

**AGENDA**  
**SPECIAL MEETING OF THE BOARD OF COMMISSIONERS**  
**HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

**DATE:** May 14, 2020

**TIME:** Executive Closed Session 5:00 P.M.  
Special Session 7:00 P.M.

**PLACE:** Join Zoom Meeting  
<https://us02web.zoom.us/j/87613792856>

Meeting ID: 876 1379 2856  
One tap mobile  
+16699009128,,87613792856# US

Zoom Meeting

- i. Zoom Public Comment: When the Board of Commissioners announce the agenda item that you wish to comment on, call the conference line and turn off your live stream. Please call (669) 900-9128, enter Meeting ID 876 1379 2856 and press star (\*) 9 on your phone, this will raise your hand. You'll continue to hear the Board Meeting on the call. When it is time for public comment on the item you wish to speak on, staff will unmute your phone. You'll hear a prompt that will indicate your phone is unmuted. Staff will then ask you to state your name and begin your comment. You will have 3 minutes to comment.

**1. Call to Order Closed Session at 5:00 P.M.**

**2. Public Comment**

*Note: This portion of the Agenda allows the public to speak to the Board on the various issues not itemized on this Agenda. A member of the public may also request that a matter appearing on the Consent Calendar be pulled and discussed separately. Pursuant to the Brown Act, the Board may not take action on any item that does not appear on the Agenda. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Agenda. Each speaker is limited to speak for a period of three (3) minutes during the PUBLIC COMMENT portion of the Agenda regarding items of special interest to the public not appearing on the Agenda that are within the subject matter jurisdiction of the Board of Commissioners. The three (3) minute time limit may not be transferred to other speakers. The three (3) minute time limit for each speaker may be extended by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District. The three (3) minute time limit for each speaker may be enforced by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District.*

**3. Move to Executive Closed Session**

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential acquisition and/or lease of real property on the Samoa Peninsula, Humboldt County, with Assessor's Parcel Numbers, 401-112-021 and 401-112-024 California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: California Marine Investments LLC (Nordic Aquafarms). Under negotiation: price and payment terms.
- b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor's Parcel Numbers 401-112-021, 401-111-006, 401-122-011, 401-122-012, 401-031-061, 401-031-070, 401-031-040, and 401-031-055 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Green Diamond Resource Company, Simpson Paper Company and DANCO. Under negotiation: price and payment terms.
- c) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential lease of real property on the Samoa Peninsula, Humboldt County, with Assessor's Parcel Numbers, 401-112-021 California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Trans Pacific Networks LLC and Inyo Networks Inc. Under negotiation: price and payment terms.

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- d) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential acquisition and/or lease of real property on the Samoa Peninsula, Humboldt County, with Assessor's Parcel Numbers, 401-121-012 and 401-121-010 California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: EWP Renewable Corp. Under negotiation: price and payment terms.
- e) PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code section 54957(b)(1). Title: Executive Director – Larry Oetker

### **4. Call to Order Special Session at 7:00 P.M. and Roll Call**

### **5. Report on Executive Closed Session**

### **6. Public Comment**

*Note: This portion of the Agenda allows the public to speak to the Board on the various issues not itemized on this Agenda. A member of the public may also request that a matter appearing on the Consent Calendar be pulled and discussed separately. Pursuant to the Brown Act, the Board may not take action on any item that does not appear on the Agenda. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Agenda. Each speaker is limited to speak for a period of three (3) minutes during the PUBLIC COMMENT portion of the Agenda regarding items of special interest to the public not appearing on the Agenda that are within the subject matter jurisdiction of the Board of Commissioners. The three (3) minute time limit may not be transferred to other speakers. The three (3) minute time limit for each speaker may be extended by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District. The three (3) minute time limit for each speaker may be enforced by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District.*

### **7. Business**

#### **a) Receive Report and Receive Direction from the Board Regarding Districts Response to COVID-19. (Roll Call Vote)**

**Recommendation:** Staff recommends the Board: Receive a report and provide direction as necessary.

**Summary:** On March 11, 2020 Humboldt County Health Officer Teresa Francovich, MD declared a local health emergency. The Maritime Commerce and Commercial Fisheries are essential services. Staff will provide an update on the Harbor District operation and the Board will discuss and take action on items necessary to keep operations functioning during this emergency.

#### **b) Review and Public Comment on Draft Relocation Plan associated with the Proposed California Marine Investments LLC (Nordic Aquafarms) Lease Agreement at Redwood Marine Terminal II**

**Recommendation:** Staff recommends the Board Direct Staff to: Analyze any public comments and bring the Relocation Plan Back to the Board on May 28<sup>th</sup> for approval.

**Summary** The Draft Plan is a tool used by the Harbor District to identify the needs of the affected business occupants of the Subject Property, assess the availability of potential replacement sites for the businesses, and to put forth the Harbor District's commitment to provide relocation assistance to displaced businesses in accordance with the Harbor District's Relocation Assistance Program for locally funded projects.

#### **c) Approve a Lease Agreement with DANCO for use of the Harbor District's ocean outfall pipeline for the new Town of Samoa Wastewater Treatment Plant Discharge**

**Recommendation:** Staff recommends the Board Direct Staff to:

1. Execute a lease agreement.
2. Authorize the use of existing utility easements to allow the installation of the discharge pipe from the Town of Samoa to the ocean outfall along Vance Avenue.

**Summary:** The District owns a 1 ½ mile ocean outfall pipe that the State Water Quality Control Board recently approved the discharge of the Town of Samoa's Wastewater Treatment Plant effluent. The lease

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Agreement will be with the Danco until such time as the facility is transferred to the Samoa Community Services District who will be the permanent operator of the Wastewater Treatment Plant. The rate to discharge will be based on the rate study approved by the Board. Staff intends to bring the Rate Study to the Board at your regular meeting in June for approval.

- d) Consider authorizing purchase of and easement, fee title, lease or other real property agreement on the Samoa Peninsula, Humboldt County, with Assessor's Parcel Numbers 401-111-006 from Green Diamond Resource Company and/or Simpson Paper Company.**

*Recommendation:* Staff recommends the Board Direct Staff to: Execute lease, easement, purchase or other real property agreements under the specific terms outlined by the Board.

*Summary:* The utilities on the Samoa Peninsula between the Louisiana Pacific Former Pulp Mill and the Samoa Bridge are primarily private. Over the years the properties and their associated utilities have changed ownership several times. There are several share services agreements, utility easements, and other agreements that have been approved and recorded over the years. The entities have an excellent cooperative relationship and some of the agreements need to be terminated, revised, expanded, and/or new agreements put in place.

### **8. Permits**

- a) Consideration of Extension for Permit No. 2018-01: Caltrans Eureka-Arcata Corridor Project**

*Recommendation:* Staff recommends the Board approve extending Permit No. 2018-01 for the Caltrans Eureka-Arcata Corridor Project through May 22, 2021.

*Summary:* Caltrans received Permit 2018-01 on May 23, 2019 and it will expire on May 22, 2020. The permit may be renewed for up to nine years at the discretion of the District. Caltrans has requested an extension.

### **9. Adjournment**

## COMMISSIONERS

1<sup>st</sup> Division

Larry Doss

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

4<sup>th</sup> Division

Richard Marks

5<sup>th</sup> Division

Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
 (707)443-0801  
 P.O. Box 1030  
 Eureka, California 95502-1030



**STAFF REPORT – HARBOR DISTRICT MEETING**  
**May 14, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** May 12, 2020

**TITLE:** **Review and Public Comment on Draft Relocation Plan associated with the Proposed Nordic Aquafarms Lease Agreement at Redwood Marine Terminal II (Roll Call Vote)**

**Recommendation:** Staff recommends the Board Direct Staff to: Analyze any public comments and bring the Relocation Plan Back to the Board on May 28<sup>th</sup> for approval.

**Summary:** The Humboldt Bay Harbor, Recreation, and Conservation District (the “Harbor District”) is planning for the development of a new approximately 600,000 square foot recirculating aquaculture facility at its Redwood Marine Terminal II property located at 364 Vance Avenue (APN 401-112-021). Phase I of the recirculating aquaculture project involves the demolition of a portion of the shops and stores building and the entire machine building.

The Draft Plan is a tool used by the Harbor District to identify the needs of the affected business occupants of the Subject Property, assess the availability of potential replacement sites for the businesses, and to put forth the Harbor District’s commitment to provide relocation assistance to displaced businesses in accordance with the Harbor District’s Relocation Assistance Program for locally funded projects.

As required, the Harbor District will also notify occupants of the Subject Property of their potential eligibility for non-residential relocation assistance benefits under the Harbor District’s Relocation Assistance Program (“Relocation Program”). The Harbor District will, within a reasonable period of time, attempt to meet with each business owner and present a Letter of Eligibility as well as a handbook detailing the Program. Relocation advisory assistance will be provided to help occupants better understand the Program, their rights and benefits, assistance in searching for replacement sites and help to secure reimbursement of eligible moving and related expenses from the Harbor District.

It is anticipated that the demolition will begin in the summer of 2021. The business occupants will be permitted to remain on the property at least through the end of April 2021 in order to allow them ample time to secure a replacement site and relocate.

Attachment A Draft Relocation Plan

# **Redwood Marine Terminal II Nordic Aquafarms**

## **Draft Tenant Relocation Plan**

**May 8, 2020**

*In compliance with California Relocation Assistance Law (California Government Code §7260 et seq.) and corresponding regulations set forth in the California Code of Regulations, Title 25, Chapter 6.*

## I. Executive Summary

The Humboldt Bay Harbor, Recreation, and Conservation District (the “Harbor District”) is planning for the development of a new approximately 600,000 square foot recirculating aquaculture facility at its Redwood Marine Terminal II property located at 364 Vance Avenue (APN 401-112-021). Phase I of the recirculating aquaculture project involves the demolition of a portion of the shops and stores building and the entire machine building identified on the following Site Map.



### Purpose of Relocation Planning

The purpose this *Draft* Relocation Plan (“Draft Plan”) is to assist the Harbor District in planning for the recirculating aquaculture project. The Draft Plan is a tool used by the Harbor District to identify the needs of the affected business occupants of the Subject Property, assess the availability of potential replacement sites for the businesses, and to put forth the Harbor District’s commitment to provide relocation assistance to displaced businesses in accordance with the Harbor District’s Relocation Assistance Program for locally funded projects (Relocation Program).

The Harbor District’s Relocation Program is outlined in Section IV of the Draft Plan and a copy of the Harbor District’s Non- Residential Relocation Assistance Brochure is included as Appendix Item C. The Harbor District’s Program complies with California Relocation Assistance Law (California Government Code §7260 et seq.) and corresponding regulations set forth in the California Code of Regulations, Title 25, Chapter 6.



Shops and Stores



## Summary of Impact

The Subject Property is comprised of several buildings which are slated for demolition. All the buildings except for the Shops and Stores building and one 384 square foot small portable office building and approximately 14,400 square feet of exterior yard space is vacant and unutilized. As depicted in the photographs above, the Shops and Stores Building is a three story, multi-tenant commercial office, warehouse, and shops and stores mixed-use, building which was formally part of a larger pulp mill complex. The “Shops and Stores” building is approximately 44,000 square feet. The floor plan of the Shops and Stores Building which includes the location of each of the existing tenants is illustrated in the floor plan above.

The following table outlines the current tenants, space number, use, square foot and lease term, and option to extend term. The types of businesses currently in occupancy include cleaning service, office equipment repair, manufacturing, office, distributor of bulk liquified petroleum products, research, and warehouse. If the recirculating aquaculture project proceeds, the building would be demolished, and tenants would need to vacate.

