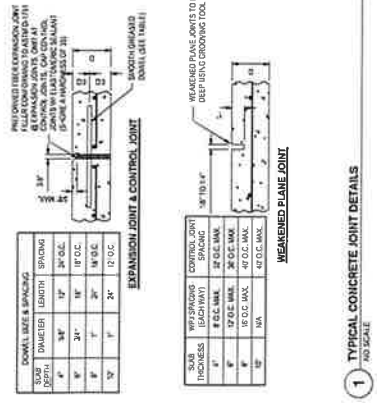
6 CLEANOUT TO GRADE
 EBRPD STD. PLAN 708
 NO SCALE



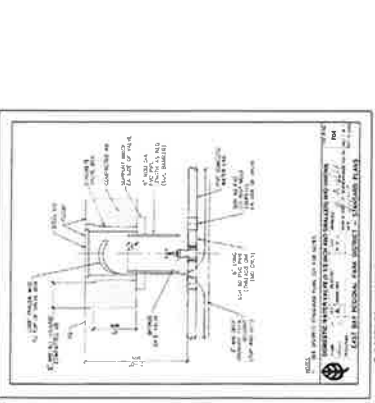
1 SCORE LINE
 EBRPD STD. PLAN 709
 NO SCALE



5 SAND DRAFT WALL
 EBRPD STD. PLAN 704
 NO SCALE



1 TYPICAL CONCRETE JOINT DETAILS
 EBRPD STD. PLAN 701
 NO SCALE



4 DOMESTIC WATER VALVE (1-1/2" AND SMALLER) W/O UNIONS
 EBRPD STD. PLAN 704
 NO SCALE

NOTE: ALL JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

EXPANSION JOINT & CONTROL JOINT (SEE TABLE)

JOINT TYPE	W/SPACING	CONTROL JOINT
1"	8" O.C. MAX.	8" O.C. MAX.
2"	16" O.C. MAX.	16" O.C. MAX.
3"	24" O.C. MAX.	24" O.C. MAX.
4"	32" O.C. MAX.	32" O.C. MAX.
5"	40" O.C. MAX.	40" O.C. MAX.
6"	48" O.C. MAX.	48" O.C. MAX.
7"	56" O.C. MAX.	56" O.C. MAX.
8"	64" O.C. MAX.	64" O.C. MAX.
9"	72" O.C. MAX.	72" O.C. MAX.
10"	80" O.C. MAX.	80" O.C. MAX.
11"	88" O.C. MAX.	88" O.C. MAX.
12"	96" O.C. MAX.	96" O.C. MAX.
13"	104" O.C. MAX.	104" O.C. MAX.
14"	112" O.C. MAX.	112" O.C. MAX.
15"	120" O.C. MAX.	120" O.C. MAX.
16"	128" O.C. MAX.	128" O.C. MAX.
17"	136" O.C. MAX.	136" O.C. MAX.
18"	144" O.C. MAX.	144" O.C. MAX.
19"	152" O.C. MAX.	152" O.C. MAX.
20"	160" O.C. MAX.	160" O.C. MAX.
21"	168" O.C. MAX.	168" O.C. MAX.
22"	176" O.C. MAX.	176" O.C. MAX.
23"	184" O.C. MAX.	184" O.C. MAX.
24"	192" O.C. MAX.	192" O.C. MAX.
25"	200" O.C. MAX.	200" O.C. MAX.
26"	208" O.C. MAX.	208" O.C. MAX.
27"	216" O.C. MAX.	216" O.C. MAX.
28"	224" O.C. MAX.	224" O.C. MAX.
29"	232" O.C. MAX.	232" O.C. MAX.
30"	240" O.C. MAX.	240" O.C. MAX.

WEAKENED EDGE JOINT

WEAKENED EDGE JOINT	WEAKENED TRANS JOINTS TO BE 1" DEEP INTO GROUND TOE
1"	1" MIN. P.
2"	2" MIN. P.
3"	3" MIN. P.
4"	4" MIN. P.
5"	5" MIN. P.
6"	6" MIN. P.
7"	7" MIN. P.
8"	8" MIN. P.
9"	9" MIN. P.
10"	10" MIN. P.
11"	11" MIN. P.
12"	12" MIN. P.
13"	13" MIN. P.
14"	14" MIN. P.
15"	15" MIN. P.
16"	16" MIN. P.
17"	17" MIN. P.
18"	18" MIN. P.
19"	19" MIN. P.
20"	20" MIN. P.
21"	21" MIN. P.
22"	22" MIN. P.
23"	23" MIN. P.
24"	24" MIN. P.
25"	25" MIN. P.
26"	26" MIN. P.
27"	27" MIN. P.
28"	28" MIN. P.
29"	29" MIN. P.
30"	30" MIN. P.

CONCRETE NOTES

- TOP FIBER EXPANSION JOINT WITH W/6 REINFORCING BARS IN 1" MIN. OR APPROVED EQUAL.
- EXPANSION JOINTS SHALL BE PLACED IN 1" MIN. CONCRETE WITH LEADING FIBER AND W/6 REINFORCING BARS.
- CONCRETE JOINTS SHALL BE PLACED IN 1" MIN. CONCRETE WITH LEADING FIBER AND W/6 REINFORCING BARS.
- CONCRETE JOINTS SHALL BE PLACED IN 1" MIN. CONCRETE WITH LEADING FIBER AND W/6 REINFORCING BARS.

CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

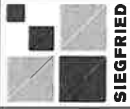
CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.

CONCRETE JOINTS SHALL BE CONCRETE ON CONCRETE UNLESS OTHERWISE NOTED ON PLANS.



2920 D. Stevens Blvd.
Sunnyvale, California 95099
Tel: 925.952.0714
www.siegfried.com

- STEEL
- WOODWORK
- PAINTS
- GLASS
- CERAMIC
- FABRICATION
- ELECTRICAL
- MECHANICAL
- PLUMBING
- CONSTRUCTION

REVISED: No Date Description



PROJECT

EBRPD, CROWN
BEACH
RESTROOM #3

ALAMEDA, CA



DATE PLOTTED: 07/17/24
SHEET FILE

CONSTRUCTION
DETAILS II

Job No. 071222824
Date 07/17/2024
Job No. 21172

SHEET NO. C6.1
8 OF 30 SHEETS

UTILITIES AND DRAINAGE NOTES
EBRPD STD. PLAN 701, SHEET 2

NO SCALE

3 NO SCALE

UTILITIES AND DRAINAGE NOTES
EBRPD STD. PLAN 701, SHEET 2

NO SCALE

6 NO SCALE

WOOD BENCH - NOTES
EBRPD STD. PLAN 500, SHEET 3

NO SCALE

10 NO SCALE

UTILITIES AND DRAINAGE NOTES
EBRPD STD. PLAN 701, SHEET 2

NO SCALE

2 NO SCALE

UTILITIES AND DRAINAGE NOTES
EBRPD STD. PLAN 701, SHEET 2

NO SCALE

5 NO SCALE

WOOD BENCH - SECTIONS AND DETAILS
EBRPD STD. PLAN 500, SHEET 2

NO SCALE

9 NO SCALE

UTILITIES AND DRAINAGE NOTES
EBRPD STD. PLAN 701, SHEET 1

NO SCALE

1 NO SCALE

UTILITIES AND DRAINAGE NOTES
EBRPD STD. PLAN 701, SHEET 1

NO SCALE

4 NO SCALE

WOOD BENCH - PLAN AND ELEVATION
EBRPD STD. PLAN 500, SHEET 1

NO SCALE

8 NO SCALE

PAINTING AND STAINING SPECIFICATION
EBRPD STD. PLAN 000, SHEET 4

NO SCALE

7 NO SCALE

PAINTING AND STAINING SPECIFICATION
EBRPD STD. PLAN 000, SHEET 3

NO SCALE

NO SCALE

Exhibit 002

DATE	PROJECT NAME	SCOPE OF WORK	SUBTOTAL		TOTAL PROJECT AMOUNT						
5/15/2024	EMRPD CROWN BEACH RESTROOM #3	ASPHALT, CONCRETE, LANDSCAPING, UTILITY WORK									
LINE NO.	DWG REF./CSI SEC.	DESCRIPTION	UNIT OF MEASURE	QUANTITY	UNIT PRICE	TOTAL MATL	LABOR RATE	LABOR HOURS	TOTAL LABOR	TOTAL COST	DIVISION TOTAL
		GENERAL CONDITIONS									
		PROJECT MANAGER	H	80			\$125	80	\$10,000.00	\$10,000	\$ 43,900
		SUPERINTENDANT	H	80			\$95	80	\$7,600.00	\$7,600	
		SURVEYOR/ENG	LS	1			\$135	80	\$10,800.00	\$10,800	
		ESTIMATOR	LS	1			\$2,000	1	\$2,000.00	\$2,000	
		SWPPP	LS	1			\$1,000	1	\$1,000.00	\$1,000	
		PUBLICATION	LS	1			\$2,500	1	\$2,500.00	\$2,500	
		EXISTING CONDITIONS									
		Remove wall #3	MONTHS	4	\$2,857.00	\$11,408.00				\$11,408	\$ 35,400
		Remove Wall and Foundations (12 posts)	CY	38	\$480.00	\$2,880.00	\$88	240	\$21,120.00	\$24,000	\$ 165,000
		CONCRETE									
		Sand drift wall foundation	SF	982		INCLUDED ALCOH					
		Slab (MATERIAL+LABOR)	CY	12		INCLUDED ALCOH					
		Construct accessible ramp (only concrete)	SF	281		INCLUDED ALCOH					
		Ramp + Stairs (rebar + form)	CY	4		INCLUDED ALCOH					
		Retaining wall concrete Pad	CY	5		INCLUDED ALCOH					
		Retaining wall Concrete	LS	1		INCLUDED ALCOH					
		METALS									
		155-KN/8' Corner steel posts	EA	7	\$320.00	\$2,240.00	\$170	1	\$185,000.00	\$185,000	\$ 47,452
		155-KN/8' Corner steel posts	LS	1			\$6,700	16	\$2,000.00	\$4,740	
		Groundballs with handrails INCLUDED AISI 304/316 AND INSTALL	LS	1			\$5,900	1	\$5,900.00	\$6,500	
		Groundballs with handrails INCLUDED AISI 304/316 AND INSTALL	LS	1			\$5,900	1	\$5,900.00	\$6,500	
		Stainless steel bike rack, in ground mounted zero hoop rack heavy duty, high polished finish	EA	6	\$450.00	\$2,700.00	\$64	8	\$512.00	\$1,212	\$ 4,800
		PLUMBING									
		Final Plumbing Connections	LS	1			\$170	40	\$4,800.00	\$4,800	\$ 10,204
		EARTHWORK									
		Prepare subgrade (Class II A8 aggregate)	CY	15		INCLUDED ALCOH					
		Fill for the drift wall and ramp	CY	41	30	\$1,244.02	\$64	80	\$5,120.00	\$6,364	
		Excavation for the stairs, ramp and new foundations	CY	11			\$64	60	\$3,840.00	\$3,840	
		Drain rock	CY	5							
		EXTERIOR IMPROVEMENTS									
		Construct 26" high sand unit wall (TIMBER LAGGING)	LF	60	\$30.00	\$1,800.00	\$88	64	\$5,632.00	\$7,432	\$ 71,332
		Construct 26" high sand unit wall (TIMBER LAGGING)	LS	1	\$12,000.00	\$12,000.00				\$12,000	
		CIV CONG GRK AS 18" (SEE SIZE)	LS	1	\$50,875.94	\$50,875.94				\$50,876	
		CIV CONG GRK AS 18" (SEE SIZE)	EA	1							
		Construct standard wood bench. Ebrpd to supply bench braces, armrests, and lumber	EA	1							
		UTILITIES									
		Perforated pipe	LF	100							

