

**SAN DIEGO UNIFIED PORT DISTRICT
PURCHASE AGREEMENT
FOR
CRUISE SHIP TERMINAL (CST) ADD SOUTH BERTH
SHORE POWER CONNECTION POINTS**

**Purchase Order No. 4500024603
Purchase Agreement No. 124-2023SN**

The parties to this Agreement are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation (District) and WATTS MARINE, LLC (Vendor) a Washington Limited Liability Company.

The parties agree:

1. **PURCHASE & SPECIFICATIONS PACKAGE:**

(a) Specifications, Itemization and Cost Breakdown of Equipment and Materials “goods” are attached as Exhibit A and said vendor understands the meaning, intent and requirements contained therein. Related services are outlined in a separate Service Agreement No. 123-2023SN.

(b) Vendor agrees to furnish the materials to the District by the delivery date specified in strict conformity with the specifications therefore, for the prices quoted and in accordance with conditions herein.

2. **RECEIPT OF GOODS:**

The goods will be deemed received by District when delivered to District at the B Street Cruise Ship Terminal, 1140 North Harbor Drive, San Diego, CA 92101 which shall hereinafter be referred to as the “Place of Delivery.”

3. **RIGHT OF INSPECTION:**

District will have the right to inspect and accept or reject the goods when received at the Place of Delivery, and the right, within ten (10) business days after receipt, to give notice to Vendor of any claim for damages on account of the condition, quality, or grade of the goods. The District retains the right to inspect and accept or reject any goods to be delivered to a bailee, as if such were delivered to the District itself, and in such instance, Vendor will tender to District a valid and adequate negotiable document of title covering the goods or written acknowledgement from the bailee of the District’s right to possession of the goods. Any attempt by District to correct any of the goods delivered in a defective or non-working condition will not constitute an acceptance of such goods where such efforts are commercially reasonable in extent and cost, and District may subsequently revoke its acceptance and reject the goods where the attempt to correct such defect has proved unsuccessful.

4. **REJECTED GOODS:**

If any equipment delivered pursuant to this purchase agreement is found to be defective, damaged, or otherwise fails to meet the specifications outlined in Exhibit A, the District reserves the right to reject such goods. The rejection shall be communicated to the Vendor in writing, specifying the reasons for rejection.

The District acknowledges that the equipment being purchased is of a specialized and unique nature and that the Vendor is the sole source for such equipment. Notwithstanding the rejection provisions outlined herein, the District and Vendor shall work in good faith to resolve any issues and ensure the timely delivery of conforming equipment.

If, upon inspection and testing by the District, any goods are found to be defective, non-compliant with specifications, or otherwise unacceptable, the District shall promptly notify the Vendor in writing, specifying the reasons for rejection. Vendor shall, at its own expense, promptly replace or correct the rejected goods to the satisfaction of the District. Any additional costs due to the rejection of goods, including but not limited to shipping and handling, shall be at no additional cost to the District.

5. **RISK OF LOSS:**

The risk of loss from any casualty to the goods, regardless of the cause, will be on Vendor up to the time of receipt of the goods by District at the Place of Delivery, but only after any proper inspection has been completed without rejection of the goods. Thereafter, such risk will be on District, including any goods thereafter returned to Vendor until their receipt by Vendor.

6. **TRADE NAMES:**

Certain materials may be designated in the specifications by a trade name or the name of a manufacturer. Materials which are "an equal" item of equal quality and the required characteristics for the purpose intended will be permitted.

7. **DELIVERY:**

(a) Delivery shall be made within the time set forth on the Purchase Order. Time is of the essence as to delivery. The Vendor shall promptly notify the District of any anticipated delays and provide a revised delivery schedule.

(b) Vendor shall not be held liable for failure to make delivery because of strikes, conscription of property, governmental regulations, acts of God or any other causes beyond control of vendor, provided a written extension of time to make delivery is obtained from the Executive Director of District or authorized designee.

8. **FIRM PRICES:**

Prices shall be firm prices not subject to escalation.

9. **ROYALTIES AND PATENTS:**

The successful vendor shall pay all royalties and patent fees. Said Vendor shall defend all suits and claims for infringements of any patent rights and shall save District harmless from loss on account thereof, including reasonable attorney's fees.

10. **TAXES:**

District shall furnish Exemption Certificates for Federal Excise Tax. District shall pay the State, City and County Sales Taxes. However, sales tax is to be added by the Vendor to the net amount invoiced.