Area	Building	Space	Tenant	Lease End Date	Option End Date	Unit / Identifier	Sq. Ft
A	1	A110	Vacant Office			office	1,800
A	1	A120	Restif Office	1/20/2024	1/20/2026	office	980
A	1	A130	Restif Shop Space	1/20/2024	1/20/2026	warehouse	1,450
C	1	C195-C205	Restif Warehouse	1/20/2024	1/20/2026	warehouse	3,200
A	1	A140	Alternative Business Concepts	01/31/20201	.	office	750
A	1	A140	Alternative Business Concepts	1/31/2021	1/31/2023	warehouse lower	2,400
A	1	A140	Alternative Business Concepts	1/31/2021	1/31/2023	warehouse upper	2,400
B	1	B	Vacant Shop Space				4,100
B	1	B100	CPR Inc.	9/30/2020	9/30/2021	warehouse	4,100
B	1	B100	CPR Inc.	9/30/2020	9/30/2021	office	400
A	1	A100	HSU Sea Grant	7/30/2020	7/30/2024	office	486
A	1	A100	HSU Sea Grant	7/30/2020	7/30/2024	Shops & stores lab	600
C	1	C100	Pacific Flake	M to M		Shops & stores	600
C	1	C Pad	Pacific Flake	M to M		outside area	800
C	1	C110 -C130	Harbor District			warehouse	7,000
C2	1	C140	Coastal Business Systems			warehouse	1,300
C	2	C150 - C175	Vacant Shop			warehouse	4,200
C	1	C180 - 185	Suk-Choo Kim			Office	1,600
C	3	Lab	Vacant			Lab / Office	4,641
<b>Shops &amp; Stores Subtotal</b>							42,807

## Project Scheduling

Harbor District Board has directed staff to lease the area to the recirculating aquaculture company (Nordic Aquafarms California). As required, the Harbor District will also notify occupants of the Subject Property of their potential eligibility for non-residential relocation assistance benefits under the Harbor District’s Relocation Assistance Program (“Relocation Program”). The Harbor District will, within a reasonable period of time, attempt to meet with each business owner and present a Letter of Eligibility as well as a handbook detailing the Program. Relocation advisory assistance will be provided to help occupants better understand the Program, their rights and benefits, assistance in searching for replacement sites and help to secure reimbursement of eligible moving and related expenses from the Harbor District.

It is anticipated that the demolition will begin in the summer of 2021. The business occupants will be permitted to remain on the property at least through the end of April 2021 in order to allow them ample time to secure a replacement site and relocate.

## Project Assurances

The business occupants would not be displaced without receiving written notice of the available relocation assistance, advisory services and at least a written 90-Day Notice to Vacate. As part of the lease agreement Nordic Aquafarms California has provided the Harbor District with a deposit of funds and a commitment to pay the full cost of relocation to four of the seven tenants outlined in the table below. The Harbor District would provide relocation assistance to the remaining tenants. The Nordic Aquafarms California deposit is meant to provide assurance that there are sufficient funds set aside to provide monetary assistance to the businesses that are eligible for relocation assistance as outlined by the Relocation Program.

Tenant	Use	Sq. Ft.	Current Lease Term	Lease Option Period	Responsible for Relocation
Restif Office	Office / Shop	5,630	1/1/2024	1/1/2026	NAF
Alternative Business Concepts	Office / Shop	5,550	1/1/2021	1/1/2023	NAF
CPR Inc.	Shop	4,500	7/1/2020	7/1/2021	NAF
HSU Sea Grant	Office / Lab	1,086	6/1/2020	6/1/2024	NAF
Coastal Business Systems	Warehouse	1,300	6/1/2020	NA	HD
Suk-Choo Kim	Warehouse	1,600	6/1/2020	NA	HD
Refined Hydrocarbon	Outside storage/office	3,384	8/31/2022	8/31/2024	NAF

## Basis of Findings

In order to assess the Project’s potential impact and the feasibility of relocating the business occupants into the surrounding community, the Harbor District will contact real estate professionals, commercial property management companies, and commercial property owners to prepare a Draft Plan. This Draft Plan will be circulated for a 30-day public review and comment period. At the conclusion of that time period Harbor District will incorporate comments received into the Draft Plan. The Final Draft Plan will then be submitted the Harbor District Board for consideration.

In May and June 2020, the Harbor District intends to gather information about each business and its replacement site needs, present the proposed project scope to the business owners, toured the facility to better understand the Project’s potential impact (where permitted by the business owner) and provided information concerning the Harbor District’s Relocation Program.

## Estimate of Project Relocation Costs

The following estimates are for budgeting purposes only. These figures should not be interpreted as firm, “not to exceed” or actual entitlement costs. These figures are based on the data obtained through the occupant interviews, current project scope, replacement site availability, review of Furniture, Fixture and Equipment appraisals (FF&E) provided by Harbor District and the judgment and experience of the Consultant. The estimates do not include payments to consultants or to contractors.

Total Estimate Range	
Most Probable	High
\$36,750	\$147,000

The Recirculating aquaculture project will utilize no State or federal funding.

# II. Relocation Impact

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## Description of Current Occupants

The Harbor District will contact each business (in person and by mail) to schedule a formal interview as part of the preparation of this Draft Plan. Appendix Item B includes a copy of the interview sheet and sample letter from the Harbor District will deliver to each business occupant identified at the Subject Property.

Information about the business types and structure, site characteristics, lease information and client base will be collected as part of the preparation of the Draft Plan. Copies of the existing leases will also be reviewed. The net rentable area is estimated to be 42,807 square feet with approximately 28,066 square feet are leased under term leases or on a month-to-month basis. In reviewing the leases, rents range from \$0.15 to \$0.70 per square foot.

### III. Replacement Site Resources

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A preliminary survey was conducted of commercial properties for lease in the Samoa Peninsula, Eureka, and Arcata area in order to ascertain the availability of replacement sites. As the market conditions regularly change, the commercial property survey will be regularly updated until all tenants are successfully relocated. The general categories of space surveyed included: General Office, shop, and warehouse. A summary of the potential available sites in and around the Harbor District is shown below.

Site	Office	Warehouse	GLA	Rate	Rate/ Ft
2326 3rd Street Eureka	1282	2678	3960	\$ 2,400.00	\$ 0.61
2950 California Eureka,	3300	0	3300	\$ 1,500.00	\$ 0.45
1220 5th Arcata	0	6000	6000	\$ 2,400.00	\$ 0.40
65 Ericson	730	1505	2855	\$ 2,300.00	\$ 0.81
7th & L Fortuna		4000	4000	\$ 2,750.00	\$ 0.69
164 Dinsmore Drive Fortuna	1600	2800	4400	\$ 5,500.00	\$ 1.25
1703 Guinto Arcata	2423	0	4736	\$ 2,011.00	\$ 0.83
1703 Guintoli Arcata	800	0	4736	\$ 800.00	\$ 1.00
1703 Guintoli Arcata	1513	0	4736	\$ 1,301.00	\$ 0.86

The result of the survey found at this time there **are** a sufficient number of available commercial properties for rent in the Samoa Peninsula, Eureka, Arcata and the immediately surrounding area that will allow for these different types of businesses relocate. It is important to provide an adequate amount of time and assistance for occupants to locate a secure replacement site. Allowing for a longer period of time between notification to the occupants of their eligibility for non-residential relocation assistance and the anticipated date the Harbor District needs the

property vacated is critical in easing the competition for available space for lease within the local real estate market. The Harbor District may use current staff or contract for outside consulting services to provide Relocation Advisors to work directly with the businesses and implement the Harbor District Relocation Program.

## IV. Relocation Program

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The California Relocation Assistance and Real Property Acquisition Guidelines (25 California Code of Regulations Section 6000 et. seq.), and such amendments that may follow, are the relocation rules and regulations for the purposes of implementing relocation benefits and administering relocation assistance for Harbor District projects or programs requiring relocation assistance and benefits under state laws. The information in this Section broadly summarizes the Harbor District's Relocation Program for Non- Residential Occupants and describes the principal provisions of relocation legislation concerning where and how to get assistance, eligibility for benefits, payments and requirements. Language assistance will be provided at no cost to displaced businesses.

The Harbor District assures that no person shall, on the grounds of race, color, national origin, age, gender, disability or religion as provided by the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service or activity. If you have a complaint against the Harbor District or its third party contractors please call Chris Mikkelsen, Director of Facilities Management at (707) 443-0801.

Payment for loss of goodwill is considered a cost related to the acquisition of property. California law mandates that relocation payments cannot duplicate other payments, such as loss of business goodwill.

### Benefit Eligibility

Every property owner or tenant who is displaced from property on which they operate their business, farm or non-profit organization, as a result of a Harbor District sponsored project, is protected under State of California legislation. Relocation legislation establishes strict eligibility and documentation requirements for owners and tenants. To receive payment for a particular benefit, they must satisfy all requirements for that particular benefit payment.

### Summary of Relocation Assistance

Eligible displaced businesses are offered appropriate financial and advisory assistance to help relocate, including:

- A. **Advisory Assistance.** A Relocation Advisor to assist locating a replacement property either for sale or rent that is suitable in condition, price or rental range, and assistance to submit the documentation required to file the appropriate Program benefit claim

forms. Information on services offered by other agencies is also made available. The Relocation Advisor is the principal contact in all matters concerning the Harbor District's relocation programs and procedures. The Relocation Advisor will:

- Maintain contact with the business owner throughout the relocation process in order to determine the needs and preferences for a replacement location. Among other matters, requirements as to space, location, site configuration, zoning and cost will be taken into account.
- Assist in determining the need for outside specialists to plan, move and install personal property.
- Assist in identifying and resolving any issues regarding what is real estate and what is personal property to be moved.
- Assist in filing claim forms for the various types of relocation payments, including the type of documentation required to support the amount being claimed.
- Provide referrals to available replacement sites or provide the names of local real estate agents or brokers who can assist in finding the type of replacement location which appeals to the needs of the business. Explain which moving costs may be eligible for reimbursement and which are not eligible.
- Maintain strict confidentiality regarding all matters related to the business operation.
- Provide assurance that the business will not be required to move until Harbor District has provided at least 90 days advance written notice of the specific date by which the property must be vacated.

B. **Financial Assistance.** Property owners and tenants may be paid on the basis of actual, reasonable, and necessary moving costs and related expenses incurred in moving personal property up to a distance of 50 miles from the displacement location, or under certain circumstances, a fixed payment. Actual, reasonable moving expenses may be paid when the move is performed by a mover or when the business chooses a self-move. Some related expenses, such as personal property losses, expenses in finding a replacement site and reestablishment expenses may also be reimbursable.

- **All actual, reasonable and necessary moving expenses** must be supported by paid receipts or other evidence of expenses incurred, this is often referred to as "proof of payment". In addition to the cost of transporting the personal property to the replacement site (up to 50 miles). Moving payments are generally made after the move is completed and the premises are left clean and orderly. Payment typically takes four weeks to process from receipt of a signed claim form with required supporting documentation.

A business may choose to take full responsibility for all or part of the move operation (under a "Self-Move Agreement"), the Harbor District may approve a payment not to exceed the lower of two acceptable bids or estimates obtained

from qualified moving firms, moving consultants, or a qualified Harbor District representative.

**Certain other expenses may also be reimbursable, such as:**

- Packing and unpacking, loading and unloading of personal property
- Disconnecting and dismantling, reassembling and reinstalling machinery
- Temporary storage (with prior approval)
- Connection to utilities within the replacement site building
- Reprinting obsolete stationery
- Other eligible reimbursable costs may include:
  - Licenses, permits or certification caused by the move to the extent that the cost is necessary to its reestablishment at the replacement site.
  - The reasonable cost of professional services necessary for planning the move of the personal property, moving the personal property, or installing the relocated personal property at the replacement site.
  - Insurance of personal property in connection with the move and required storage (if any).
  - The reasonable cost of moving and reinstalling telephone, burglar, fire alarm and other specialty equipment or systems, if not purchased by the Harbor District as part of the real estate.
  - Purchase of substitute personal property if an item of personal property which is used as part of a business is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced business is entitled to the lesser of:
    - The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
    - The estimated cost of moving and reinstalling the replaced item, but with no allowance for storage.
  - Direct loss of tangible personal property if a person who is displaced from a place of business is entitled to relocate such property in whole or in part, but elects not to do so. Payment is computed on the basis of the lesser of:
    - The fair market value in place of the item, as is, for continued use, less the proceeds from the sale; or
    - The estimated reasonable cost of moving the item, as is,

but not including any allowance for storage or for reconnecting the piece of equipment, if the equipment is in storage or not being used at the acquired site.