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2022 – 05 - 101

May 3, 2022

**AUTHORIZATION TO AWARD A CONTRACT TO VNH BUILDERS INC.
IN THE AMOUNT OF \$268,000 FOR GRAND STREET RESTROOM IMPROVEMENTS
AND APPROPRIATE FUNDS IN THE AMOUNT OF \$262,000: ROBERT W. CROWN
MEMORIAL STATE BEACH**

WHEREAS, the existing restrooms at Crown Beach have been identified by the Park District as in poor condition and in need of replacement. The wooden structures were constructed in the 1980s and have deteriorated to the point of needing to be replaced. Additionally, the restrooms lack lavatory sinks and the existing Grand Street accessible restroom no longer meets accessibility standards; and

WHEREAS, the Grand Street Restroom Improvements includes removing the 1980s era wooden restrooms, installing a pre-cast concrete CXT flush restroom building, drinking fountains, water bottle filler, an information panel, and bike racks. The flush restroom building includes two ADA-accessible, all-gender, single-user stalls with lavatory sinks; and

WHEREAS, the Notice to Bidders was published on March 16, 2022 to the Park District's online plan room and posted to the Dodge Data Construction Plan Room. Eleven firms purchased Bid Documents from BPX and nine firms submitted bids on April 13, 2022 as follows:

Plan Holder	Base Bid
VNH Builders	\$268,000.00
Kerex Engineering	\$284,000.00
NBC Construction	\$285,590.00
EE Gilbert	\$303,762.00
Plazo Construction	\$313,121.00
Stellar BG	\$344,400.00
Bay Construction	\$355,000.00
GEMS Environmental	\$414,404.00
Aztec Consulting	\$433,300.00

WHEREAS, the bid submitted by VNH Builders Inc. met the specifications and conditions for the project; therefore, VNH Builders Inc. is the lowest responsible bidder;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District authorizes the appropriation of \$262,000 in Major Infrastructure Renovation and Replacement funds (553) to Replace Restrooms (#538100) per the Budget Change Form attached hereto;

BE IT FURTHER RESOLVED, that the Board of Directors of the East Bay Regional Park District authorizes awarding a construction contract to VNH Builders Inc. in the amount of \$268,000 for the project;

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the District and in its name, to execute and deliver such documents and such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director Corbett, seconded by Director Waespi, and adopted this 3rd day of May, 2022 by the following vote:

FOR: Colin Coffey, Ellen Corbett, Elizabeth Echols, Beverly Lane, Dee Rosario, Dennis Waespi, Ayn Wieskamp.

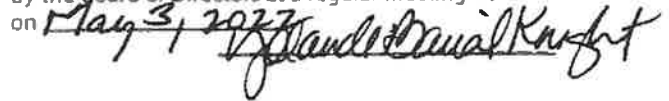
AGAINST: None.
ABSTAIN: None.
ABSENT: None.



Colin Coffey
Board President

CERTIFICATION

I, Yolande Barial Knight, Clerk of the Board of Directors of the East Bay Regional Park District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2022-05-101, adopted by the Board of Directors at a regular meeting held on May 3, 2022



**EAST BAY REGIONAL PARK DISTRICT
BUDGET CHANGE FORM**

NEW APPROPRIATIONS		BUDGET TRANSFERS	
From Fund Balance		X	Between Funds
DECREASE BUDGET ACCOUNT	AMOUNT	INCREASE BUDGET ACCOUNT	AMOUNT
		Account Name: Expense:Other Than Asset Project Fund-Administration-Crown Beach-Other Services /Replace Restrooms-Major Infrastructure Renovation and Replacement Fund-Consultants	
		Account: 336-4110-409-6191/538100MIRR-009	\$ 262,000
TRANSFERS BETWEEN FUNDS			
Account Name: TRANSFER OUT: Major Infrastructure Renovation and Replacement Fund-Non Departmental-District Wide-Transfer Out		Account Name: TRANSFER IN: Other Than Asset Projects Fund-Non Departmental-District Wide-Transfer In	
553-9110-000-9980	\$ 262,000	Account: 336-9110-000-3980	\$ 262,000
REASON FOR BUDGET CHANGE ENTRY			
As presented at the Board of Directors meeting on May 03, 2022 the General Manager authorizes the transfer and appropriation of \$262,000 from Major Infrastructure Renovation and Replacement Fund to the Other Than Asset Project Fund for the Replace Restrooms project (556800) at Crown Beach.			
As approved at the Board of Directors Meeting on date:			5/3/2022
Board of Directors Resolution Number:			2022-05- 101
Posted By:		Posted date:	
Signature:			



OFFICE OF THE GENERAL COUNSEL • 2950 PERALTA OAKS COURT • OAKLAND, CA 94605 • T: 510-544-2005 • F: 510-569-1417 • EBPARKS.ORG

Lynne Bourgault General Counsel Elizabeth Mackenzie Asst. General Counsel Jason Rosenberg Asst. General Counsel Allison M. Dibley Asst. General Counsel

April 14, 2026

SENT VIA CERTIFIED U.S. MAIL & E-MAIL (plaverty@tmhcc.com)

Patrick F. Lavery
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017

**Re: Crown Beach Grant Street Restroom Project
East Bay Regional Park District
Contract No. 066M-22-409
ACIC Bond No. 1001188124**

Dear Mr. Lavery:

This letter responds to your letter of March 31, 2026, on behalf of American Contractors Indemnity Company (“ACIC”).

In short, ACIC’s position has no merit. The East Bay Regional Park District’s (District or EBRPD) March 24, 2026, letter cited ample case law supporting the position that the language in the bond (“alterations, modifications and extensions”) is covered by the bond. In response, ACIC cites no supporting law for its position.

Factually, the District has clearly demonstrated that Change Orders 7-9 were modifications to the original contract and were treated by the District *and VNH* as modifications to the original contract. The most important fact is that the contract (as modified by Change Orders 1-6) was never completed – *the restroom building was never erected on the site*. For ACIC to now argue that the contract was completed is absurd.

ACIC primarily relies on a “Status Report” from a low-level District employee on an ACIC form. However, that form stated obviously incorrect facts, and more importantly expressly stated that the information provided was not guaranteed to be accurate and *that the District did not assume responsibility for ACIC’s reliance on that information*. The “Status Report” plainly does not bind the District.

ACIC's latest arguments continue to have no merit:

- ACIC argues that Change Orders 7-9 “fundamentally altered the scope of the original Contract, essentially creating a new agreement”; and that “the District should have sought an entirely new bid.” *However*, no law required the District to close out the first contract and bid a second contract. The District exercised its option to modify the original contract, and the District did so *with the consent of VNH* (ACIC's principal). ACIC has no right to second-guess the joint decision of the District and VNH, especially when ACIC consented in the bond to be bound by all modifications to the contract. The bond's consent language must be construed most strongly against ACIC. (Civil Code §8154(a).)
- ACIC argues that it never received any additional bond premium from VNH for Change Order 7. *However*, that is not the District's problem. The District included the bond premium in Change Orders 7-9, and if VNH did not report the change orders to ACIC or forward the additional premium to ACIC, then ACIC needs to resolve that issue with VNH.
- ACIC argues that “the original Contract was effectively closed out.” *However*, the District has provided ample documentation that both the District and VNH continued to administer the project as one contract.
- ACIC requests discovery from the District. *However*, the District has no obligation to provide information that ACIC could obtain from its principal, such as communications between the District and VNH. (*Sumitomo Bank of California v. Iwasaki* (1968) 70 Cal.2d 81, 85.) More importantly, the District has already provided ample documentation to demonstrate that ACIC's arguments have no merit.
- ACIC relies on the “CO Scope” document that mentions a “construction pause.” *However*, that document proves the District's point: The contract was merely paused for the permit and design changes, and then it resumed.
- ACIC relies on the “contract checklist” document for the proposition that Change Order 7 was a new contract, and not a change order. *However*, that document clearly marks the circle for “Amendment,” and does not mark the circle for “New Contract.”