11. **ASSIGNMENT:**

No assignment by either party of any rights, including rights to moneys due or to become due under this Agreement, or delegation of any duties under this Agreement or under any

orders subject to this Agreement, will be binding upon the other party until its written consent has been obtained.

12. **CALIFORNIA LAW:**

The validity, construction, and interpretation of this Agreement shall be governed by the laws of the State of California.

13. **PAYMENT:**

(a) Payment for materials is contingent upon acceptance by the District following delivery and inspection. The schedule of payments for major equipment is as follows:

Schedule of Payments for major equipment:

Release Purchase Order to Vendor.....	10%
Approval of design and submittal.....	15%
Release for Manufacturing.....	25%
Completion of Factory testing and shipment.....	40%
District inspection and acceptance.....	10%

(b) Invoices shall be emailed to the attention of: eng_invoices@portofsandiego.org. Payment will be made to Vendor within thirty (30) days after receipt by District of a proper invoice in accordance with Schedule of Payments.

14. **ANTITRUST CLAIMS:**

These provisions are included in this Agreement as required by California Government Code Section 4550 et seq: In submitting a bid to the District, the Vendor offers and agrees that if the bid is accepted, it will assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchase of goods, materials or services by the Vendor for sale to the District pursuant to the bid. Such assignment shall be made and become effective at the time the District tenders final payment to the vendor, without further acknowledgment by the parties.

15. **VENDOR'S WARRANTIES:**

In addition to any manufacturer's 1-year warranties associated or provided with the goods, copies of which shall be delivered by Vendor with the goods and their incorporation herein shall be deemed made by this reference, without attachment, as though fully set forth herein, Vendor expressly warrants that the goods are fit for the purpose to which District desires the goods to be used (new and unused goods).

Furthermore, the parties intend that the provisions of Division 2 of the California Uniform Commercial Code ("CUCC") will apply to this Section, except where this Contract may expressly provide otherwise, and thereby Vendor intends all implied warranties there under, without limitation by reference herein, to apply to this Contract, including, but not limited to: (i) a warranty that the goods are now free, and at the time of delivery will be free, from any security interest or other lien or encumbrance, (ii) a warranty that at the time of signing the Contract, Vendor neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of Vendor in the goods, (iii) a warranty that the goods are of merchantable quality, and (iv) a warranty that the goods are fit for the purpose to which Buyer desires the goods to be used.

16. INDEMNIFICATION:

Vendor agrees to indemnify, defend and hold harmless District, its officers, agents, and employees, from and against any and all claims, liabilities, damages, demands, losses, costs, and expenses including reasonable attorney's fees arising directly or indirectly out of the obligations of this Agreement, except claims arising through the sole negligence or willful misconduct of the District.

17. COMPLIANCE WITH LAWS:

The Parties will comply with all applicable governmental laws, regulations, orders, and other rules of duly constituted authorities.

18. TERMINATION:

The District also reserves the right, at any time prior to delivery and acceptance of the goods and after delivery of written notice to Vendor at the above address to terminate this Agreement, with or without cause, even though there has not been any act or omission sufficient to constitute an anticipated or actual breach of the Agreement or of any implied warranty. Termination of this Agreement in accordance with the section will serve to release both Parties from any further obligations hereunder, including but not limited to delivery of and payment for the goods.

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19. NOTICES:

All notices and other communications required or authorized under this Agreement will be given in writing by: (i) personal delivery, (ii) registered mail or overnight express delivery service or (iii) email. Each party will advise the other promptly of any change in its address. It is an express condition of this Agreement that this contract shall not be complete or effective until signed by the Executive Director or designee on behalf of the District.

VENDOR:

WATTS MARINE, LLC
Vendor's Legal Entity Listing (DBA, etc)

Brenda Watts 11/21/2023
Vendor's Signature Date

Brenda Watts
Signatory's Printed Name

SAN DIEGO UNIFIED PORT DISTRICT:

Ernesto Medina, Chief Engineer, Engineering-Construction
Printed Name Title

Signature Date

APPROVED AS TO FORM AND LEGALITY:

General Counsel

By: Assistant/Deputy Date

**EXHIBIT A
 SPECIFICATIONS, ITEMIZATION AND COST BREAKDOWN
 OF EQUIPMENT AND MATERIALS
 San Diego Unified Port District
 Purchase Agreement No. 124-2023SN**