- The reasonable cost incurred in attempting to sell an item that is not to be relocated may also be reimbursable.
- If the Harbor District considers personal property to be of low value and high bulk, and moving costs are disproportionate to its value, the allowable reimbursement for the expense of moving such property cannot exceed the lesser of:
  - The amount which would be received if the property were sold at the site; or
  - The replacement cost of a comparable quantity delivered to the new business location.
  - Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property.
- **Site Searching.** Reimbursement for actual reasonable expenses incurred in searching for a replacement property, in an amount not to exceed \$1,000. Such expenses may include mileage, meals and lodging away from home, time spent searching, fees paid to a real estate agent or broker to locate a replacement site (excluding fees or commissions related to the purchase of such sites), time spent in obtaining permits, attending zoning hearings, and negotiating purchase or lease of a replacement site.
- **Reestablishment Payment.** In addition to a payment for actual reasonable moving and related expenses, a small business may be eligible to receive a payment of up to \$10,000 for reasonable and necessary expenses actually incurred in re-establishing its operation at a replacement site.
  - Repairs or improvements to the replacement real property required by Federal, State or local laws, code or ordinance.
  - Modifications to the replacement real property to accommodate the business or make the structure(s) suitable for the operation.
  - Construction and installation costs of exterior advertising signs and advertising of the replacement location.
  - Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
  - Estimated increased costs of operation at the replacement site during the first 2 years for items such as monthly lease or rental costs, personal or real property taxes, insurance premiums, or utility charges.

- Connection to available nearby utilities from the right-of-way to improvements at the replacement site.
  - Professional services performed prior to the purchase or lease of a replacement site to determine a sites' suitability for the business operation, including but not limited to soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of the site).
  - Impact fees or one-time assessments for heavy utility usage as determined to be necessary by the Harbor District.
  - Other items which the Harbor District considers essential to the re-establishment of the business.
- **Fixed Payment "In Lieu of" Actual Moving & Related Expenses.** Under certain circumstances, eligible businesses may request a Fixed Moving Payment "in lieu of" (i.e., instead of) receiving a payment for actual, reasonable moving and reestablishment expenses. The minimum payment is \$1,000 and the maximum fixed payment is \$10,000. It is based on the average annual net earnings of the business or farm for the 2 years immediately prior to displacement. Proof of net earnings can be documented by income tax returns, certified financial statements, or other reasonable evidence acceptable to the Harbor District.
  - No relocation payment received will be considered income for the purposes of the Internal Revenue Code, Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code. This statement is not tendered as legal advice in regard to tax consequences and displaced persons should consult with their own tax advisor or legal counsel to determine the current status.

**Time to File.** Tenants must file relocation cost reimbursement claims within eighteen (18) months of the date they vacate the displacement site. The property owner must file a claim within eighteen (18) months after the date they move, or the date they receive the final acquisition payment, whichever is later.

**Appeal.** Displaced businesses have to right to appeal, if they feel the Harbor District has failed to properly determine eligibility for relocation assistance or the amount of a relocation payment. The Relocation Advisor will provide information about the appeal procedure and help file an appeal in a timely manner. Appellants will be given a prompt and full opportunity to be heard and have the right to be represented by legal counsel or another representative in connection with the appeal (but solely at their own expense). The Harbor District will consider all pertinent justifications and materials submitted by and appellant and other available information needed to ensure a fair review. The Harbor District will a written determination resulting from the appeal with an explanation of the basis for the decision. If still dissatisfied with the relief granted, an appellant may seek judicial review. Please see Appendix D, for further information on the Harbor District's Relocation Program Appeals Procedure.

# Appendices

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**Appendix A - Maps of Project Area**

**Appendix B - Business Survey Sheet**

**Appendix C - Non-Residential Relocation Assistance Handbook**

**Appendix D - Relocation Assistance Program Appeal Procedure**

**Appendix E - Public Comments Received During the 30-day Review and Comment Period**

**Appendix Item A**

**Current View**

**Proposed  
Project  
Future  
View**

## Appendix Item B

### Informational Survey

As you may be aware, we are in the process of drafting a Relocation Impact Study for the Harbor District related to their proposed recirculating aquaculture project. This project may impact the property your business occupies at 364 Vance Avenue Samoa Peninsula, California.

Below is a brief survey which we hope you will agree to complete and return to us. We would also greatly appreciate an opportunity to meet with you in person to discuss your business operation and its needs in greater detail.

<p><b>F</b> (707)443-0800</p> <p><b>ax:</b> cmikkelsen@humb oldtbay.org</p> <p><b>Em</b></p> <p><b>ail:</b></p>	<p><b>Mail:</b> Humboldt Bay Harbor Recreation, and Conservation District 601 Startare Drive Eureka, CA 95502</p>
---	---

<b>Business name:</b>		<b>DBA:</b>	
<b>Describe nature and type of business:</b>			
<b>Suite(s) occupied:</b>	<b>Est. square footage:</b>	<b>Number of employees:</b>	
<b>Number of years in business:</b>	<b>Years at this location:</b>	<b>Other locations:</b>	
<b>Hours and days of operation:</b>		<b>Seasonal business trends:</b>	
<b>Any special utility needs:</b>		<b>ADA Requirements:</b>	
<p><b>Require proximity to public transportation?</b>    Yes    No</p> <p><b>Do you depend on truck/large deliveries?</b>    Yes    No</p> <p><b>Other special access requirements for your business or customers:</b></p>			

**Any special features in your current suite that are specific to your business needs:**

**Do you sublease any portion of your suite(s) to others:    Yes    No**

**If “yes”, please provide sub-tenant’s contact information:**

<b><i>If your business must relocate in the future, please provide information on the desired location and type of space you would be looking for.</i></b>	
General area, cities, location preferences:	
Space (square feet) desired:	Type (commercial, office, retail):
Physical layout:	Special utility needs:
Storage:	Parking requirements:
Lease or purchase: <input type="checkbox"/> Lease <input type="checkbox"/> Purchase <input type="checkbox"/> both	Target rent/price range:
Other replacement site requirements/preferences:	
Have you already been looking at sites? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Where:	

<b><i>Business Contact Information:</i></b>		
Owner(s) name(s):	Fax:	Phone:
	Email:	Alternate phone:
Mailing address:	Additional authorized contact person, if any, we may speak to at your business regarding this Project:	
Person's name completing this survey:	Signature and date:	

**Appendix Item C**

# Relocation Assistance Handbook Available to Non-Residential Occupants (Business, Farms and Non-Profit Organizations)

Summarizing the California Relocation Assistance Act (Gov. Code Section 7260 et.seq.) and California Relocation Assistance and Real Property Acquisition Guidelines (25 California Code of Regulations Section 6000 et.seq.).

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## **INTRODUCTION**

The Harbor District Board adopted the California Relocation Assistance Act (Gov. Code Section 7260 *et seq.*) and California Relocation Assistance and Real Property Acquisition Guidelines (25 California Code of Regulations Section 6000 *et seq.*), and such amendments that may follow, as the Harbor District's own relocation rules and regulations for the purposes of implementing relocation benefits and administering relocation assistance for Harbor District projects or programs requiring relocation assistance and benefits under state laws.

This handbook broadly summarizes this Program and describes the principal provisions of relocation legislation concerning where and how to get assistance, eligibility for benefits, payments and requirements. Relocation regulations are complicated and difficult to interpret. Therefore, persons reading the handbook are urged not to form advance opinions as to the benefits and amounts to which they may be entitled. Strict requirements must be met before eligibility can be established and payment benefits determined. Premature action may jeopardize eligibility for a relocation payment.

## **BENEFIT ELIGIBILITY**

Every owner or tenant who is displaced from property on which they operate their business, farm or non-profit organization, as a result of a Harbor District sponsored project, is protected under State of California legislation.

Relocation legislation establishes strict eligibility and documentation requirements for owners and tenants. To receive payment for a particular benefit, they must satisfy all requirements for that particular benefit payment. This handbook will explain the requirements and the process for obtaining financial and advisory relocation assistance services.

## **SUMMARY OF RELOCATION ASSISTANCE**

As an eligible displaced person, you would be offered appropriate financial and advisory assistance to help you relocate, including:

- A. Payment for your moving expenses, which include either:
  - A payment for Actual Reasonable Moving and Related Expenses, or
  - A Fixed Payment in Lieu of a Payment for Actual Moving and Related Expenses
  - Advisory Assistance to explain the relocation process, the related eligibility requirements and the procedures for obtaining reimbursement for moving expenses.
- B. Other help as needed to reestablish your business, farm or non-profit organization to minimize the impact of the move.

If you disagree with the Harbor District's decision as to the amount of your payment or your eligibility for assistance, you may appeal that decision.

## **RELOCATION ADVISORY ASSISTANCE**

A Relocation Advisor will help you find a replacement property either for sale or rent that is suitable in condition, price or rental range, and will help you submit the documentation required to file the appropriate benefit claim forms. Information on services offered by other agencies is also available. The Relocation Advisor is your principal contact in all matters concerning the Harbor District's relocation programs and procedures.

Your Relocation Advisor will:

- Maintain contact with the business owner throughout the relocation process in order to determine the needs and preferences for a replacement location. Among other matters, requirements as to space, location, site configuration, zoning and cost will be taken into account.
- Assist in determining the need for outside specialists to plan, move and install personal property.
- Assist in identifying and resolving any issues regarding what is real estate and what is personal property to be moved.
- Assist in filing claim forms for the various types of relocation payments, including the type of documentation required to support the amount being claimed.
- Provide referrals to available replacement sites or provide the names of

local real estate agents or brokers who can assist in finding the type of replacement location which appeals to the needs of the business.

- Explain which moving costs may be eligible for reimbursement and which are not eligible.
- Maintain strict confidentiality regarding all matters related to the business operation.
- Provide assurance that the business will not be required to move until Harbor District has provided at least 90 days advance written notice of the specific date by which the property must be vacated.

## **FINANCIAL ASSISTANCE**

Owners or tenants may be paid on the basis of actual, reasonable, and necessary moving costs and related expenses incurred in moving personal property up to a distance of 50 miles from the displacement location, or under certain circumstances, a fixed payment. Actual, reasonable moving expenses may be paid when the move is performed by a professional mover or when the business chooses a self-move. Some related expenses, such as personal property losses, expenses in finding a replacement site and reestablishment expenses may also be reimbursable.

The business owner must provide the Relocation Advisor and Harbor District with an inventory of the personal property to be moved and advance notice of the approximate date of the move, unless the Harbor District specifically informs you that these notices are not necessary.

The Harbor District has the right to inspect the personal property at the displacement and replacement sites and to monitor the move, as a condition of approval of claims under the Program.

## **ACTUAL REASONABLE AND NECESSARY MOVING EXPENSES**

All actual, reasonable and necessary moving expenses must be supported by paid receipts or other evidence of expenses incurred, this is often referred to as “proof of payment”. In addition to the cost of transporting your personal property to your replacement site (up to 50 miles), certain other expenses may be reimbursable, such as:

- |                                       |   |
|---------------------------------------|---|
| ○ Packing, unpacking                  | ○ Temporary storage (with prior approval)     |
| ○ Loading, unloading                  | ○ Connection to utilities within the building |
| ○ Removing and reassembling machinery | ○ Disconnecting, dismantling                  |
|                                       | ○ Reinstalling relocated machinery            |
|                                       | ○ Reprinting obsolete stationery              |

Other eligible reimbursable costs may include:

- Any license, permit or certification caused by the move to the extent that the cost is necessary to its reestablishment at the replacement site.
- The reasonable cost of any professional services necessary for planning the move of the personal property, moving the personal property, or installing the relocated personal property at the replacement site.
- Insurance of personal property in connection with the move and required storage (if any).
- The reasonable cost of moving and reinstalling telephone, burglar, fire alarm and other specialty equipment or systems, if not purchased by the Harbor District as part of the real estate.

Moving payments are generally made after the move is completed and the premises are left clean and orderly. Payment typically takes four weeks to process from receipt of a signed claim form with required documentation.