Based on the above, the District demands that ACIC respond in writing within **three (3) business days** with an unequivocal acceptance of the District's tender of completion of the project. ACIC's written acceptance must indicate whether ACIC elects to (1) pay the entire adjusted bond amount to the District so that the District can complete the project, or (2) assume completion of the contract regardless of the cost (*Caron v. Andrew* (1955) 133 Cal.App.2d 402, 411).

If ACIC does not timely respond with an unequivocal acceptance, then the District will (A) declare ACIC in breach of its obligations under the bond, (B) complete the project, and (C) promptly sue ACIC to recover the District's damages, including liquidated damages which are continuing to accrue (Agreement Art. 4, General Conditions §43(b), and *Pacific Employers Insurance Co. v. City of Berkeley* (1984) 158 Cal.App.3d 145, 156-157) and attorneys' fees (General Conditions §61).

ACIC's suggestion of mediation is unacceptable. There is no reasonable dispute here, and ACIC has an obligation to finish the contract due to VNH's failure and refusal to perform. (Civil Code §2807.) Furthermore, no time remains for mediation. ACIC has had over three months to analyze

April 14, 2026
Patrick F. Lavery
Page | 3

the facts and make a decision, which is ample time (especially for such a simple project). The District has demonstrated the invalidity of ACIC's arguments, but ACIC simply creates new arguments that are equally worthless and cause delay. This project must be completed as soon as possible so that damages are mitigated and the public can use the facility this summer.

The District looks forward to ACIC's response.

Sincerely,



Elizabeth Mackenzie
Assistant General Counsel

cc: Drew Brouwer (e-mail only)
Natasha Buchanan, Lanak Hanna (e-mail only)
SuretyClaims (e-mail only)
Lynne Bourgalt, EBRPD (e-mail only)
Arne Sandberg, Lozano Smith (e-mail only)

East Bay
Regional Park District

2950 PERALTA OAKS COURT P.O. BOX 5381
OAKLAND CALIFORNIA 94605-0381

f2005

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
CERTIFIED MAIL



7029 2970 0000 9875 2448

Patrick F. Lavery
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017



Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017 USA
Tel: 310-649-0990

VIA E-MAIL ONLY

April 20, 2026

Elizabeth Mackenzie
Assistant General Counsel II | General Counsel's Office
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605
emackenzie@ebparks.org

RE: Surety: American Contractors Indemnity Company
Principal: VNH Builders
Obligee: East Bay Regional Park District
Bond No.: 1001188124
Project: Crown Beach Grant Street Restroom Project – Contract No. 066M-22-409

Dear Ms. Mackenzie:

American Contractors Indemnity Company (“ACIC” or “Surety”) is in receipt of your 3:30 p.m. email of Friday, April 17, 2026 stating that “unless the District receives ACIC’s acceptance of its tender of completion today, April 17, 2026, the District will cancel all scheduled ACIC site visits and will complete the project and recover all damages and attorneys’ fees from ACIC.” This follows prior, unreasonable deadlines unilaterally imposed by the District that are not found anywhere within the executed bonds for the above-referenced project.

As part of ACIC’s investigation of the claim against the Performance Bond asserted by East Bay Regional Park District (“District”), we advised you on March 31, 2026 of ACIC’s intent to solicit bids for potential completion contractors, notwithstanding the questions with regard to liability under the Bond, if any. We further advised you on April 16, 2026 of ACIC’s progress with regard to such bids, including, but not limited to, the identification of potential completion contractors and the intent to conduct a site visit with such potential completion contractors on Friday, April 24th.

In response, and in continuation of the unreasonable deadlines unilaterally imposed within correspondence of March 24 and April 14, the District has demanded that ACIC waive all rights, disputes and defenses to the claim or cease its efforts to mitigate damages arising from the claim. ACIC rejects both demands and remains ready, willing and able to continue its investigation, including, but not limited to the solicitation of bids to complete the work; and a reservation of rights as to its obligations and/or liability under the Bond.

We ask that you confirm the District will allow ACIC to proceed with its solicitation of bids, including the proposed April 24th site visit with the prospective completion contractors, by the close of business on Tuesday, April 20th. Failure to do so will likely result in further delay to the re-bid and completion of any work at the project site. We also remind the District of its obligation to mitigate any damages should it make the unilateral decision to proceed on its own and prevent ACIC from exercising its options as to the claim against the Bond, completion of the work and mitigation of damages.

Based on the allegations within recent correspondence from the District, it is also necessary to set forth a clear timeline with regard to the claim and ACIC's investigation thereof.

On December 22, 2025, ACIC received a notice of the District's termination of VNH Builders. As stated in ACIC's acknowledgement of receipt, sent December 30, 2025, the termination notice followed a November 21, 2025 Notice of Intent to Terminate and Demand for Cure, as well as a December 8, 2025 Demand for Schedule and Counteroffer. Of note, while ACIC is listed as a "cc" on each of these letters, no copy was received by ACIC until December 12th. This in spite of December 1 and December 2 response deadlines within the November 21 letter. Also, of note, is that the December 22, 2025 termination notice imposed a unilateral deadline of December 31, 2025 to respond to the demand against the Bond. This was the first in a continuing pattern of unreasonable deadlines unilaterally imposed by the District without contractual grounds.

Within ACIC's December 30, 2025 acknowledgment of receipt, the Surety identified initial concerns with regard to the claim, including, but not limited to a prior statement by the District that the bonded project had been completed as of March 2024 and accepted as of April 18, 2024. As noted within our initial correspondence, ACIC closed its bond file based on those representations. Further, and after the represented April 18, 2024 acceptance date, the District entered into a \$487,346 "change order" on August 1, 2024, which it alleged altered the bonded contract that was underwritten in April 2022 at a contract amount of \$262,000.

In light of these issues, ACIC requested a conference call with the District, suggesting the post-holiday dates of January 5 to January 9. The District replied on January 7th, suggesting three dates, and the initial call was held on January 12th. Among the items discussed during the call was additional information that would assist in ACIC's investigation of the claim, including, but not limited to, updated plans, current specifications, and contract accounting information. These items, in part, were provided by the District on January 21, 2026. ACIC requested additional information or documents on January 26, 2026, which the District provided January 27th, with additional clarification provided on January 28th and 29th.

While ACIC conducted its review of the information and documentation provided by the District in late January 2026, it also arranged for its construction consultant to visit the job site on February 11, 2026 to review the work in place and remaining scope. Of note, the site visit revealed little work in place¹, in spite of \$401,100.72 paid by the District to VNH. Of the amount paid,

¹ The platform on which the prefabricated restroom will be landed and underground utilities are complete. Otherwise, there is limited work in place.

\$292,789.99 was paid, or approved, prior to the alleged April 18, 2024 completion date, while an additional \$108,310.73 was paid in connection with Change Order No. 7.²

The lack of work in place makes sense when considering the original bonded project proved impossible to complete based on a determination by the City of Alameda that the project site falls within Flood Zone AE, which caused “the District to redesign the restroom from a finished floor elevation (FFE) of 9.52 feet up to 11.3 feet.” As a result, a significant portion of the work performed under the original bonded contract, and paid for in the amount of \$292,789.99, had to be removed. In turn, the District created an entirely new Schedule of Values in connection with the “significant alternations required to raise the building to the required elevation.” Within Pay Application No. 9, the first pay application submitted after Change Order No. 7 was entered into, the District confirmed that as of prior pay applications the Original Contract Amount of \$268,000 was 100% complete; Change Order 1 was 100% complete; Change Order 2 was 100% complete; Change Order 3 was 100% complete; Change Order 4 was 100% complete; Change Order 5 was 100% complete; and Change Order 6 was 100% complete. In other words, the entirety of the original bonded contract, including all change orders, was 100% complete as of Pay Application No. 8, dated April 18, 2024. That, of course, is the same date represented to be the acceptance date of the original bonded contract by District employee Nate Luna.

The District has attempted to side-step Luna’s statements by representing him as a “low-level employee” without authority to make statements on the District’s behalf. Yet, Luna signed Pay Application No. 9 as the “District Representative.” As a result of its review of the information provided by the District in late January as well as ACIC’s site visit on February 11th, ACIC presented its initial findings to the District in correspondence of February 23, 2026. Of note, ACIC did not deny the District’s claim. Nor did ACIC present any determination of the claim, or final decision with regard to its liability under the Bond. Rather, ACIC presented questions with regard to such liability and invited the District’s response.

The District’s response came one month later, on March 24, 2026, and once again, included an unreasonable, unilateral deadline of “seven (7) days of the date of this letter to **fully and unconditionally agree to the complete the project pursuant to the bond.**” Such deadline is nowhere to be found within the terms of the bond, and curious in light of the District’s own 29-day response time to ACIC’s February 23, 2026 letter raising questions with regard to its liability.

Still, ACIC responded on March 31, 2026. Therein, ACIC stated “under an express reservation of rights and defenses, **[the Surety] will solicit bids for potential completion contractors.**” Concurrently, and in light of the disputes between ACIC and the District with regard to the obligations under the Bond, ACIC suggested a potential mediation with regard to the reserved rights and defenses.

The District responded two weeks later, on April 14, 2026, rejecting the idea of mediation and once again resorting to unreasonable unilateral deadlines. This time the District demanded “ACIC respond in writing within three (3) business days **with an unequivocal acceptance of the**

² This includes a total of \$154,300.80 paid for the “Denali Building.” As the District is aware, the “Denali Building” supplier, CXT, Inc. filed suit against VNH builders on, July 18, 2025 alleging an amount due of \$130,000 for material provided on the project.

District's tender of completion of the project." On April 16, 2026, ACIC reiterated its intention to proceed with obtaining completion bids, again identifying potential completion contractors; advising of the documentation provided to them; and identifying a site walk date of April 24th. The District's only response, again within a 3:30 p.m. Friday email demanding a full waiver of ACIC's rights and defenses on the same day, was to advise of an intent to prevent ACIC from moving forward in that fashion.