ITEM	QTY.	DESCRIPTION	UNIT PRICE	UNIT	EXTENDED PRICE
1	1	<p>The Engineering – Construction Department of the San Diego Unified Port District has a requirement for an additional shore power receptacle (new and unused) as specified below:</p> <p>Ground Switch shall include the following:</p> <ul style="list-style-type: none"> • Design and procure custom enclosure built with designed key safety switches for integration in the existing safety scheme of the shore power system. • Relays and protection metering that meet IEC 80005 requirements as well as heating and filtering equipment to help offset adverse weather conditions present on the Pier. 	\$291,130.84	LS	\$291,130.84
2	1	<p>Cable Management System (sawtooth) shall include the following:</p> <ul style="list-style-type: none"> • Procure and deliver custom enclosure that houses IEC compliant power and control receptacles. It is designed for installation compatible with the existing pier structure and shore power conduit and cabling system. 	\$78,707.20	LS	\$78,707.20
3	1	<p>Saw Tooth Equipment shall include the following:</p> <ul style="list-style-type: none"> • Procure and deliver ancillary sawtooth equipment to be housed within custom enclosure. IEC compliant. 	\$33,652.19	LS	\$33,652.19
4	1	<p>Automation components/equipment shall include the following:</p> <ul style="list-style-type: none"> • Automation equipment with proprietary design for operation and coordination with existing shore power automation scheme, and integrated controls for compliance with the cruise ships and IEC regulations 	\$31,460.00	LS	\$31,460.00
5	lot	<p>Inclusions</p> <ul style="list-style-type: none"> • Interconnections to existing shore power line up as required 			Incl,

	<ul style="list-style-type: none"> • Complete automation system integrated with existing shore power line-up • Equipment submittals • Equipment delivery to site • All switchgear equipment will be rated for outdoor installation (NEMA 3R) • Proprietary automated system and programming • O&M documents • Shore Power Construction management consulting • System commissioning with Watts Marine 15 KV test cart • 1-year parts and labor warranty 				<p>Incl,</p> <p>Incl,</p> <p>Incl,</p> <p>Incl,</p> <p>Incl,</p> <p>Incl,</p> <p>Incl,</p> <p>Incl,</p>
		FREIGHT	Included		\$0
		SUBTOTAL			\$434,950.23
		<p>TAX SHALL BE CALCULATED AT 7.75% TAX AND A TOTAL AMOUNT ARE REFLECTED ON THE PURCHASE ORDER</p>			

Document History

SignNow E-Signature Audit Log

All dates expressed in MM/DD/YYYY (US)

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Sender: snuman@portofsandiego.org
Signers: bwatts@watts-marine.com, snuman@portofsandiego.org, stangri@portofsandiego.org, emedina@portofsandiego.org
CC:

Client	Event	By	Server Time	Client Time	IP Address
SignNow SSO	Uploaded the Document	snuman@portofsandiego.org	11/21/2023 19:11:05 pm UTC	11/21/2023 19:11:04 pm UTC	207.215.153.162
SignNow SSO	Viewed the Document	snuman@portofsandiego.org	11/21/2023 19:11:14 pm UTC	11/21/2023 19:11:14 pm UTC	207.215.153.162
SignNow SSO	Document Saved	snuman@portofsandiego.org	11/21/2023 19:14:22 pm UTC	11/21/2023 19:14:22 pm UTC	207.215.153.162
SignNow SSO	Invite Sent to: bwatts@watts-marine.com	snuman@portofsandiego.org	11/21/2023 19:19:35 pm UTC	11/21/2023 19:19:35 pm UTC	207.215.153.162
SignNow SSO	Viewed the Document	bwatts@watts-marine.com	11/21/2023 19:24:19 pm UTC	11/21/2023 19:24:19 pm UTC	174.165.174.143
SignNow SSO	Electronic Consent to Sign Granted	bwatts@watts-marine.com	11/21/2023 19:24:21 pm UTC	11/21/2023 19:24:22 pm UTC	174.165.174.143
SignNow SSO	Added a Text	bwatts@watts-marine.com	11/21/2023 19:24:33 pm UTC	11/21/2023 19:24:33 pm UTC	174.165.174.143
SignNow SSO	Signed the Document	bwatts@watts-marine.com	11/21/2023 19:24:33 pm UTC	11/21/2023 19:24:33 pm UTC	174.165.174.143
SignNow SSO	Document Saved	bwatts@watts-marine.com	11/21/2023 19:24:33 pm UTC	11/21/2023 19:24:33 pm UTC	174.165.174.143
SignNow SSO	Invite Sent to: snuman@portofsandiego.org	snuman@portofsandiego.org	11/21/2023 19:24:34 pm UTC		174.165.174.143