### **Estimated Cost Move**

If you agree to take full responsibility for all or part of the move of your operation (under a "Self-Move Agreement"), the Harbor District may approve a payment not to exceed the lower of two acceptable bids or estimates obtained from qualified moving firms, moving consultants, or a qualified Harbor District representative. A low cost or uncomplicated move may be based on a single bid or estimate at the Harbor District's discretion. The advantage of this moving option is that it relieves you from documenting all moving expenses because the payment is limited to the amount of the lowest acceptable bid or estimate. The Harbor District may make this payment without additional documentation.

### **Purchase of Substitute Personal Property**

If an item of personal property which is used as part of a business is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced business is entitled to the **lesser** of:

- The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item, **or**
- The estimated cost of moving and reinstalling the replaced item, but with no allowance for storage.

### **Direct Loss of Tangible Personal Property**

A business may claim payment for actual direct loss of tangible personal property as a result of moving or discontinuing a business operation. This payment cannot exceed the cost of moving the personal property.

Actual direct loss of personal property is allowed when a person who is displaced from a place of business is entitled to relocate such property in whole or in part, **but elects not to do so.**

Payment is computed on the basis of the **lesser** of:

- The fair market value in place of the item, **as is**, for continued use, less the proceeds from the sale, **or**
- The estimated reasonable cost of moving the item, **as is**, but not including any allowance for storage or for reconnecting the piece of equipment, if the equipment is in storage or not being used at the acquired site.

The reasonable cost incurred in attempting to sell an item that is not to be relocated is also reimbursable. The sales price, if any, and the actual reasonable cost of advertising and conducting the sale of personal property that is not to be relocated must be supported by a copy of the bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records, or other data supporting the bona fide nature of the sale.

When personal property is abandoned with no effort being made by the business and/or owner to dispose of such property, the business and/or owner will not be entitled to claim moving expenses or losses for the items involved.

### **Low Value-High Bulk Personal Property**

If the Harbor District considers personal property to be of low value and high bulk, and moving costs are disproportionate to its value, the allowable reimbursement for the expense of moving such property cannot exceed the **lesser** of:

- The amount which would be received if the property were sold at the site, **or**
- The replacement cost of a comparable quantity delivered to the new business location.

Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property.

Please discuss this with your Relocation Advisor before incurring these costs to assure that they are reimbursable.

### **Searching Expenses for Replacement Property**

Displaced businesses, farms and non-profit organizations are entitled to reimbursement for actual reasonable expenses incurred in searching for a

replacement property, in an amount not to exceed \$1,000. Such expenses may include mileage, meals and lodging away from home, time spent searching, fees paid to a real estate agent or broker to locate a replacement site (excluding fees or commissions related to the purchase of

such sites), time spent in obtaining permits, attending zoning hearings, and negotiating purchase or lease of a replacement site.

Receipted bills or other applicable documentation must support all expenses claimed. Payment for time spent searching must be based on a reasonable hourly wage for the person(s) conducting the search.

Please discuss this with your Relocation Advisor before incurring these costs to assure that they are reimbursable.

## **RE-ESTABLISHMENT PAYMENT**

In addition to a payment for actual reasonable moving and related expenses, a small business, non-profit organization or farm may be eligible to receive a payment of up to \$10,000 for reasonable and necessary expenses actually incurred in re-establishing its operation at a replacement site. To qualify, the business must have not more than 500 employees working at the site.

Business reestablishment benefits may include but are not limited to:

- Repairs or improvements to the replacement real property required by Federal, State or local laws, code or ordinance.
- Modifications to the replacement real property to accommodate the business or make the structure(s) suitable for the operation.
- Construction and installation costs of exterior advertising signs and advertising of the replacement location.
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
- Estimated increased costs of operation at the replacement site during the first 2 years for items such as monthly lease or rental costs, personal or real property taxes, insurance premiums, or utility charges.
- Connection to available nearby utilities from the right-of-way to improvements at the replacement site.
- Professional services performed prior to the purchase or lease of a replacement site to determine a sites' suitability for the business operation, including but not limited to soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of the site).
- Impact fees or one-time assessments for heavy utility usage as determined to be necessary by the Harbor District.

- Other items which the Harbor District considers essential to the re-establishment of the business.

### **INELIGIBLE RE-ESTABLISHMENT EXPENSES**

The following are not considered to be reasonable, necessary or otherwise eligible expenses:

- Purchase of capital assets, such as office furniture, filing cabinets, and machinery or trade fixtures.
- Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- Interest on money borrowed to make the move or purchase the replacement property.
- Payment to a part-time business in the home which does not contribute materially to the household income.

### **FIXED PAYMENT “IN LIEU OF” ACTUAL MOVING & RELATED EXPENSES**

Under certain circumstances, eligible businesses, non-profit organizations and farms are eligible to obtain a Fixed Moving Payment “in lieu of” (**i.e., instead of**) receiving a payment for actual, reasonable moving and reestablishment expenses.

The fixed payment for a business or farm operation is based on the average annual net earnings of the business or farm for the 2 years immediately prior to displacement; the fixed payment for a non-profit organization is based on average annual gross revenues for the 2 years immediately prior to displacement, less administrative expenses.

To be eligible, the business, non-profit organization or farm cannot be part of a commercial enterprise having more than three other similar establishments which are not being acquired for the project.

The minimum fixed payment is \$1,000 and the maximum fixed payment is \$20,000. You must provide Harbor District with proof of net earnings to support your claim. Proof of net earnings can be documented by income tax returns, certified financial statements, or other reasonable evidence acceptable to the Harbor District. Your Relocation Advisor will inform you as to your eligibility for this payment and the documentation you must submit to support your claim.

### Example of Computation of a Fixed Payment

2011	2012	2013
Annual Net Earnings \$16,500	Annual Net Earnings \$18,500	Year Displaced
Average annual net earnings $\$16,500 + \$18,500 = \$35,000 / 2 = \$17,500$ Fixed Payment = \$17,500		

Remember, if an “in lieu” payment is selected, there is no entitlement to reimbursement for any other moving, related or reestablishment expenses.

### RELOCATION PAYMENTS NOT CONSIDERED TO BE INCOME

No relocation payment received will be considered income for the purposes of the Internal Revenue Code, Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code. This statement is not tendered as legal advice in regard to tax consequences and displaced persons should consult with their own tax advisor or legal counsel to determine the current status of relocation payments.

### FILING OF CLAIMS

Your Relocation Advisor will assist you in completing the required relocation claims and explain the type of documentation that you must submit in order to receive payment.

If you are a tenant, you must file your claim within eighteen (18) months of the date you move. If you own the real property, you must file your claim within eighteen (18) months after the date you move, or the date you receive the final acquisition payment, whichever is later. However, it is to your advantage to file your claim as soon as possible after you move. The sooner you submit the claim, the sooner it can be processed and paid.

### YOUR RIGHT TO APPEAL

You have to right to appeal, if you feel the Harbor District has failed to properly determine your eligibility for relocation assistance or the amount of a relocation payment. Your Relocation Advisor will provide you additional information about the appeal procedure, if you desire, and help you file your appeal in a timely manner. You will be given a prompt and full opportunity to be heard. You have the right to be represented by legal counsel or another representative in connection with the appeal (but solely at your own expense). The Harbor District will consider all pertinent justifications and materials submitted by you and other available information needed to ensure a fair review. The Harbor District will provide you with a written determination resulting from the appeal with an explanation of the basis for the decision. If you are still dissatisfied with

the relief granted, you may seek judicial review.

## **WHEN THE HARBOR DISTRICT BECOMES YOUR LANDLORD**

If the Harbor District successfully acquires the property you occupy, you may become a tenant of the Harbor District. You will be asked to enter into a rental agreement with the Harbor District which specifies the rent to be paid, its due date and the property management policies which will apply to your tenancy.

No person eligible for relocation payments, who is lawfully occupying real property acquired for a Harbor District sponsored project, will be asked to move without first being given at least 90 days advance written notice.

However, you may be evicted for the following reasons:

- You received an eviction notice prior to the date the Harbor District made an offer to purchase the property and as a result of that notice you are later evicted;
- Serious or repeated violation of material terms of the rental agreement;
- Failure to pay rent, except for just cause acceptable to the Harbor District;
- Performance of a dangerous or illegal act on the premises;
- Maintenance of a nuisance and failure to abate within a reasonable time following notice;
- The eviction is required by State law or County ordinance and cannot be prevented by reasonable efforts on the part of the Harbor District.

## **ANTI-DISCRIMINATION & LANGUAGES SERVICES**

The Harbor District assures that no person shall, on the grounds of race, color, national origin, age, gender, disability or religion as provided by the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service or activity. If you have a complaint against the Harbor District or its third party contractors please call, Sharon Jones, Facilities and Real Property Manager at (510) 494-4715.

Should you need language assistance with the translation of documents or interpretation services, your Relocation Advisor can help you. Language assistance will be provided at no cost to you.

## **ADDITIONAL INFORMATION**

This handbook is a general overview the Harbor District's relocation assistance program. It is not intended as a complete statement of all the State laws and regulations. You are encouraged to contact your Relocation Advisor with respect to all relocation questions in order to protect all of your benefits. Loss of eligibility may occur if you sell or move from your property without first contacting your Relocation Advisor.

While every effort has been made to assure the accuracy of this handbook, it should be understood that it does not have the force and effect of law, rule, or regulation governing the payment of benefits. Should any difference or error occur, the law will take precedence.

Payment for loss of goodwill is considered a cost related to the acquisition of property. California law mandates that relocation payments cannot duplicate other payments, such as loss of business goodwill.

If you have any questions which have not been adequately answered in this informational handbook, please contact your Relocation Advisor.

## Appendix Item D

### Harbor District Relocation Assistance Program Appeal Procedure

The Harbor District's guidelines, rules and regulations for Relocation Assistance are the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and its implementing regulations, as they may be amended from time to time, for projects with federal financial assistance, and the California Relocation Assistance Act and Guidelines, and its implementing regulations, as they may be amended from time to time, for all other projects. The process below implements the requirements of the federal and state relocation laws and regulations for appeals of relocation assistance claims.

**Right of Review:** Any claimant aggrieved by the Harbor District's determination as to relocation assistance eligibility, the amount of relocation assistance, the failure to provide comparable permanent or adequate temporary housing, or the Harbor District's property management practices, may file an appeal and request that the Harbor District review and reconsider the relocation assistance claim.

**Notice of Appeal Time Limitations/Content:** A claimant seeking an Informal Oral Presentation and/or Formal Review must notify the Harbor District in writing within eighteen (18) months following the date of the move from the property or the date the claimant receives final compensation, whichever is later. The notice must state the reasons the claimant believes an error or omission has occurred and the nature of the error or omission. If necessary, the Claimant's Relocation Advisor shall provide assistance to the claimant in preparing the written claim.

The request shall be  
directed to:  
Humboldt Bay Harbor, Recreation, and  
Conservation District  
Attention: Chris Mikkelsen, Director of Facilities  
Management  
601 Startare Drive  
Eureka, CA 95502

**Formal Review:** Formal review and reconsideration of the Claimant's claims will be conducted by an authorized, impartial designee of the Harbor District's Executive Director ("Hearing Officer"). The claimant shall have the right to be represented by an attorney or another representative at their expense (if they choose, but this is not a requirement for an appeal proceeding), to present the appeal by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of facts. Claimant's Relocation Advisor shall attend the hearing. Unless the Hearing Officer requests additional information or analysis, no additional information shall be considered after the hearing concludes. The Hearing Officer shall have the authority to revise the initial determination or the determination of a previous informal oral presentation.

**Informal Oral Presentation:** Prior to a Formal Review, a claimant may request an Informal Oral Presentation. Within 15 days of making a request for an Informal Oral Presentation, the claimant will have the opportunity to discuss the claim with an authorized designee of the Harbor District's Executive Director. The Informal Oral Presentation is optional and is NOT a condition to obtaining a Formal Review. The claimant may be represented at their expense by an attorney or other representative. A summary of the matters discussed in the oral presentation shall be included in the appeal file.

**Determination on Review:** The claimant shall receive a copy of the Hearing Officer's determination, including

an explanation of the basis upon which the decision was made once the Hearing Officer's Review is completed. The determination shall be provided within six weeks of the hearing date or the date the claimant, at the Hearing Officer's request submits the last material to the Hearing Officer for consideration.