As stated above, ACIC is prepared to continue its solicitation of bids. In order to do so, ACIC requests the District confirm, by the close of business tomorrow, that it will allow ACIC to proceed with the site walk with potential completion contractors scheduled for April 24, 2026.

Nothing herein is an admission of liability on the part of ACIC. All rights and defenses under the bonds, the law or otherwise are reserved.

Sincerely,



Patrick F. Lavery, Vice President, Bond Claims
On behalf of American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
Direct Line: 310-330-1341
Email: plavery@tmhcc.com



OFFICE OF THE GENERAL COUNSEL • 2950 PERALTA OAKS COURT • OAKLAND, CA 94605 • T: 510-544-2005 • F: 510-569-1417 • EBPARKS.ORG

Lynne Bourgault
General Counsel

Elizabeth Mackenzie
Asst. General Counsel

Jason Rosenberg
Asst. General Counsel

Allison M. Dibley
Asst. General Counsel

May 15, 2026

SENT VIA E-MAIL (plaverty@tmhcc.com)

Patrick F. Lavery
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017

**Re: Crown Beach Grant Street Restroom Project
East Bay Regional Park District
Contract No. 066M-22-409
ACIC Bond No. 1001188124**

Dear Mr. Lavery:

We have reviewed the proposed tender agreement sent by Ms. Buchanan on May 6, 2026. The East Bay Regional Park District (District) declines to enter a tender agreement since ACIC would no longer be managing, or be responsible for, the completion of the project, and the District would become responsible for completion of the work. Such an arrangement would defeat the purpose of ACIC’s performance bond, which was for ACIC to complete the project in the event that VNH were to default on its contract.

Also, you had previously indicated that you would receive complete bids by May 8 and make a decision by May 12. However, on May 12, you indicated that you were still waiting for information and reviewing bids. We have not heard from you since then.

ACIC has now had almost five months to analyze and respond to the District’s tender based on the performance bond. ACIC’s delay in making a decision is clearly unreasonable and in breach of its obligations under the bond and the law. As a result, ACIC’s delays are going to significantly impact the public’s ability to use the facility this summer. In addition, liquidated damages continue to accrue at ACIC’s expense.

For the above reasons, the District again demands that ACIC promptly decide whether it will (A) accept the District’s tender and either (i) complete the VNH contract at its own expense pursuant to the performance bond and the terms of the contract (which was incorporated into the bond), or (ii) pay the penal sum of the performance bond to the District so that it may complete the contract; or (B) reject the District’s tender.

If ACIC does not accept the District's tender as described above by May 22, 2026, the District will declare that ACIC has inexcusably defaulted on its obligations under the performance bond, thus acting as constructive rejection of the District's tender. The District then will commence expeditious completion of the contract so that the public can use the facility as soon as possible, and will recover all costs and damages, including attorneys' fees (see General Conditions §61), from ACIC without limitation.

Sincerely,

/s/ Elizabeth Mackenzie
Assistant General Counsel

cc: Drew Brouwer (e-mail only)
Natasha Buchanan, Lanak Hanna (e-mail only)
SuretyClaims (e-mail only)
Lynne Bourgalt, EBRPD (e-mail only)
Arne Sandberg, Lozano Smith (e-mail only)



TOKIO MARINE
HCC

Surety Group
801 S. Figueroa Street Suite 700
Los Angeles, CA 90017 USA
Tel: 310-649-0990

VIA E-MAIL ONLY

May 20, 2026

Elizabeth Mackenzie
Assistant General Counsel II | General Counsel's Office
East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605
emackenzie@ebparks.org

RE: Surety: American Contractors Indemnity Company
Principal: VNH Builders
Obligee: East Bay Regional Park District
Bond No.: 1001188124
Project: Crown Beach Grant Street Restroom Project – Contract No. 066M-22-409

Dear Ms. Mackenzie:

American Contractors Indemnity Company (“ACIC” or “Surety”) is in receipt of your May 15, 2026 letter, imposing a deadline of May 22, 2026 for ACIC to respond to the Performance Bond claim. Therein, the East Bay Regional District (“EBRPD” or “the District”) declines the tender agreement, a draft of which was provided by ACIC on May 6, 2026, arguing “such an arrangement would defeat the purpose of ACIC’s performance, bond, which was for ACIC to complete the project in the event that VNH were to default on its contract.”

Setting aside the fact that such “purpose” is not included within the terms of the Performance Bond, the tender agreement provides for completion of the project through a licensed contractor that would contract directly with EBRPD for completion of the work. This is the exact process that the District threatens to undertake if its unilateral May 22, 2026 deadline is not met. As a result, the District’s rejection of the tender agreement constitutes a failure to mitigate damages.

As stated in my email of May 12, 2026, completion bids were received as anticipated. The bids were incomplete due to information needed from the building manufacturer, or supplier, CXT. That information, though requested over the course of last several weeks, was provided, in part, on Friday, May 15, 2026.

Enclosed herewith is the original May 6, 2026 proposal of Kerex Engineering the amount of \$288,888, as well as a revised proposal, received today, that comes after further review of the contract documents, including all RFIs. The revised proposal of today’s date, in the amount of \$347,388¹ is being used as the operative completion bid.

¹ ACIC is including Alternate No. 1 for transportation of the CXT building within the completion cost.

Complicating the completion of the work is the attached Statement from CXT (dated 6/25/2026, received 5/15/2026), which alleges an amount due of \$143,994.19. As ACIC has described in prior correspondence, liability under the bonds is disputed in light of prior actions and communication from the District that includes, but is not limited to, the admission that the original bonded contract was completed in March 2024 and accepted on April 18, 2024; and the administration of Change Order No. 7 as an entirely new contract, separate and apart from the original work. The fact that Kerex's completion bid relies solely on the revised drawings of March 17, 2025, and not original contract documents, further supports ACIC's dispute.²

This dispute extends not only to the District's claim against the Performance Bond, but also to any claims against the Payment Bond. Based on the District's admission that the original bonded contract was accepted on April 18, 2024, CXT's claim against the Payment Bond would be untimely. Thus, if ACIC elects to deny the District's claim based on the disputes referenced herein, as well as those stated in prior correspondence, it would also deny CXT's claim against the Payment Bond.³

However, there is a potential path forward here that mitigates damages and eliminates the need for litigation among the various parties. To that end, ACIC is undertaking settlement discussions with CXT, whereby it would issue payment to resolve amounts alleged due; and confirm release of the building in connection with the Kerex Engineering proposal. Such a settlement is conditioned upon ACIC and the District reaching agreement as to the completion of the work.

Additionally, as you will note in the CXT account statement, there is an amount sought for storage of the building totaling \$21,450. Within the District's November 21, 2025 Cure Notice to VNH, EBRPD agreed to an additional change order of \$4,675 for storage fees between 8/1/24 and 4/15/25, which is when the permit for the work associated with Change Order 7⁴ was issued. Should agreements be reached between the District and ACIC, as well as ACIC and CXT, ACIC requests that such change order be issued in the amount of \$4,675, with the amount to be paid by the District to ACIC upon satisfactory evidence of payment by ACIC to CXT.⁵

Assuming successful negotiations with CXT, which would result in payment by ACIC to CXT, the next step in the mitigation of damages is an agreement between the District and ACIC with regard to the completion of the work. The proposed tender agreement is the most efficient means of resolving the claim against the Performance Bond based on the comprehensive bid of Kerex. It puts EBRPD in the same position as if it commenced completion of the contract, as is its alternative, only without the need for a public bidding process. Therefore, it is also the most expeditious means of completing the work, and thus the mitigation of damages.

I have enclosed herewith a modified tender agreement, that includes information from the current Kerex proposal. ACIC's acceptance of the tender agreement is conditioned upon successful negotiations between ACIC and CXT, of which I am optimistic.

² At a minimum, there is a significant public policy argument that the District circumvented the competitive procurement process in the issuance of Change Order No. 7 that relies on an entirely new design at a point where it was possible, and the District indeed took steps to, close out the original contract.

³ Or the in the alternative to a denial of the claim, assert such defenses in any litigation that may be filed.

⁴ Further evidence of a distinct and separate project from the original bonded contract.

⁵ In the alternative, the parties could agree to a reduction of the amount to be paid by ACIC within the Tender Agreement.

If you wish to discuss any of the above I can make myself available throughout the remainder of the week. Nothing herein is an admission of liability on the part of ACIC. All rights and defenses under the bonds, the law or otherwise are reserved.

Sincerely,

Patrick Lavery

Patrick F. Lavery, Vice President, Bond Claims
On behalf of American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
Direct Line: 310-330-1341
Email: plavery@tmhcc.com

TENDER AGREEMENT

This Tender Agreement (the “Agreement”) is made and entered into by and between American Contractors Indemnity Company, a California corporation, (as “SURETY”) and East Bay Regional Park District, a public entity (“OBLIGEE”) and is effective as of this ___ day of May, 2026 (“Effective Date”). SURETY and OBLIGEE are hereinafter sometimes collectively referred to as the “Parties”.

RECITALS

WHEREAS, on or about May 3, 2022, OBLIGEE and original contractor, VNH Builders (“Original Contractor”) entered into a written contract (“Original Contract”) for a work of improvement known as the Grand Street Restroom Improvements (“Project”) for the base price of \$262,000.00. A copy of the Original Contract is attached hereto as Exhibit “A” and is incorporated herein by this reference;

WHEREAS, on or about May 3, 2022 as required under the terms of the Original Contract, Original Contractor and the SURETY made, executed and delivered to OBLIGEE a Performance Bond No. 10011881244 (the “Performance Bond”) in the penal sum of \$262,000.00 and a Payment Bond No. 10011881244 (the “Payment Bond”), in the penal sum of \$262,000.00 (collectively, the “Bonds”) A true and correct copy of the Performance Bond is attached hereto as Exhibit B and is incorporated herein by this reference; a true and correct copy of the Payment Bond is attached hereto as Exhibit C and is incorporated herein by this reference;

WHEREAS, on or about December 19, 2025, the OBLIGEE terminated the Original Contract and the OBLIGEE demanded that the Surety fulfill its obligations under the Performance Bond by arranging for completion of the remaining Work in accordance with the terms of the Original Contract..