**Right to Judicial Review:** The claimant has the right to seek judicial review upon exhaustion of all administrative remedies. A claimant's administrative remedies have been exhausted after the Hearing Officer's determination of the Formal Review.

**Inspection of Materials:** The claimant may inspect and copy materials pertinent to the appeal, except materials which the Harbor District classifies as confidential. The Harbor District also may impose reasonable conditions on claimant's right to inspect consistent with applicable laws.

## Appendix Item E

***(Held for insertion of public comment received during 30-day comment period.)***

If any members of the public would like to make comments on the Draft Plan, they should contact the Harbor District:

To contact the Harbor District directly, please contact

Humboldt Bay Harbor, Recreation, and  
Conservation District  
Attention: Chris Mikkelsen, Director of Facilities  
Management  
601 Startare Drive  
Eureka, CA 95502

Phone: (707) 443-0801  
[cmikkelsen@humboldtby.org](mailto:cmikkelsen@humboldtby.org)

## General Information Notice

Dear Tenant:

On April 30, 2020, the Board of Directors of the Humboldt Bay Harbor, Recreation (Harbor District), and Conservation District approved a Letter of Intent to Lease to Nordic Aquafarms California, LLC a portion of our property located at 364 Vance Avenue on the Samoa Peninsula which you currently occupy. When the negotiations are completed and the lease is final, Nordic Aquafarms California, LLC intends to remove the structures / facilities you currently occupy and construct new facilities for their use. No State or Federal funding is projected to be part of the project and the Harbor District is providing no subsidy to the lease or development.

This notice is to inform you of your rights under California law. **THIS IS NOT A NOTICE TO MOVE.**

If the lease is approved and Coastal Development Permits are approved the property and you are displaced from the project, you may be eligible for relocation assistance under the law. However, do not move now. This is **NOT** a notice to vacate the premises. If development permits are approved for the Nordic Aquafarms LLC project and you are eligible for relocation assistance, you will be given advisory services, including referrals to replacement properties, and at least 90 days advance written notice of the date you will be required to move. You may also receive a payment for moving expenses and may be eligible for financial assistance to help you rent or other eligible costs. If anyone moves into this unit (subleases) after this notice, your assistance may be reduced.

You should continue to pay your monthly rent because failure to pay rent and meet your obligations as a tenant may be caused for eviction and loss of relocation assistance. You are urged not to move or sign any agreement to purchase or lease a new unit before receiving formal notice of your eligibility for relocation assistance. If you move before receiving notice, you may not receive any assistance. Please contact us before you make any moving plans.

The Harbor District will have a draft Relocation Plan available for public review and comment on its website <http://humboldtbay.org/> and the Harbor District Board will receive comments on the relocation Plan at its May 14<sup>th</sup> and May 28<sup>th</sup> Board meetings. If you have any questions or comments, please contact Chris Mikkelsen, Director of Facilities Management at (707)443-0801.

Sincerely

Larry Oetker  
Executive Director



COMMISSIONERS

1<sup>st</sup> Division

Larry Doss

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

4<sup>th</sup> Division

Richard Marks

5<sup>th</sup> Division

Patrick Higgins

Humboldt Bay  
Harbor, Recreation and Conservation District  
(707)443-0801  
P.O. Box 1030  
Eureka, California 95502-1030

**STAFF REPORT – HARBOR DISTRICT MEETING**  
**May 14, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** May 12, 2020

**TITLE:** **Approve a Lease Agreement with DANCO for use of the Harbor District’s ocean outfall pipeline for the new Town of Samoa Wastewater Treatment Plant Discharge** (Roll Call Vote)

---

**Recommendation:** Staff recommends the Board Direct Staff to:

1. Execute a lease agreement.
2. Authorize the use of existing utility easements to allow the installation of the discharge pipe from the Town of Samoa to the ocean outfall along Vance Avenue.

**Summary:** The District owns a 1 ½ mile ocean outfall pipe that the State Water Quality Control Board recently approved the discharge of the Town of Samoa’s Wastewater Treatment Plant effluent. The lease Agreement will be with the Danco until such time as the facility is transferred to the Samoa Community Services District who will be the permanent operator of the Wastewater Treatment Plant. The rate to discharge will be based on the rate study approved by the Board. Staff intends to bring the Rate Study to the Board at your regular meeting in June for approval.

## COMMERCIAL LEASE

**Date:** May 14, 2020

**Between:** **Humboldt Bay Harbor, Recreation and Conservation District**  
601 Startare Drive  
P.O. Box 1030  
Eureka, CA 95502-1030 (“**DISTRICT**”)

**And:** **Samoa Pacific Group**  
5251 Ericson Way  
Arcata, CA 95521 (“**TENANT**”)

**General location:** Marine Outfall Line Connection  
**APN(s):** 401-112-021  
**Address:** 364 Vance Avenue  
Samoa, CA 95564

### RECITALS

WHEREAS, DISTRICT is a California public entity duly organized and existing under Appendix 2 of the California Harbors and Navigation Code for the purposes stated in Section 4 thereto.

WHEREAS, DISTRICT owns the fee simple interest to the Premises (as defined below).

WHEREAS, DISTRICT leases the Premises to the Humboldt Bay Development Association, Inc. (“HBDA” or “Association”), a California non-profit public benefit corporation, pursuant to that certain Ground Lease effective March 9, 2016, for a term of 65 years commencing March 9, 2016 (the “Ground Lease”), a copy of which is incorporated herein by this reference.

WHEREAS, reference is made to that certain Credit Agreement dated as of March 9, 2016, by and among New Markets Community Capital XVII, LLC, a Delaware limited liability company (“NMCC”), as lender, CNMC SUB-CDE 69, LLC, a Delaware limited liability company (“CNMC”), as lender, and HBDA, as borrower, dated March 9, 2016, under which HBDA entered into that certain Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing dated March 9, 2016 in favor of NMCC and CNMC (collectively referred to herein as the “Leasehold Mortgage”).

WHEREAS, HBDA, as landlord, leases back the Premises to DISTRICT, as tenant, pursuant to that certain Operating Lease, effective March 9, 2016, for a term of 30 years commencing on March 9, 2016 (subject to three (3), ten (10) year extension periods as set forth therein) (the "Operating Lease"), a copy of which is incorporated herein by this reference.

WHEREAS, on the terms and conditions stated herein, TENANT desires to sublease from DISTRICT the Premises as more particularly described herein.

NOW THEREFORE, for adequate consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

DISTRICT subleases to TENANT and TENANT subleases from DISTRICT, the real property and improvements described as: connection to the Marine Outfall Line per the attached Outfall Agreement hereto attached as Exhibit 'F'.

The location and further description of the property and improvements, as well as any common areas and/or other specific areas, of the DISTRICT's property and improvements are described in **Exhibit A** (the "Premises") on the terms and conditions stated below:

## **Section 1. Occupancy**

**1.1 Original Term.** The term of this lease shall be from **completion and activation and use of the wastewater conveyance pipe described in the attached Exhibit 'F'**, until August 13, 2038, as tied to a certain Lease by and between The District and The California State Lands Commission, or unless sooner termination in accordance with this lease.

**1.2 Renewal Option.** If the lease is not in default at the time the option is exercised or at the time the renewal term is to commence, TENANT shall have the option to renew consistent with any such extension by that certain Lease by and between the District and the State Lands Commission, subject to satisfaction of subsection (4), below, unless sooner terminated in accordance with this lease, as follows:

- (1) The renewal term shall commence on the day following expiration of the initial term.
- (2) The option may be exercised by written notice to DISTRICT given not less than 180 days prior to the last day of the original term. The giving of such notice shall be sufficient to make the lease binding for the renewal term without further act of



period. The DISTRICT shall provide TENANT a minimum of 60 days advance notice before any recalculation of Additional Rent charges are added to the Base Rent.

**2.4 Late Charges.** TENANT acknowledges that late payment of any rent or other payment required by this lease from TENANT to DISTRICT will result in costs to DISTRICT, the extent of which is extremely difficult and economically impractical to ascertain. TENANT therefore agrees that if TENANT fails to make any rent or other payment required by this lease to be paid to DISTRICT within ten days of the date it is due, DISTRICT shall impose a late charge of five percent (5%) of the overdue payment, to reimburse DISTRICT for the cost of collecting the overdue payment. DISTRICT may levy and collect a late charge in addition to all other remedies available for TENANT's default, and collection of a late charge shall not be in lieu of nor shall it waive the breach caused by the late payment.

**2.5 Escalation.** For each year after the first year of the lease (including any renewal term), the base rent provided in Section 2.1 shall be increased by a percentage equal to the percentage change in the Consumer Price Index published by the United States Bureau of Labor Statistics of the United States Department of Labor for the most recent twelve months available thirty (30) days prior to the anniversary date, or by two percent (2%), whichever is higher. Comparisons shall be made using the index entitled U.S. City Average—All Items and Major Group Figures for All Urban Consumers (1982-84=100), or the nearest comparable data on changes in the cost of living if such index is no longer published. The change shall be determined by comparison of the figure for the preceding year with that of each succeeding year.

### **Section 3. Use of the Premises**

**3.1 Permitted Use.** The Premises shall be used for the uses described in the Operations Plan which has been reviewed and approved by the District and Humboldt County Planning Department and is included in **Exhibit B** and in a manner consistent with (i) all ordinances of the DISTRICT; (ii) all local, state and federal laws and regulations (collectively, the "Permitted Uses"); (iii) and all recorded covenants and restrictions, including but not limited to the Leasehold Mortgage; (iv) the Ground Lease and the Operating Lease. Tenant is not authorized to use the Premises for any other purpose without the consent of DISTRICT, which consent shall not be withheld unreasonably. In addition to other reasons, the DISTRICT's refusal to allow a use that is not legal under State or Federal law shall be considered reasonable.

**3.2 Restrictions on Use.** In connection with the use of the Premises, TENANT shall:

- (1) Conform to all applicable laws and regulations of any public authority affecting

the occupancy of the Premises and the use of the Premises, and correct at TENANT's own expense any failure of compliance created through TENANT's fault or by reason of TENANT's use, but TENANT shall not be required to make any structural changes to effect such compliance unless such changes are required because of TENANT's specific use.

- (2) Refrain from any activity that would make it impossible to insure the Premises against casualty, would increase the insurance rate, or would prevent DISTRICT from taking advantage of any ruling of the California Insurance Rating Bureau, or its successor, allowing DISTRICT to obtain reduced premium rates for long-term fire insurance policies, unless TENANT pays the additional cost of the insurance.
- (3) Refrain from any use that would be unreasonably offensive to other TENANTS or owners or users of neighboring premises or that would tend to create a nuisance or damage the reputation of the Premises.
- (4) Refrain from loading the electrical system or floors beyond the point considered safe by a competent engineer or architect selected by DISTRICT.
- (5) Refrain from making any marks on or attaching any sign, insignia, antenna, aerial, or other device to the exterior or interior walls, windows, or roof of the premises without the written consent of DISTRICT. TENANT is authorized to install signs in the location and sizes specified in **Exhibit C**.
- (6) TENANT shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises. Except to the extent contrary to the Leasehold Mortgage, Ground Lease, or Operating Lease, TENANT may use or otherwise handle on the Premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the business specified in Section 3.1. TENANT may store such Hazardous Substances on the Premises only in quantities necessary to satisfy TENANT's reasonably anticipated needs. TENANT shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. Upon the expiration or termination of this lease, TENANT shall remove all Hazardous Substances from the Premises that were brought onto the Premises by or at the request of TENANT. The term Environmental Law shall mean any federal, state,

or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

- (7) TENANT may, at its sole cost and expense, use, develop, alter and operate the Premises for Permitted Uses outlined in Section 3.1 and related, associated and ancillary uses and improvements, and subject to the prior written consent of DISTRICT which consent shall not be unreasonably withheld, conditioned or delayed, and the terms and conditions of the (i) New Markets Tax Credit Rider and (ii) Commercial Lease Rider – Job Creation Reporting Requirement, as such riders are attached hereto as ~~Exhibits D and E~~ (intentionally omitted) and incorporated herein by this reference.
- (8) All terms and conditions of the Operating Lease are incorporated into and made a part of this Sublease as if DISTRICT were the master-landlord, TENANT the master-tenant, and the Premises the Property (as defined in the Operating Lease), except to the extent that any such terms and conditions are inapplicable to the terms of this Sublease.

**3.3 Coastal Dependent Industrial Zoning.** The Premises is currently zoned Coastal Dependent Industrial by the County of Humboldt. TENANT has obtained a determination that its use:

- Qualifies as a Coastal Dependent Industrial use, or
- Qualifies under a DISTRICT obtained Conditional Use/ Coastal Development Permit as an interim use pursuant to County Ordinance No. 313-104.1, or
- Has been approved by Humboldt County Planning and/or the California Coastal Commission, or
- Other \_\_\_\_\_

If such permits expire prior to the termination of the tenancy, DISTRICT shall assist TENANT in applying for renewals of the required permits without any guaranty of successful renewal.

Notwithstanding other provisions of this Lease, TENANT shall have no entitlement or property right beyond the permit expiration date or any extension thereof.

- (1) TENANT's use of the property must be compatible with, and not interfere with,

the operation of existing onsite and offsite coastal-dependent industrial or other priority uses. TENANT'S use of the premises, including any common areas, shall not block access to dock facilities and loading areas. In the event of conflicts in the use of common areas, Coastal Dependent Industrial users shall have priority for the use of common areas. TENANT shall not object to any Coastal Dependent Industrial use or other priority use that is operating in conformance with all applicable laws and regulations, including the Humboldt County Code of Regulations.

- (2) TENANT shall not make permanent improvements to the premises without the prior written approval of the DISTRICT. Improvements shall be made in accordance with all land use, building, and public health and safety regulations. Pursuant to Section 13.1, DISTRICT may require TENANT to restore the Premises to its pre-lease condition.
- (3) As required by the County ordinance, "if a coastal dependent industrial use or any other priority use is identified by the DISTRICT for the space occupied by an interim use as defined in 3.3, above, on terms acceptable to the property owner," the DISTRICT may terminate this lease with six months' prior notice. However, if the DISTRICT exercises such an option, it will assist TENANT with reasonable relocation expenses.

#### **Section 4. Common Areas**

**4.1 TENANT's Use.** TENANT, its customers, agents and invitees shall have the non-exclusive right to use areas designated by DISTRICT as common areas in **Exhibit A-2**. "Common areas" means those parking areas, roadways, sidewalks, landscaped areas, security areas and specified other areas owned by DISTRICT where such areas have been designated or may be designated in the future by DISTRICT as areas to be used by the general public or in common by TENANTS. TENANT shall have the right in common with other tenants of the Building to use TENANT's pro rata share of parking spaces associated with the Building.

**4.2 DISTRICT's Rights.** With respect to the common areas, the DISTRICT reserves the following rights (provided that the same do not unreasonably interfere with TENANT's use of the Premises);

- (1) To establish reasonable rules and regulations for the use of the common areas;
- (2) To close all or any portion of the common areas to make repairs or changes;

- (3) To construct, alter, or remove buildings or other improvements in the common areas and to change the layout of such common areas, including the right to add to or subtract from their shape and size or to eliminate such common areas;
- (4) To exercise any of DISTRICT's governmental powers over the common areas;
- (5) To grant the right to use the common areas and to permit third parties to use the common areas.

## **Section 5. Insurance**

**5.1 DISTRICT's Responsibility.** DISTRICT shall keep the Premises insured at DISTRICT's expense against fire and other property damage and loss risks generally covered by a standard fire insurance policy with an endorsement for extended coverage or by similar coverage through a joint powers association of governmental entities. TENANT shall bear the expense of any insurance insuring the personal property, equipment and fixtures of TENANT on the Premises against such risks but shall not be required to insure. DISTRICT shall not be liable to TENANT for any loss or damage to TENANT's personal property, equipment or fixtures, except to the extent due to DISTRICT's gross negligence or willful misconduct.

**5.2 TENANT's Responsibility.** All insurance carriers shall be admitted in the state of California and have an A.M. Best's rating of A- or better and minimum financial size VII. Coverage shall be at least as broad as the following minimum limits:

- (1) *Commercial General Liability:* Insurance Services Office (ISO) "Commercial General Liability" policy form CG 00 01 or the exact equivalent on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000 per occurrence for all covered losses. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Additional insured coverage for the District shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits.
- (2) *Business Automobile Insurance:* ISO Auto Coverage Form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$2,000,000 per accident for bodily injury and property damage. If TENANT or TENANT's employees will use personal autos for

business purposes, TENANT shall provide evidence of personal auto liability coverage for each such person.

- (3) *Workers Compensation Insurance*: covering all employees and volunteers as required by the State of California on a state-approved policy form, and Employer's Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
- (4) *Excess or Umbrella Liability Insurance (Over Primary)*: if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Such policy or policies shall include a drop down provision providing coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf of" basis, with defense costs payable in addition to policy limits. The policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to DISTRICT for injury to employees of TENANT. The scope of coverage provided is subject to approval of DISTRICT following receipt of proof of insurance as required herein.

### **5.3 General Conditions Pertaining to Insurance.**

- (1) TENANT shall have its insurer endorse the third-party general liability coverage to include as additional insureds the District, HBDA, and their respective officials, employees, volunteers and agents, using standard ISO endorsement CG 20 10. The additional insured coverage under TENANT's policy shall be provided on a primary, non-contributing basis in relation to any other insurance or self-insurance available to the DISTRICT. TENANT's policy shall not seek contribution from the DISTRICT's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.
- (2) It is a requirement under this Lease that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage and/or limits required in this Section 5 shall be available to the DISTRICT as an additional insured. Furthermore, the requirements for coverage and limits shall be (a) the minimum coverage and limits specified in this Lease, or (b) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to

the named insured, whichever is greater.

- (3) All self-insured retentions (SIR) must be disclosed to the DISTRICT for approval and shall not reduce the limits of liability. Policies containing any SIR shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the DISTRICT.
- (4) The DISTRICT reserves the right to obtain a full certified copy of any insurance policy and any endorsement. Failure to exercise this right shall not constitute a waiver of the DISTRICT's right.
- (5) Certificates shall contain a statement that the policy will not be cancelled except after thirty (30) days prior written notice to the DISTRICT.
- (6) TENANT agrees to waive subrogation rights against the DISTRICT regardless of the applicability of any insurance proceeds.
- (7) Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all required coverages and an additional insured endorsement to TENANT's general liability policy, shall be delivered to the DISTRICT at or prior to the execution of the Lease.
- (8) All coverage types and limits required are subject to approval, modification and additional requirements by the DISTRICT, as the need arises. TENANT shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect the DISTRICT's protection without the DISTRICT's prior written consent.

## **Section 6. Taxes; Utilities**

**6.1 Property Taxes and Assessments.** TENANT shall pay as due all taxes on its personal property located on the Premises or otherwise. TENANT shall pay as due any real property taxes, including possessory use taxes, and special assessments levied against the Premises as additional rent following receipt of notice of such amount from DISTRICT. As a public entity, DISTRICT does not pay property taxes, but TENANT will be assessed directly by the County a possessory use tax on the leasehold premises pursuant to California Revenue and Taxation Code sections 107 et. seq. TENANT is hereby given notice of the possessory use tax as required by Revenue and Taxation Code section 107.6.

**6.2 Utilities.** TENANT agrees to pay or cause to be paid all charges for utilities or

services provided to the Premises and any improvements thereon throughout the Term.

## **Section 7. Damage and Destruction**

**7.1 Partial Damage.** If the Premises are partly damaged other than through the fault of the TENANT and Section 7.2 does not apply, the Premises shall be repaired by DISTRICT at DISTRICT's expense. Repairs shall be accomplished within a reasonable time.

**7.2 Destruction.** If the Premises are destroyed or damaged such that the cost of repair exceeds 50% of the value of the structure before the damage, either party may elect to terminate the lease as of the date of the damage or destruction by notice given to the other in writing not more than 45 days following the date of damage. In such event all rights and obligations of the parties shall cease as of the date of termination, and TENANT shall be entitled to the reimbursement of any prepaid amounts paid by TENANT and attributable to the anticipated term, unless the damage or destruction was caused by any negligent or intentional act of omission by TENANT or any of TENANT'S officers, directors, employees, agents, volunteers, or invitees. If neither party elects to terminate, DISTRICT shall proceed to restore the Premises to substantially the same form as prior to the damage or destruction. Work shall be commenced and completed within a reasonable time.

**7.3 Rent Abatement.** Rent shall be abated during the repair of any damage to the extent the premises are untenable, except that there shall be no rent abatement where the damage occurred as the result of the fault of TENANT.

**7.4 Damage Late in Term.** If damage or destruction to which Section 7.2 would apply occurs within one year before the end of the then-current lease term, TENANT may elect to terminate the lease by written notice to DISTRICT given within 30 days after the date of the damage. Such termination shall have the same effect as termination by DISTRICT.

**7.5 Security.** DISTRICT is not responsible or liable for security of the premises or for any loss, destruction, damage or theft of TENANT's property or fixtures located on the leased premises, including any loss sustained by TENANT in the common areas. TENANT hereby irrevocably releases DISTRICT, including its officers, officials, employees, agents, and volunteers from any such liability.

## **Section 8. Liability and Indemnity**

### **8.1 Liens.**

- (1) Except with respect to activities for which DISTRICT is responsible because it contracted for such work directly, TENANT shall pay as due all claims for work done on and for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens, stop notices, or other claims that the DISTRICT may be liable for. If TENANT fails to pay any such claims or to discharge any lien, DISTRICT may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 9% per annum from the date expended by DISTRICT and shall be payable on demand. Such action by DISTRICT shall not constitute a waiver of any right or remedy which DISTRICT may have on account of TENANT's default. The DISTRICT, in its sole discretion, may require TENANT to post, for the benefit of the DISTRICT, a Labor and Materials Payment Bond covering 100% of the construction costs.
- (2) TENANT may withhold payment of any third party claim in connection with a good-faith dispute over the obligation to pay the third party, as long as DISTRICT's property interests or that of the HBDA are not jeopardized. If a lien is filed as a result of nonpayment, TENANT shall, within 10 days after knowledge of the filing, secure the discharge of the lien or deposit with DISTRICT cash or sufficient corporate surety bond or other surety satisfactory to DISTRICT in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.
- (3) The District and/or the HBDA may file and record a notice of non-responsibility with Humboldt County Recorder's Office.

**8.2 Indemnification.** TENANT shall indemnify and defend DISTRICT and the HBDA, including their respective officers, directors, employees, agents, and volunteers, from any claim, loss, demand, action, attorney's fees, costs of litigation, or other liability arising out of or related to any activity of TENANT or its customers, invitees, employees, agents, volunteers, contractors, subcontractors, or consultants on the Premises (inclusive of common areas) or any condition of the Premises in the possession or under the control of TENANT, other than that caused by the sole negligence of DISTRICT. DISTRICT shall have no liability to TENANT for

any injury, loss, or damage caused by third parties, or by any condition of the Premises. TENANT shall inspect the premises upon taking possession, and shall notify DISTRICT in writing within ten (10) business days of any condition of the premises TENANT believes constitutes a non-operational item, non-compliance with laws or a hazard or dangerous condition of the property. Failure to provide such a notice shall constitute an agreement by the TENANT that there is no non-operational item, non-compliance with laws or hazard or dangerous condition for which the DISTRICT is responsible. Any matter that reasonably constitutes a hazard or dangerous condition of the property identified within such ten (10) business day period shall be corrected by DISTRICT at DISTRICT's sole cost within thirty (30) days. DISTRICT shall indemnify and defend TENANT from any claim, loss, or liability arising out of or related to the sole negligence of DISTRICT or its employees, or contractors.

## **Section 9. Quiet Enjoyment; As Is; Repairs and Maintenance**

**9.1 DISTRICT's Warranty.** DISTRICT warrants that it is the leasehold owner of the Premises and has the right to sublease the Premises to TENANT. TENANT takes the Premises "AS IS", with all faults, except as to those conditions of which it gives notice to the DISTRICT pursuant to Section 8.2.