WHEREAS, the SURETY has agreed to tender a completion contractor to perform the work under the Original Contract to OBLIGEE;

WHEREAS, OBLIGEE has paid Original Contractor the sum of \$495,941.42, leaving a contract balance, including earned but unpaid funds and retention, under the Original Contract in the sum of \$ 319,196.58 (the “Remaining Contract Balance”), which includes \$ 26,102.18 in retention (the “Earned Funds”), and \$293,094.40 in unearned contract funds, which is summarized below:

Contract Price	\$268,000.00
Approved Change Orders	+ \$547,138
Adjusted Contract Price	= \$815,138.00
Paid to Principal	\$ 495,941.42
Earned Unpaid Contract Funds	\$ 0
Unearned Contract Funds	+ \$ 293,094.40
Earned Unpaid Retention	+ \$ 26,102.18

Remaining Contract Balance	= \$ 319,196.58
-----------------------------------	------------------------

WHEREAS, in accordance with SURETY's obligations under the Bonds and subject to the terms and conditions of this Agreement, SURETY will tender Kerex Engineering, Inc. with a business address of 4941 Pacheco Blvd., Martinez, CA 94553 and with Contractor's License #1002913 ("Completion Contractor") to OBLIGEE to complete the Remaining Work for the amount of \$347,388.00¹ ("Completion Cost"), and fully perform all remaining obligations of the Original Contractor under the Original Contract. OBLIGEE has agreed to accept the tender of the Completion Contractor and commits itself to complete the work set forth in the Original Contract upon the terms and conditions set forth in the Original Contract just as though Completion Contractor had been Original Contractor in the first instance. A copy of the Completion Contractor's original Bid Proposal for the Project is attached hereto as **Exhibit "D"** and is incorporated herein by this reference ("Completion Contract");

WHEREAS, Completion Contractor has agreed to provide all bonds and insurance required pursuant to the terms of the Original Contract (except the penal sum of such bonds shall be in the amount of the Completion Cost); and;

NOW, THEREFORE, in consideration of the agreements and undertakings hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy being acknowledged, OBLIGEE, and SURETY agree as follows:

AGREEMENT

1. The above Recitals are hereby incorporated by reference into the Terms and Conditions of this Agreement.

2. SURETY hereby tenders the Completion Contractor to OBLIGEE and OBLIGEE hereby accepts SURETY'S tender of the Completion Contractor to complete the Remaining Work of the Project.

3. SURETY agrees to pay to OBLIGEE the sum of \$28,191.42 (Completion Cost Minus Remaining Contract Balance) in full settlement of the claim of OBLIGEE under the Performance Bond upon execution of this Agreement and delivery of the check in the amount of \$28,191.42, such sum representing the difference between the Remaining Contract Balance of \$319,196.58 and the Completion Cost of \$347,388 for OBLIGEE to use to complete the Project pursuant to the terms of the Original Contract.

4. OBLIGEE agrees to enter into a separate agreement with Completion Contractor to complete the remaining uncompleted portion of the Original Contract for the amount of \$339,888.00, including all allowances. For the purposes of Project completion, but not for any purposes of responsibility for actions prior to Original Contractor's termination, Completion Contractor shall be substituted for Original Contractor in the Original Contract such that Completion Contractor's relationship to OBLIGEE is the same as if Completion Contractor were

¹ Inclusive of Alternate No. 1

the original contracting party with OBLIGEE in lieu of Original Contractor. Completion Contractor shall provide all bonds and insurance required pursuant to the terms of the Original Contract.

5. Upon full execution of this Agreement, full execution of the Completion Contract, and provision by the Completion Contractor of satisfactory payment and performance bonds and certificates evidencing all required insurance, and except for the obligations created hereunder, OBLIGEE agrees to release, acquit, and forever discharge SURETY and its successors and assigns of and from any and all claims, rights, demands, and/or causes of action, which are known to OBLIGEE as of the date this Agreement, against SURETY by reason of its Performance Bond previously furnished to OBLIGEE except that OBLIGEE shall not release Surety from any claim based on or arising out of any latent or patent deficiency (as defined in California Code of Civil Procedure § 337.15 and § 337.1) attributable to the work performed by Original Contractor. OBLIGEE agrees to give notice as soon as reasonably practicable of any latent or patent deficiency. Additionally, the Parties shall not release each other pursuant to Paragraph 6 as provided for in this Agreement.

6. Nothing herein shall be construed to constitute a release of Original Contractor's obligations under that certain General Agreement of Indemnity ("Indemnity Agreement") executed by Original Contractor for the benefit of SURETY, nor shall this Agreement be construed to constitute any sort of cancellation, termination or modification of the Indemnity Agreement. Moreover, nothing in this Agreement shall be construed to constitute a release of OBLIGEE's or Original Contractor's rights to pursue any appropriate action against each other.

7. SURETY acknowledges and agrees that its Payment Bond previously furnished for the Project shall continue to remain in full force and effect for any valid obligations incurred by the Original Contractor to subcontractors, laborers, trusts to which fringe benefit corporations are owed on behalf of laborers who were employed by the Original Contractor and who supplied labor for use on the Project, except that it is expressly agreed by and between OBLIGEE and SURETY that the scope and coverage of said Payment Bond shall be limited to and shall only apply to claims by subcontractors, laborers and/or suppliers of Original Contractor for work performed and/or materials delivered prior to its termination from the Project. The liability of SURETY under the Payment Bond is limited to and shall not exceed the penal sum of the Payment Bond in the amount of \$262,000.00 remains unaffected by this Agreement, and SURETY retains all obligations, rights and defenses pursuant to the Payment Bond.

8. This Agreement is solely for the benefit of OBLIGEE and SURETY. OBLIGEE and SURETY do not intend by any provision of this Agreement to create any rights in or increase the rights of any third-party beneficiaries, nor to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than OBLIGEE and SURETY. Specifically, OBLIGEE and SURETY acknowledge that nothing in this Agreement shall extend or increase the rights of any third-party claimants or the liabilities or obligations of SURETY under the Bonds.

9. This Agreement constitutes the whole of the understanding, discussions, and agreements by and between OBLIGEE and SURETY. The terms and provisions of this

Agreement are contractual and not mere recitals. OBLIGEE and SURETY acknowledge that there have been no oral, written or other agreements of any kind as a condition precedent to or to induce the execution and delivery of this Agreement. Any written or oral discussions conducted prior to the effective date of this Agreement shall not in any way vary or alter the terms of this Agreement.

10. This Agreement shall not be changed, amended or altered in any way except in writing and executed by OBLIGEE and SURETY.

11. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original.

12. This Agreement shall be governed by and controlled by the laws of the state of California.

13. Any notices which are required to be given by the terms of this Agreement or the Bonds shall be made as follows:

As to OBLIGEE:

Via U.S. Mail and Electronic Mail to:

East Bay Regional Park District

Attn:

MAILING ADDRESS

E-mail:

As to the SURETY:

Via E-mail and U.S. Mail to:

American Contractors Indemnity Company

801 S. Figueroa Street, Suite 700

Los Angeles, CA 90017

Attention: Patrick Laverty

E-mail: plaverty@tmhcc.com

14. This Agreement is effective as of the date first written above.

15. This Agreement shall be binding upon the Parties and their respective successors and assigns.

16. In the event that one or more provisions of this Agreement shall be declared to be invalid, illegal or unenforceable in any respect, unless such invalidity, illegality or unenforceability shall be tantamount to a failure of consideration, the validity, legality and

enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.

17. It is understood and agreed by OBLIGEE and SURETY that this Agreement shall be construed without regard to any presumption or other rule requiring construction against the Party causing this Agreement to be drafted.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date indicated above, and each of the undersigned personally represent and warrant that they have the full right, power and authority to execute this Agreement on behalf of the respective Parties.

Dated: May ____, 2026

AMERICAN CONTRACTORS INDEMNITY
COMPANY
(SURETY)

By: _____

Name: Patrick Lavery

Title: Vice President, Bond Claims

Dated: May ____, 2026

EAST BAY REGIONAL PARK DISTRICT
(OBLIGEE)

By: _____

Name:

Title: _____



, Inc. an L.B. Foster Company

Phone: 412-928-3400
Fax: 412-928-7891

Invoice

DATE: 6/25/2026
SALES ORDER: 429918
INVOICE #: 1400009534 F

Important:
Reference invoice # when remitting

SOLD TO:
VNH BUILDERS
842 MAHLER ROAD
BURLINGAME, CA 94010

SHIP TO:
VNH BUILDERS
ALAMEDA, CA

REMIT TO:
CXT INCORPORATED
P.O. BOX 676208
DALLAS, TX 75267-6208

CUSTOMER P.O.: **CROWN BEACH**

TERMS OF PAYMENT: UPON RECEIPT

FEDERAL ID #: 91-1498605

LINE NO.	DESCRIPTION	UM	QUANTITY	PRICE	EXTENDED PRICE
10	DN-393	EA	1	92,741.00	\$ 92,741.00
20	FREIGHT	EA	1	15,000.00	\$ 15,000.00
30	SALES TAX	EA	1	9,969.66	\$ 9,969.66
40	INTEREST	EA	1	48,392.22	\$ 48,392.22
50	STORAGE FEES (\$550/MO X 39)	EA	1	21,450.00	\$ 21,450.00
60	LEGAL FEES	EA	1	7,796.65	\$ 7,796.65
70	PAYMENT RECEIVED 1/2/25	EA	1	(51,355.34)	\$ (51,355.34)

10/15/2025 6/25/2026 253.00 8.43333333

		INTEREST		
MONTHS	RATE/MO	RATE/MO	CHARGE	
\$107,741.00	20	1.5%	1,616.12	32,322.40 5/23 THROUGH 12/24
\$56,385.66	19	1.5%	845.78	16,069.82 1/25 THROUGH 6/25/26
				48,392.22

If you have any questions in regards to the invoice, please contact:

Scott Wilhelm
CXT Incorporated
6701 E. Flamingo Ave., Building 300
Nampa, ID 83687
509-202-3960
swilhelm@lbfoster.com

ORDER TOTAL \$ 143,994.19
TAX \$ -
INVOICE TOTAL \$ 143,994.19

KEREX ENGINEERING, INC.