**9.2 Estoppel Certificate.** Either party will, within 20 days after notice from the other, execute and deliver to the other party a certificate stating whether or not this lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by the other party. The certificate shall also state the amount of monthly base rent, the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the specified time shall be conclusive upon the party from whom the certificate was requested that the lease is in full force and effect and has not been modified except as represented in the notice requesting the certificate.

**9.3 Repairs and Maintenance.** TENANT shall be responsible for maintenance of all interior surfaces of the Premises except for electrical, plumbing and mechanical systems serving the Premises and structural components and the roof of the Premises which, along with maintenance of the common areas, are the responsibility of DISTRICT at its sole cost, subject to reimbursement by TENANT for damage caused by TENANT or parties claiming through TENANT. If any failure to provide utilities the restoration of which is within DISTRICT's control continues for more than forty-eight (48) hours or materially interferes with TENANT's conduct of business in or use and operation of the Premises, TENANT shall be entitled to an

equitable abatement of rent for such period of time as the interruption is in effect.

## **Section 10. Assignment and Subletting**

**10.1 Assignment and Subletting.** No part of the Premises may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the property be conferred on any third person by any other means, without the prior written consent of DISTRICT. This provision shall apply to all transfers by operation of law. No consent in one instance shall prevent the provision from applying to a subsequent instance. DISTRICT may withhold or condition such consent in its sole and absolute discretion. Notwithstanding any provision in this Lease to the contrary, TENANT shall have the right to assign this Lease or sublet all or a portion of the Premises without DISTRICT's consent to any corporation or business entity which controls, is controlled by or is under common control with TENANT, or to a corporation or other business entity resulting from a merger or consolidation with TENANT, or to any person or entity which acquires substantially all of the assets of TENANT's businesses as a going concern ("Affiliate"); provided that in the case of an assignment, the assignee assumes in full the obligations of the TENANT under this Lease and that the use of the Premises remains unchanged.

## **Section 11. Default**

The following shall be events of default:

**11.1 Default in Rent.** Failure of TENANT to pay any rent or other charge within 10 days after written notice that it is due.

**11.2 Default in Other Covenants.** Failure of TENANT to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within 20 days after written notice by DISTRICT specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 20-day period, this provision shall be complied with if TENANT begins correction of the default within the 20-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

**11.3 Insolvency.** Insolvency of TENANT; an assignment by TENANT for the benefit of creditors; the filing by TENANT of a voluntary petition in bankruptcy; an adjudication that TENANT is bankrupt or the appointment of a receiver of the properties of TENANT; the filing

of any involuntary petition of bankruptcy and failure of TENANT to secure a dismissal of the petition within 30 days after filing; attachment of or the levying of execution on the leasehold interest and failure of TENANT to secure discharge of the attachment or release of the levy of execution within 10 days shall constitute a default. If TENANT consists of two or more individuals or business entities, the events of default specified in this Section shall apply to each individual unless within 10 days after an event of default occurs, the remaining individuals produce evidence satisfactory to DISTRICT that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of TENANT under the lease.

## **Section 12. Remedies on Default**

**12.1 Termination.** In the event of a default the lease may be terminated at the option of DISTRICT by written notice to TENANT. Whether or not the lease is terminated by the election of DISTRICT or otherwise, DISTRICT shall be entitled to recover actual damages from TENANT for the default, and DISTRICT may reenter, take possession of the premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

**12.2 Reletting.** Following reentry or abandonment, DISTRICT may relet the Premises and in that connection may make any suitable alterations or refurbish the Premises, or both, or change the character or use of the Premises, but DISTRICT shall not be required to relet for any use or purpose other than that specified in the lease or which DISTRICT may reasonably consider injurious to the Premises, or to any TENANT that DISTRICT may reasonably consider objectionable. DISTRICT may relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

**12.3 Damages.** In the event of termination or retaking of possession following default, DISTRICT shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:

- (1) The loss of rental from the date of default until a new TENANT is, or with the exercise of reasonable efforts could have been, secured and paying out.
- (2) The reasonable costs of reentry and reletting including without limitation the cost

of any cleanup, reasonable refurbishing, removal of TENANT's property and fixtures, or any other expense occasioned by TENANT's default including but not limited to, any remodeling or repair costs, attorney fees, court costs, broker commissions, and advertising costs.

- (3) Any excess of the value of the rent and all of TENANT's other obligations under this lease over the reasonable expected return from the Premises for the period commencing on the earlier of the date of trial or the date the premises are relet, and continuing through the end of the term. The present value of future amounts will be computed using a discount rate equal to the prime loan rate of major California banks in effect on the date of trial.

**12.4 Right to Sue More than Once.** DISTRICT may sue periodically to recover damages during the period corresponding to the remainder of the lease term, and no action for damages shall bar a later action for damages subsequently accruing.

**12.5 DISTRICT's Right to Cure Defaults.** If TENANT fails to perform any obligation under this lease, DISTRICT shall have the option to do so after 30 days' written notice to TENANT. All of DISTRICT's expenditures to correct the default shall be reimbursed by TENANT on demand with interest at the rate of 9% per annum from the date of expenditure by DISTRICT. Such action by DISTRICT shall not waive any other remedies available to DISTRICT because of the default.

**12.6 Remedies Cumulative.** The foregoing remedies shall be in addition to and shall not exclude any other remedy available to DISTRICT under applicable law.

### **Section 13. Surrender at Expiration**

**13.1 Condition of Premises.** Upon expiration of the lease term or earlier termination on account of default, TENANT shall deliver all keys to DISTRICT and surrender the Premises in the same condition and repair as that received by TENANT and broom clean. DISTRICT shall have the option, in its sole discretion, to permit alterations constructed by TENANT to remain at no cost to the DISTRICT, or be removed or restored to the original condition at the expense of TENANT. Repairs and restoration for depreciation and wear from ordinary use for the purpose for which TENANT is responsible shall be completed to the latest practical date prior to such surrender. TENANT's obligations under this section shall be subordinate to the provisions of Section 9 relating to destruction.

#### **13.2 Fixtures.**

- (1) All fixtures placed upon the Premises during the term, other than TENANT's trade fixtures, shall, at DISTRICT's option, become the property of DISTRICT at no cost to the DISTRICT. If DISTRICT so elects, TENANT shall remove any or all fixtures that would otherwise remain the property of DISTRICT, and shall repair any physical damage resulting from the removal. If TENANT fails to remove such fixtures, DISTRICT may do so and charge the cost to TENANT with interest at the legal rate from the date of expenditure.
- (2) Prior to expiration or other termination of the lease term TENANT shall remove all furnishings, furniture, and trade fixtures that remain its property. If TENANT fails to do so, this shall be an abandonment of the property, and DISTRICT may retain the property and all rights of TENANT with respect to it shall cease or, by notice in writing given to TENANT within 20 days after removal was required, DISTRICT may elect to hold TENANT to its obligation of removal. If DISTRICT elects to require TENANT to remove, DISTRICT may effect a removal and place the property in public storage for TENANT's account. TENANT shall be liable to DISTRICT for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by DISTRICT.

### **13.3 Holdover.**

- (1) If TENANT does not vacate the Premises at the time required, DISTRICT shall have the option to treat TENANT as a TENANT from month to month, subject to all of the provisions of this lease except the provisions for term and renewal and at a rental rate equal to 125 percent of the rent last paid by TENANT during the original or renewal term immediately preceding the holdover, or to eject TENANT from the Premises and recover damages caused by wrongful holdover. Failure of TENANT to remove fixtures, furniture, furnishings, or trade fixtures that TENANT is required to remove under this lease shall constitute a failure to vacate to which this section shall apply if the property not removed will substantially interfere with occupancy of the Premises by another TENANT or with occupancy by DISTRICT for any purpose including preparation for a new TENANT.
- (2) If a month-to-month tenancy results from a holdover by TENANT under this Section, the tenancy shall be terminable at the end of any monthly rental period

on written notice from DISTRICT given not less than 10 days prior to the termination date which shall be specified in the notice. TENANT waives any notice that would otherwise be provided by law with respect to a month-to-month tenancy.

#### **Section 14. Miscellaneous**

**14.1 Nonwaiver.** Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

**14.2 Attorney Fees.** If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to costs such sum as the court or arbitrator may adjudge reasonable as attorney fees at trial, on petition for review, and on appeal.

**14.3 Notices.** Any notice required or permitted under this lease shall be given when actually delivered by hand or express delivery service or 48 hours after deposited in United States mail as certified mail addressed to the address first given in this lease or to such other address as may be specified from time to time by either of the parties in writing.

**14.4 Succession.** Subject to the above-stated limitations on transfer of TENANT's interest, this lease shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

**14.5 Recordation.** This lease shall not be recorded without the written consent of DISTRICT. DISTRICT shall execute and acknowledge a memorandum of this lease in a form suitable for recording, and TENANT may record the memorandum.

**14.6 Entry for Inspection.** DISTRICT shall have the right to enter upon the Premises at any time during regular business hours to determine TENANT's compliance with this lease, to make necessary repairs to the building or to the Premises, or to show the Premises to any prospective TENANT or purchaser, and in addition shall have the right, at any time during the last two months of the term of this lease, to place and maintain upon the Premises notices for leasing or selling of the Premises. Any entry by DISTRICT shall be subject to escort by an employee of TENANT except in the case of an emergency.

**14.5 Interest on Rent and Other Charges.** Any rent or other payment required of TENANT by this lease shall, if not paid within 10 days after it is due, bear interest at the rate of 9% per annum (but not in any event at a rate greater than the maximum rate of interest permitted

by law) from the due date until paid.

**14.8 Proration of Rent.** In the event of commencement or termination of this lease at a time other than the beginning or end of one of the specified rental periods, then the rent shall be prorated as of the date of commencement or termination and in the event of termination for reasons other than default, all prepaid rent shall be refunded to TENANT or paid on its account.

**14.9 Time of Essence.** Time is of the essence of the performance of each of TENANT's obligations under this lease.

**14.10 Complete Agreement.** This Agreement constitutes the complete and entire agreement of the parties. No modification of the Agreement at the time of execution of this lease is effective unless in writing and signed by the parties and attached as **Exhibit F**. Any future modifications to this lease must also be in writing and signed by the parties to be effective. No oral modifications shall be effective to alter the parties' respective rights and duties under the lease.

**14.11. Incorporation of Exhibits.** All exhibits to this lease are incorporated into this lease by reference as if stated in full herein.

**14.12 Governing Law.** This lease shall be construed in accordance with and shall be governed by the laws of the State of California, without regard to any conflicts of laws principles.

**14.13 Accessibility.** In accordance with California Civil Code Section 1938, DISTRICT hereby informs TENANT that as of the commencement of this lease, the Premises has not been inspected by a Certified Access Specialist (as defined in California Civil Code section 55.52(3)). California Civil Code Section 1938(e) provides:

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

TENANT shall, at TENANTS' sole cost and expense, pay the cost of any expenses relating to compliance with the Americans with Disabilities Act or California counterpart of same with respect to any and all improvements made by TENANT to the Premises during the Term.

**Section 15. Arbitration**

**15.1 Disputes to Be Arbitrated.** If any dispute arises between the parties arising out of this lease other than the rental value pursuant to section 2.5(2), the matter shall be resolved by binding arbitration. The arbitrator and arbitration procedures shall be mutually agreed upon by the parties. If the parties cannot agree on the selection of an arbitrator, they shall request the judge of the Humboldt County, California Superior Court with primary responsibility for hearing civil matters, or the presiding judge of that Court, to select an arbitrator.

**15.2 Procedure for Arbitration.** The arbitrator shall proceed according to the California statutes governing arbitration, and the award of the arbitrator shall have the effect therein provided. The arbitration shall take place in Humboldt County, California, unless the parties stipulate in writing to a different location. Costs of the arbitration shall be shared equally by the parties, but each party shall pay its own attorney fees incurred in connection with the arbitration.