Class A General Engineering Contractor

CSLB License No. 1002913

4941 Pacheco Blvd

Martinez, CA 94553

(347) 613-5788

patrick@kerexengineering.com

May 6, 2026

Andrew Brouwer, CCCA, PMP

Nicholson Professional Consulting, Inc.

901 S Mopac Expressway, Building 1, Ste 300

Austin, TX 78746

andrew.brouwer@npcius.com

RE: Crown Beach Restroom #3 — Project Completion Proposal

East Bay Regional Park District (EBRPD)

Grand Street & Shoreline Drive, Alameda, CA

Plans: Siegfried Engineering, Rev. 03/17/2025

Dear Mr. Brouwer:

Kerex Engineering, Inc. is pleased to submit this proposal to complete the Crown Beach Restroom #3 project for the East Bay Regional Park District. Our proposal is based on the revised drawings prepared by Siegfried Engineering dated March 17, 2025, our site visit, and confirmation from EBRPD that all in-place work has been inspected and accepted, and that the CXT Denali prefabricated restroom (Mark KFY PAN, Building No. 3M-393) has been delivered and is currently held at the EBRPD storage yard.

SCOPE OF WORK

Kerex will furnish all labor, materials, equipment, and supervision to complete the following scope, in accordance with the contract documents:

- Mobilization, project signage, site fencing, and erosion control / SWPPP compliance.
- Concrete flatwork including pavement (6" thick, 3,000 PSI, integral color Davis Omaha Tan #5084 or approved equal, #4 @ 18" O.C., over 4" Class 2 AB), accessible ramp per CBC 11B-405, site stairs, ADA approach landings, bench footing, bike rack footings, and drinking fountain pad.
- Completion of remaining 30" max concrete retaining wall drainage work, backfill, drain rock with Mirafi 140N envelope, and 4" perforated drain pipe.
- Sand drift wall construction: pressure-treated 2x lumber installation between existing corten steel posts per EBRPD Standard Plan 806, including hot-dip galvanized fasteners and stain finish.
- Furnish and install stainless steel handrails and guardrails (ramp, stairs, landings, ramp curb) per project details.
- Furnish and install six (6) Dero Hoop heavy-duty stainless steel in-ground bike racks with high-polished finish.
- Wood bench installation per EBRPD Standard Plan 503: Kerex to install District-supplied steel braces, armrests, and lumber, plus furnish and install concrete bench footing with expansion joint separation.

- Set CXT Denali prefabricated restroom (owner-furnished, transported from EBRPD storage yard), including crane operation, anchor connections, base perimeter sealant, and tie-in to existing water, sanitary sewer, and electrical stub-ups.
- Install ADA-compliant accessible drinking fountain with connection to sanitary sewer and water service.
- Final grading, site cleanup, demobilization of prior contractor materials, and project punch list.

PROPOSED LUMP SUM PRICE

Total Lump Sum Price

\$288,888.00

Two hundred eighty-eight thousand, eight hundred eighty-eight dollars and 00/100

INCLUSIONS

- All labor at California prevailing wage rates (DIR Determinations 2025-2 for Alameda County).
- All required project supervision, project management, and field administration.
- Payment and performance bonds at 100% of contract value.
- Standard general liability and workers' compensation insurance with EBRPD named as additional insured.
- Compliance with project SWPPP requirements and standard erosion control measures.
- Coordination with EBRPD for retrieval of CXT Denali restroom from District storage yard.
- Coordination with EBRPD for District-supplied bench braces, armrests, and lumber per Standard Plan 503.
- Final cleanup and demobilization of all Kerex equipment and prior-contractor debris on site.

EXCLUSIONS

- Building permit fees and plan check fees (assumed pulled or paid by EBRPD).
- Special inspection and material testing fees (assumed owner-paid per industry standard).
- Hazardous material handling, abatement, or disposal of any kind.
- Repair or replacement of any pre-existing in-place work that EBRPD has confirmed accepted.
- Damage to the CXT building unit occurring prior to delivery to the project site.
- Costs associated with delays caused by EBRPD or its consultants beyond Kerex's control.
- Liquidated damages assessed for delays beyond Kerex's control.
- Builder's risk insurance (assumed owner-provided).

PROJECT SCHEDULE

Kerex anticipates a project duration of approximately 45 working days (9 weeks) from Notice to Proceed, subject to material lead times, weather, and District coordination on CXT delivery from storage. A detailed CPM schedule will be provided at the pre-construction meeting.

TERMS & CONDITIONS

- Proposal valid for ninety (90) days from the date above.
- Pricing based on continuous, uninterrupted work execution.

- Progress payments billed monthly per AIA G702/G703 format with 5% retention until project acceptance.
- Bonding by POMS and Associates; capacity confirmed for this project value.
- All work to be performed in accordance with California Building Code (2022 CBC) and EBRPD Standard Plans referenced in the contract documents.

We appreciate the opportunity to submit this proposal and would welcome the opportunity to discuss it with you, EBRPD, or other project stakeholders at your convenience. Should you require additional information, clarification of any line item, or a site walk-through, please do not hesitate to contact me directly.

Sincerely,

Patrick Madden

Principal / Estimator

Kerex Engineering, Inc.

(347) 613-5788 | patrick@kerexengineering.com

KEREX ENGINEERING, INC.

Class A General Engineering Contractor

CSLB License No. 1002913

4941 Pacheco Blvd

Martinez, CA 94553

(347) 613-5788

patrick@kerexengineering.com

May 20, 2026

Andrew Brouwer, CCCA, PMP

Nicholson Professional Consulting, Inc.

901 S Mopac Expressway, Building 1, Ste 300

Austin, TX 78746

andrew.brouwer@npcius.com

RE: Crown Beach Restroom #3 — Revised Project Completion Proposal

East Bay Regional Park District (EBRPD)

Grand Street & Shoreline Drive, Alameda, CA

Plans: Siegfried Engineering, Rev. 03/17/2025 (with RFI revisions through 10/30/2025)

Dear Mr. Brouwer:

Thank you for the opportunity to refine our proposal for the Crown Beach Restroom #3 completion project. Following our review of the project RFI log (RFIs 003 through 015) and rebar shop drawing submittals (032000-2.1 and 032000-2.2), we have updated our scope and pricing to reflect the design changes that occurred during the prior construction phase.

This proposal supersedes our initial submittal and is based on the Siegfried Engineering drawings dated March 17, 2025 with all RFI responses through October 30, 2025 incorporated by reference. We acknowledge the East Bay Regional Park District's confirmation that the CXT Denali prefabricated restroom (Mark KFY PAN, Building No. 3M-393) is on hand at the District storage yard and that any latent defects in previously installed work will be addressed via change order during construction.

SCOPE OF WORK

Kerex will furnish all labor, materials, equipment, and supervision to complete the following scope, in accordance with the contract documents and RFI responses:

- Mobilization, project signage, site fencing, and erosion control / SWPPP compliance per sheet C5.0.
- Concrete flatwork including pavement (6" thick, 3,000 PSI, integral color Davis Omaha Tan #5084 or approved equal, #4 @ 18" O.C., over 4" Class 2 AB), accessible ramp per CBC 11B-405, site stairs, ADA approach landings, bench footing, bike rack footings, and drinking fountain pad.
- Completion of remaining 30" max concrete retaining wall sections including form strip, backfill, and drain rock with Mirafi 140N envelope.
- Storm drainage system per RFI 011, including one (1) drywell, four (4) cleanouts to grade, perforated 4" drainage piping with required sleeves through footings and walls, and tie-in to the foundation drainage envelope.

- Sand drift wall completion per RFI 012, including pressure-treated 2x lumber installation between existing corten steel posts (~50% remaining), hot-dip galvanized fasteners, and stain finish to match installed sections.
- Backfill import allowance per the open question in RFI 014 (native sand confirmed insufficient on site). Pricing carries an allowance to be reconciled against the District's resolution of structural fill vs. beach sand sourcing.
- Furnish and install stainless steel handrails and guardrails (ramp, stairs, landings, ramp curb) per project details.
- Furnish and install six (6) Dero Hoop heavy-duty stainless steel in-ground bike racks with high-polished finish.
- Wood bench installation per EBRPD Standard Plan 503: Kerex to install District-supplied steel braces, armrests, and lumber, plus furnish and install concrete bench footing with expansion joint separation.
- Set CXT Denali prefabricated restroom (owner-furnished) at the project site, including crane operation for lift and placement, anchor connections, base perimeter sealant, and tie-in to existing water, sanitary sewer, and electrical stub-ups. Base bid assumes EBRPD delivers the CXT unit to the project site; pickup and haul from the District storage yard is offered as Add Alternate No. 1 below.
- Install ADA-compliant accessible drinking fountain with connection to sanitary sewer and water service.
- Final grading, site cleanup, demobilization of prior contractor materials, and project punch list.

PROPOSED LUMP SUM PRICE

Total Lump Sum Price	\$339,888.00
-----------------------------	---------------------

Three hundred thirty-nine thousand, eight hundred eighty-eight dollars and 00/100

ADD ALTERNATE NO. 1 — CXT BUILDING HAUL FROM STORAGE

If selected by EBRPD, Kerex will pick up the CXT Denali prefabricated restroom from the District storage yard and transport it to the project site, including lowboy trucking, oversize-load permitting if required, loading coordination at the storage yard, and delivery scheduling with the on-site crane.