**Humboldt Bay Harbor, Recreation &  
Conservation District:**

**Tenant:  
Samoa Pacific Group**

SIGNATURE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: Larry Oetker

NAME: Dan Johnson

TITLE: Executive Director

TITLE: President

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT A**  
**PROPOSED LEASE AREA**

**Site Map Attached**

**EXHIBIT A-2**  
**Common Areas Map**

Map Attached

**EXHIBIT B  
OPERATIONS PLAN**

**Installation Plans Attached**

**EXHIBIT F**  
**APPROVED MODIFICATIONS TO LEASE AGREEMENT**

**OUTFALL AGREEMENT**

**[Signature Page to Follow]**

**IN WITNESS WHEREOF, the parties hereto have duly executed this Sublease as of the day and year first above written.**

**LANDLORD:**

**HUMBOLDT BAY HARBOR, RECREATION  
AND CONSERVATION DISTRICT**

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

**Name: Larry Oetker**

**Title: Executive Director**

**TENANT:**

**SAMOA PACIFIC GROUP**

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

**Name: Dan Johnson**

**Title: President**

COMMISSIONERS

- 1<sup>st</sup> Division  
Larry Doss
- 2<sup>nd</sup> Division  
Greg Dale
- 3<sup>rd</sup> Division  
Stephen Kullmann
- 4<sup>th</sup> Division  
Richard Marks
- 5<sup>th</sup> Division  
Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
 (707) 443-0801  
 P.O. Box 1030  
 Eureka, California 95502-1030



**STAFF REPORT - HARBOR DISTRICT MEETING**  
**May 14, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** May 8, 2020

**TITLE:** Consideration of extension for Permit No. 2018-01: Caltrans Eureka-Arcata Corridor Project

**RECOMMENDATION:** It is recommended that the Board approve extending Permit No. 2018-01 for the Caltrans Eureka-Arcata Corridor Project (the "Project") through May 22, 2021.

**INTRODUCTION:** Caltrans received Permit 2018-01 on May 23, 2019 and it will expire on May 22, 2020. The permit may be renewed for up to nine years at the discretion of the District. Caltrans has requested an extension.

**DISCUSSION:** The Project involves replacement of the southbound Jacoby Creek Bridge, bridge rail upgrades at northbound Jacoby Creek Bridge and northbound Gannon Slough Bridge, and replacement of six tide gates. The applicant has begun vegetation clearing associated with the Project and expects to complete the project in 2021 or 2022. The project will require future extensions.

**Attachments**

- A. Permit 2018-01**
- B. Caltrans Extension Request Letter**

**Attachment A**  
**Permit 2018-01**

**HUMBOLDT BAY HARBOR, RECREATION  
AND CONSERVATION DISTRICT**

**PERMIT**

**Permit No. 2018-01**

**601 Startare Drive  
Woodley Island Marina  
P.O. Box 1030  
Eureka, CA 95502-1030**

**Permittee:**

**California Department of Transportation  
Jeff Pimentel  
1656 Union Street  
Eureka, CA 95501**

The Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District** hereinafter referred to as "**District**", having considered the Application herein, number 2018-01, filed by the California Department of Transportation, hereinafter referred to as "**Permittee**", and the **California Department of Transportation** as the lead agency, pursuant to the California Environmental Quality Act of 1970, as amended, having made a determination certifying the Environmental Impact Report (SCH #2001092035) and the Board of Commissioners of the **District** having on May 23, 2019, passed Resolution No. 2019-06 establishing findings relative to the Application by **Permittee** for work associated with the Eureka-Arcata Route 101 Corridor Improvement Project as provided for in this Permit, the **Permittee** is hereby authorized to perform the work as more particularly described in the Application filed with the **District** and the Environmental Impact Report referred to above.

You are hereby authorized to conduct that activity described in the Permit Application of **Permittee** consisting of:

Eureka-Arcata Route 101 Corridor Improvement Project – replacement of the southbound Jacoby Creek Bridge, bridge rail upgrades at northbound Jacoby Creek Bridge and northbound Gannon Slough Bridge, and replacement of six (6) tide gates, more particularly described in the Application filed by **Permittee**.

That the location of the proposed activity shall be in Humboldt County, California, Route 101 Post Miles 79.9 to 86.3.

**SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

1. If the **Permittee** materially changes the activity plan and scope, it will be necessary to request a permit revision.
2. That all work authorized by this Permit shall further be subject to the approval of the following public agencies:
  - A. United States Army Corps of Engineers
  - B. North Coast Regional Water Quality Control Board

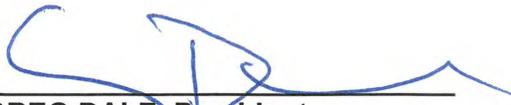
- C. California Coastal Commission
- D. United States Coast Guard
- E. California Department of Fish and Wildlife

and **Permittee** shall fully comply with all regulations and conditions affecting such work as imposed by the above agencies.

3. That the mitigation measures described in the Final Environmental Impact Report for the Eureka-Arcata Route 101 Corridor Improvement Project are made conditions of this permit by reference.
4. That PRIOR TO INITIATION OF DEVELOPMENT, the **Permittee** shall submit, for **District** review and written approval, a detailed mitigation plan consistent with the Project's Final Environmental Impact Report.
5. Any in-water work requires a Spill Prevention, Control and Countermeasure (SPCC) plan. Spill kits with appropriate contents will be maintained at the project site. Kits shall be equipped with enough material to provide preliminary containment for a volume of material that can reasonably be expected to spill. Booms will be available to contain spilled materials.
6. All appropriate erosion control measures and standard best management practices will be used as necessary to minimize bank erosion, sediment input and water turbidity.
7. All construction debris shall be removed from the site and disposed of only at an authorized disposal site. Sidecasting of such material or placement of any such material within Humboldt Bay or any wetland area is prohibited.
8. If archeological or cultural features or materials are unearthed during any phase of project activity, all work in the immediate vicinity of the find shall halt until the **Permittee** has contacted the Wiyot Tribe's Cultural Department, and the significance of the resource has been evaluated, to the satisfaction of the Wiyot Tribe. Any mitigation measures that may be deemed necessary will be provided to the Wiyot Cultural Director for review and input to ensure they are consistent with the standards for cultural resource mitigation particularly in cooperation with Native American tribal representatives and the California State Native American Heritage Commission. Mitigation measures shall be implemented by a qualified archeologist representing the **Permittee** prior to resumption of construction activities. If human remains are exposed by project related activity, the **Permittee** shall comply with California State Health and Safety Code, §7050.5, which states that no further disturbance shall occur until the County Coroner has made the necessary findings as to the origin and disposition pursuant to California Public Resources Code, §5097.98.
9. That there shall be no unreasonable interference with navigation by the work herein authorized.
10. That no attempt shall be made by the **Permittee** to interfere or forbid the full and free use by the public of all navigable waters at or adjacent to the work.

11. That **Permittee** shall furnish to the **District** a written annual progress report by December 31<sup>st</sup> of each year, and upon completion, a written completion report describing the completion of the project.
12. That the **District**, its Commissioners, or any officer or employee of the **District** shall in no case be liable for any damages or injury of the work herein authorized which may be caused by or result from future operations undertaken by the **District** for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
13. That neither the **District**, nor its Board of Commissioners, nor any officer of the **District** shall be liable to any extent for any such injury or damage to any person or property or for the death of any person arising out of or connected with the work authorized by this Permit.
14. That the **Permittee** shall comply with any regulations, condition, or instructions affecting the work hereby authorized if and when issued by the Federal Water Pollution Control Administration and/or the State of California Water Resources Control Agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instruction in effect or prescribed by Federal or State Agencies are hereby made a condition of this Permit.
15. That as a condition to the issuance of this Permit, **Permittee** agrees to indemnify and hold harmless **District** from and against any and all liability, loss, or damage **District** may suffer from claims and demands for attorneys' fees, costs of suit, and costs of administrative records made against **District** by any and all third parties as a result of third party environmental actions against **District** arising out of the subject matter of this Permit, including, but not limited to attorneys' fees, costs of suit, and costs of administrative records pursuant to the California Code of Civil Procedure §1021.5 or any other applicable local, state or federal laws, whether such attorneys' fees, costs of suit, and costs of administrative records are direct or indirect, or incurred in the compromise, attempted compromise, trial appeal or arbitration of claims for attorneys' fees, costs of suit, and costs of administrative records in connection with the subject matter of this Permit.
16. That the Board of Commissioners of the **District** may revoke this Permit at any time upon a finding by the **District** of a violation by the **Permittee** of any condition of this Permit.
17. That this Permit, if not previously revoked or specifically extended, shall cease and be null and void and terminate on the **22<sup>nd</sup> day of May 2020**. If **Permittee** cannot complete the work within the time granted by this Permit, an application for extension must be filed prior to the Permit termination date. This Permit may be extended in annual increments for up to a total of nine (9) years at the discretion of the District.
18. That this Permit is valid as of the 23<sup>rd</sup> day of May 2019 and is made subject to the **Permittee** approving and agreeing to the conditions above set forth and executing said approval as hereinafter provided.

EXECUTED on this 23<sup>rd</sup> day of May 2019, by authority of the Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District**.



**GREG DALE, President**  
**Board of Commissioners**  
**Humboldt Bay Harbor, Recreation and Conservation**  
**District**

The California Department of Transportation, **Permittee**, in the above Permit, hereby accepts and agrees to all of the conditions hereinabove set forth. **Permittee** shall indemnify and hold harmless the **District**, its Board of Commissioners, officers and employees from any and all claims of any nature arising from the performance of and work of improvement contained in the Application for injury, death or damage to any person or property.

The California Department of Transportation, **Permittee**, in the above Permit, agrees to indemnify and hold harmless **District**, its Board of Commissioners, officers and employees from and against any and all liability, loss or damage **District** may suffer from claims and demands from attorneys' fees; costs of suit and costs of administrative records made against **District** by any and all third parties as a result of third party environmental actions against **District** arising out of the subject matter of this Permit including, but not limited to, attorneys' fees, costs of suit and costs of administrative records pursuant to the California Code of Civil Procedure §1021.5 or any other applicable local, state or federal laws, whether such attorneys fees, costs of suit and costs of administrative records are direct or indirect, or incurred in the compromise, attempted compromise, trial, appeal or arbitration of claims for attorneys' fees, costs of suit and costs of administrative records in connection with the subject matter of this Permit.

Dated: 5/24/19



Name: **JEFFREY PIMENTEL**  
Title: **PROJECT MANAGER**

California Department of Transportation

**Attachment B**  
**Caltrans Extension Request Letter**

**DEPARTMENT OF TRANSPORTATION**  
NORTH REGION ENVIRONMENTAL  
DISTRICT 1, PO BOX 3700  
EUREKA, CA 95502-3700  
PHONE (707) 445-5222  
FAX (707) 441-5775  
TTY 711



*Making Conservation  
a California Way of Life.*

February 18, 2020

Humboldt Bay Harbor, Recreation and Conservation District  
Attn: Adam Wagschal, Deputy Director  
P.O. Box 1030  
Eureka, CA 95502-1030

**RE: Permit No. 2018-01, Eureka-Arcata Corridor Project**

Dear Mr. Wagschal:

Caltrans requests an extension to the Humboldt Bay Harbor Recreation and Conservation District Permit No. 2018-01. The permit was executed on the 23<sup>rd</sup> of May 2019 for work associated with the Eureka-Arcata U.S. Highway 101 Corridor Improvement Project. The Corridor Project consists of five separate projects, two of which require work below the Mean High High Water and are covered under Permit No. 2018-01.

Work has commenced on the two projects covered under Permit No. 2018-01, Jacoby Creek Bridge Replacement (01-0E000) and the Tide Gates (01-0C930). These projects will not be completed prior to the 22<sup>nd</sup> of May 2020 and will require a permit extension to continue work.

Since approval of the permit application, the project description for the replacement of southbound Jacoby Creek Bridge has not changed. However, the number of tide gates originally planned for replacement has changed from nine tide gates at five different locations to six tide gates at four different locations.

If you have any questions about this extension request, please contact Felicia Zimmerman, Environmental Planner, at (707) 441-5603 or [felicia.zimmerman@dot.ca.gov](mailto:felicia.zimmerman@dot.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Meyer".

Jason Meyer  
Senior Environmental Planner, Branch Chief E3