Add Alternate No. 1 — CXT Haul from Storage	+ \$7,500.00
--	---------------------

Acceptance of Add Alternate No. 1 brings the combined contract value to \$347,388.00. This alternate may be accepted or declined at EBRPD's sole discretion.

INCLUSIONS

- All labor at California prevailing wage rates (DIR Determinations 2025-2 for Alameda County).
- All required project supervision, project management, and field administration.
- City of Alameda building permit fees, plan check fees, and utility connection permits.
- Payment and performance bonds at 100% of contract value.
- Standard general liability and workers' compensation insurance with EBRPD named as additional insured.

- Compliance with project SWPPP requirements and standard erosion control measures.
- Coordination with EBRPD for retrieval of CXT Denali restroom from District storage yard.
- Coordination with EBRPD for District-supplied bench braces, armrests, and lumber per Standard Plan 503.
- Final cleanup and demobilization of all Kerex equipment and prior-contractor debris on site.

EXCLUSIONS

- Special inspection and material testing fees (assumed owner-paid per industry standard).
- Hazardous material handling, abatement, or disposal of any kind.
- Repair or replacement of latent defects in previously installed work; to be addressed via change order per District direction.
- Damage to the CXT building unit occurring prior to delivery to the project site.
- Costs associated with delays caused by EBRPD or its consultants beyond Kerex's control.
- Liquidated damages assessed for delays beyond Kerex's control.
- Builder's risk insurance (assumed owner-provided).
- Pickup and haul of the CXT Denali unit from EBRPD storage yard to project site (offered as Add Alternate No. 1 above; base bid assumes District delivery).
- Resolution of RFI 014 backfill sourcing carries an allowance only; pricing to be reconciled if District direction requires materially different scope.

PROJECT SCHEDULE

Kerex anticipates a project duration of approximately 50 working days (10 weeks) from Notice to Proceed, subject to material lead times, weather, RFI 014 resolution, and District coordination on CXT delivery from storage. A detailed CPM schedule will be provided at the pre-construction meeting.

TERMS & CONDITIONS

- Proposal valid for ninety (90) days from the date above.
- Pricing based on continuous, uninterrupted work execution.
- Progress payments billed monthly per AIA G702/G703 format with 5% retention until project acceptance.
- Bonding by POMS and Associates; capacity confirmed for this project value.
- All work to be performed in accordance with California Building Code (2022 CBC) and EBRPD Standard Plans referenced in the contract documents.
- Latent defects discovered in previously installed work will be documented and addressed via change order at Kerex's direct cost plus standard overhead and profit markup.

We appreciate the opportunity to submit this revised proposal and your candid feedback during our recent discussion. Should you require additional information, clarification of any line item, or wish to coordinate a site walk-through, please do not hesitate to contact me directly.

Sincerely,

Patrick Madden

Principal / Estimator

Kerex Engineering, Inc.

(347) 613-5788 | patrick@kerexengineering.com



OFFICE OF THE GENERAL COUNSEL • 2950 PERALTA OAKS COURT • OAKLAND, CA 94605 • T: 510-544-2005 • F: 510-569-1417 • EBPARKS.ORG

Lynne Bourgault
General Counsel

Elizabeth Mackenzie
Asst. General Counsel

Jason Rosenberg
Asst. General Counsel

Allison M. Dibley
Asst. General Counsel

May 28, 2026

SENT VIA CERTIFIED U.S. MAIL & E-MAIL (plaverty@tmhcc.com)

Patrick F. Laverty
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017

**Re: Crown Beach Grant Street Restroom Project
East Bay Regional Park District
Contract No. 066M-22-409
ACIC Bond No. 1001188124**

Dear Mr. Laverty:

We have reviewed your letter and the proposed tender agreement you sent on May 20, 2026.

The District will not agree to a tender agreement for the reasons outlined below. Therefore, the District demands that ACIC notify the District in writing **by 5:00 p.m. on Monday, June 1, 2026**, of ACIC's choice from the following options:

- Accept the District's December 22, 2025, tender of completion of the entire VNH contract (including all executed change orders) based on ACIC performance bond no. 1001188124 (the "Bond"), and take over completion of said contract at ACIC's expense (including payment of all damages and costs) in exchange for payment of the unpaid contract balance.
- Accept the District's December 22, 2025, tender of completion of the entire VNH contract (including all executed change orders) based on the Bond, and pay the Bond's penal sum of \$268,000 to the District so that the District may hire a contractor to complete the work.

ACIC has had more than five months to decide whether to accept the District's tender or not, yet ACIC has continually vacillated and failed to decide whether to honor the Bond. First ACIC spent many weeks investigating this very simple contract, then ACIC tried in vain to argue that the remaining work was not covered by the Bond, and then ACIC tried to convince the District to waive its rights by accepting a tender agreement. ACIC's delays in accepting or rejecting the

District's tender are clearly unreasonable and in breach of its obligations under the Bond and the law.

As a result, if ACIC does not respond **by 5:00 p.m. on Monday, June 1, 2026**, with a clear selection of one of the options above, the District will declare ACIC in default on its Bond obligations, expeditiously complete the project, and sue ACIC for the District's excess costs, damages (including liquidated damages and CXT costs), and attorneys' fees (see General Conditions §61).

There are many reasons supporting the District's rejection of ACIC's proposed tender agreement:

- Under the tender agreement, ACIC would no longer be managing, or be responsible for, the completion of the project, and the District would become responsible for completion of the work. Such an arrangement would defeat the purpose of the Bond, which was that ACIC would complete the project in the event that VNH were to default on its contract.
- ACIC has no right under the law or the Bond to force District to accept a tender agreement. ACIC must either (A) take over and complete the contract, or (B) pay the penal sum. (*Leatherby Insurance Co. v. City of Tustin* (1977) 76 Cal.App.3d 678, 686.) A surety may only force an owner to accept a tender agreement if the performance bond allows that option. (5 Bruner & O'Connor Construction Law §12.81, fn. 1 ["If the performance bond language is construed not to grant the surety the option to tender a completing contractor, the surety may be required to take over and complete the contract itself"]; and "The Nuts and Bolts of a Surety Takeover," by Joshua M. Pantesco, Managing Director & Counsel, Travelers, p. 4 ["[W]ithout an express provision that tender is an acceptable form of completion, the owner is not required to accept the tender of a new contractor as satisfaction of the surety's performance obligation"].) Here, the Bond does not give ACIC the right to tender a completion agreement, and ACIC has never cited any law that ACIC has the right to do so under the Bond.
- The tender agreement is conditioned on ACIC working out a settlement with CXT, which apparently is not close to happening. CXT has advised the District that it is not compromising.
- The tender agreement does not require the proposed contractor to complete all work required by the VNH contract (as amended by change orders), as the Bond requires ACIC to do.
- The District has been excluded from the negotiations and bidding process for the tender agreement.
- The tender agreement would waive the District's rights against ACIC regarding, among other things, completion of the work and latent deficiencies.
- The tender agreement does not compensate District for liquidated damages or other damages that have accrued, and will continue to accrue, through completion of the work.
- The tender agreement incorrectly states the penal sum as \$262,000. It is \$268,000 (see the attached copy of the Bond).
- ACIC is incorrect when it asserts that the tender agreement would be save time due to the lack of competitive bidding, thus mitigating the District's damages. In fact, the opposite is true. If the District were to declare ACIC in default and complete the work on its own,

competitive bidding would not be required since the District has the right to collect any excess costs and damages from ACIC. (*Shore v. Central Contra Costa Sanitary District* (1962) 208 Cal.App.2d 465, 470; *Garvey School District v. Paul* (1920) 50 Cal.App. 75.) In contrast, if the District signs the tender agreement, then competitive bidding would be required for the completion contract since the District would have waived any right to collect excess costs and damages from ACIC.

- Even if the tender agreement were more “efficient,” the District only has a duty to mitigate its own damages once it undertakes completion of the work. The District does not have an obligation to mitigate ACIC’s damages (in this case, by entering the tender agreement proposed by ACIC).
- ACIC’s argument that the Bond does not cover the remaining work on the VNH contract has absolutely no merit, as explained in previous correspondence. There is no need to repeat the District’s arguments here.
- Whether or not ACIC grants CXT’s claim on the payment bond is not the District’s concern. The District is not a party or beneficiary to that bond. If ACIC rejects the District’s tender of completion and the District makes a payment to CXT as part of its completion of the work, the District will recover those funds from ACIC in litigation to the extent that the District’s total of costs and damages exceeds the unpaid contract balance.

Please let me know if you have any questions. Otherwise, the District looks forward to receiving ACIC’s decision by Monday.

Sincerely,

/s/ Elizabeth Mackenzie
Assistant General Counsel

cc: Drew Brouwer (e-mail only)
Natasha Buchanan, Lanak Hanna (e-mail only)
SuretyClaims (e-mail only)
Lynne Bourgalt, EBRPD (e-mail only)
Arne Sandberg, Lozano Smith (e-mail only)

FINAL CONTRACT AMOUNTS THAT EXCEED THE ORIGINAL CONTRACT AMOUNT WILL BE CHARGED ADDITIONAL PREMIUM AND FEE. INCLUDE THESE CHARGES IN YOUR CHANGE ORDERS

Bond #: 1001188124

PERFORMANCE BOND
EAST BAY REGIONAL PARK DISTRICT

KNOW ALL PERSONS BY THESE PRESENTS:

That VNH Builders as Principal, hereinafter called Contractor, and American Contractors Indemnity Company as Surety of Sureties, hereinafter called Surety, are held firmly bound unto the East Bay Regional Park District, as Obligee, herein after called District, in the sum of Two Hundred Sixty Eight Thousand and 00/100 Dollars (\$ 268,000.00), for which payment Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, a certain written Agreement, dated September 8th, 2022, was made and executed by and between the District, as Owner, and the Contractor, which agreement is hereinafter called the Contract and is by reference made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor shall well and faithfully keep and perform *all* the covenants and agreements of Contract, and all alterations, modifications and extensions thereof, by the Contractor to be kept and performed, and shall fully complete all of the work described in the Contract, and all alterations, modifications and extensions thereof, and shall save and hold harmless the District from any and all loss of damage arising out of the failure of the Contractor and/or any and all subcontractors, to fulfill the Contract, and all alterations, modifications and extensions thereof, and shall fully reimburse and pay to the District all outlay and costs which the District may incur in making good any default of the Contractor and/or subcontractors, and in replacing and/or making good any defective material or faulty material or workmanship in the work of the Contractor and/or any and all subcontractors, which may be discovered within one (1) year subsequent to the completion and acceptance of the work provided for in the Contract, then the above obligation shall be void; otherwise, it shall be and remain in full force and effect.

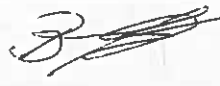
It is expressly covenanted and agreed by and between the Contractor and the Surety that the liability of the Contractor and the Surety shall at all times, and under all circumstances, be co-extensive, and that the Surety shall not be discharged, released or exonerated from liability under this bond, in whole or in part, by an alteration and/or modification of the Contract, whether notice thereof is given the Surety or not, and that the Surety shall be bound thereby, and also bound by any departure or deviation on the part of the District from the terms of the Contract.

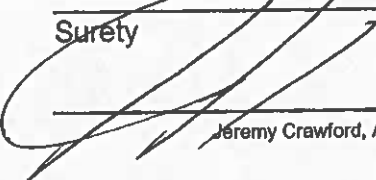
It is further expressly covenanted and agreed that in the event that more than one Surety is obligated hereunder, then, in that event, the co-Sureties, bind themselves in the above stated sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of them, and for all other purposes each Surety binds itself, jointly and severally with the Contractors for the payment of such above stated sum only to the extent of the amount set forth opposite the Surety's name in Appendix A to this bond, which Appendix A is attached hereto and by this reference made a part hereof.

No change or alteration or modification of the Contract or of the work required thereunder shall release or exonerate any Surety or Sureties on the bond.

This bond shall remain in full force and effect notwithstanding that the Contract or any applicable law or statute of the State of California shall be held to be invalid.

IN WITNESS WHEREOF, the Contractor and the Surety or Sureties have hereunto signed their names this 5th day of October, 2022.

VNH Builders
Contractor 
Signature Bruno Vieira or Ernest Herrera, Partner

American Contractors Indemnity Company
Surety 
Jeremy Crawford, Attorney-In-Fact



TOKIO MARINE
HCC

POWER OF ATTORNEY
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Jeremy Crawford, Michael D. Williams, William J. Nemec, Tanya Fukushima, William Gerber, Bradford J. Quiri, Amanda M. Quigley, or Andrea Haight of Golden Valley, Minnesota

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed ***** Five Million and 00/100 ***** Dollars (**\$5,000,000.00**). This Power of Attorney shall expire without further action on January 31st, 2024. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents cancelling or terminating the Company's liability thereunder, and any such Instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 23rd day of September, 2021.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

State of California
County of Los Angeles



By:
Daniel P. Aguilar, Vice President

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

On this 23rd day of September, 2021, before me, D. Littlefield, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature (seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this _____ 5th day of October 2022

Corporate Seals
Bond No. 1001188124
Agency No. 19903 - PDF POA



Kio Lo, Assistant Secretary

ACKNOWLEDGMENT

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

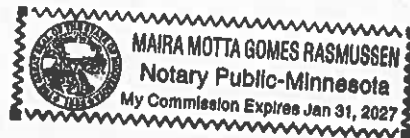
State of Minnesota
County of Hennepin

On 10/5/2022 before me, Maira Motta Gomes Rasmussen, Notary Public
(insert name and title of the officer)

personally appeared Jeremy Crawford, Attorney-In-Fact
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Signature  (Seal)

9842 5286 0000 0262 6102



CERTIFIED MAIL®

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS - FOLD AT DOTTED LINE

Patrick F. Lavery
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017

East Bay
Regional Park District

1818-05-09946 VINIINI 64
2950 PERALTA OAK COURT P.O. BOX 538
OAKLAND CALIFORNIA 94612

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Patrick F. Lavery
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017



9590 9402 9535 5121 6566 71

2. Article Number (Transfer from service label)

7019 2970 0000 9875 2486

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

- Agent
- Addressee

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

- Yes
- No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

June 4, 2026

SENT VIA CERTIFIED U.S. MAIL & E-MAIL (plaverty@tmhcc.com)

Patrick F. Laverty
Vice President, Bond Claims
American Contractors Indemnity Company
Tokio Marine HCC – Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017

**Re: Crown Beach Grant Street Restroom Project
East Bay Regional Park District
Contract No. 066M-22-409
ACIC Bond No. 1001188124**

Dear Mr. Laverty:

In response to my letter of May 28, 2026, ACIC’s outside counsel (Natasha Buchanan, of Lanak Hanna) called our outside counsel (Arne Sandberg, of Lozano Smith) and sent an e-mail to him on June 1. As an alternative to the tender agreement, Ms. Buchanan offered a letter agreement or payment of the penal sum of the above-captioned performance bond (“Bond”).

The comments made by Ms. Buchanan in her June 1 e-mail do not support ACIC’s position:

- While the Bond does not specifically state the method for ACIC to complete the project, the law does. The Bond “guaranteed performance of the contract according to its terms,” and therefore ACIC must either pay the penal sum of the Bond, or take over and complete the work. (*Leatherby Insurance Co. v. City of Tustin* (1977) 76 Cal.App.3d 678, 686.) ACIC has cited no law or Bond language to the contrary.
- ACIC does not have the right under the law or the Bond to force the District to accept a different remedy, especially if it does not assure “performance of the contract according to its terms.” The tender agreement and letter agreement proposed by ACIC only offered to pay a small fraction of the District’s damages and costs. (The District’s November 21, 2025, notice of intent to terminate clearly stated that the District was withholding for liquidated damages that have been accruing since August 15, 2025; and Mr. Sandberg’s June 1, 2026, e-mail stated the current amount of accrued liquidated damages.) The conditional penal sum payment required the District to assume responsibility for CXT’s payment bond claim against ACIC.

- Ms. Buchanan admits that ACIC has not reached tentative agreement with CXT on its payment bond claim, thus confirming the District's understanding of the situation.
- The District has been excluded from ACIC's bidding and negotiating regarding the completion work. ACIC submitted a tender agreement and proposal in which the District had no involvement, and therefore the District has no confidence in its accuracy.
- The Kerex proposal does not promise to complete the scope of the VNH contract.
- The proposed tender agreement did not specifically exclude latent deficiencies from the mutual waiver between ACIC and the District.
- If the District were to sign the tender agreement, it would no longer have any rights against ACIC for the cost of completing the work. As a result, the exception to competitive bidding under the *Shore* and *Garvey* cases would no longer apply. District reliance on ACIC's third-party bidding process would not be a valid exception to the statutory competitive bidding requirement. ACIC has provided no law to support this alleged bidding exception.

On June 1, Mr. Sandberg indicated that the District would accept a penal sum payment of \$268,000.

On June 2, Ms. Buchanan asked in a June 2 e-mail for clarification whether the District would agree to fully satisfy CXT's claim on the payment bond in exchange for the penal sum payment.

On June 3, Mr. Sandberg responded that while the District may make a payment to CXT for release of the building during its completion of the contract, the District would not agree to assume responsibility to resolve, or obtain a waiver of, CXT's claim against ACIC's payment bond. Therefore, Mr. Sandberg asked for ACIC to provide notice by the end of that day whether ACIC would (A) make the \$268,000 penal sum payment without requiring the District to resolve, or obtain a waiver of, CXT's payment bond claim; or (B) take over and complete the contract at its expense.

As of this writing, neither Mr. Sandberg nor I have received any response from Ms. Buchanan or you.

As a result of ACIC's failure to respond, and based on the facts outlined in this letter and previous correspondence, ***the District declares ACIC to be in default*** on its obligations under the Bond. The Bond "guaranteed performance of the contract according to its terms," which includes completion of the work and payment of all damages owed to the District. However, ACIC has continually refused to agree to do so for more than five months. Instead, ACIC has made various offers that do not come close to meeting ACIC's obligations under the Bond and applicable law. They either failed to pay all damages owed to the District, or they required the District to assume responsibility for ACIC's liabilities to other parties.

June 4, 2026
Patrick F. Lavery
Page | 3

Accordingly, the District will proceed to complete the underlying construction contract, and will seek recovery from ACIC of all amounts to which the District is entitled under law and the Bond, including but not limited to liquidated damages, other damages, excess completion costs, and attorneys' fees.

Please let me know if you have any questions.

Sincerely,

/s/ Elizabeth Mackenzie
Assistant General Counsel

cc: Drew Brouwer (e-mail only)
Natasha Buchanan, Lanak Hanna (e-mail only)
SuretyClaims (e-mail only)
Lynne Bourgalt, EBRPD (e-mail only)
Arne Sandberg, Lozano Smith (e-mail only)



42005

2950 PERALTA OAKS COURT P.O. BOX 5381
OAKLAND CALIFORNIA 94605-0381



9589 0710 5270 2565 2865 99

Patrick F. Lavery
American Contractors Indemnity Company
Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Patrick F. Lavery
American Contractors Indemnity Company
Tokio Marine HCC - Surety Group
801 South Figueroa Street, Suite 700
Los Angeles, CA 90017

2. Article Number (Transfer from carrier label)
9590 9402 9535 5121 6569 16
9589 0710 5270 2565 2865 99 (over \$500)
PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery Restricted Delivery
 Collect on Delivery Restricted Delivery

Domestic Return Receipt