

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

DATE: October 10, 2013
TIME: Executive Closed Session - CANCELLED
7:00 p.m. Regular Session
PLACE: Woodley Island Marina Meeting Room

The Meeting Room is wheelchair accessible. Accommodations and access to Harbor District meetings for people with other handicaps must be requested of the Director of Administrative Services at 443-0801 24 hours in advance of the meeting.

1. **Call to Order Regular Session at 7:00 P.M. and Roll Call**
2. **Pledge of Allegiance**
3. **Report on Executive Session**
4. **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.

5. **Consent Calendar: None**

Note: All matters listed under the Consent Calendar are considered to be routine by the Board of Commissioners and will be enacted by one motion. There will be no separate discussion of these items. If discussion is required, that item will be removed from the Consent Calendar and considered separately.

- a. Consideration of approval of minutes from the August 2, 2013 Special Board Meeting.
- b. Consideration of approval of minutes from the August 12, 2013 Special Board Meeting.
- c. Consideration of approval of minutes from the August 22, 2013 Board Meeting.

6. **Communications and Reports**

- a. Chief Executive Officers Report
- b. Staff Reports
- c. District Counsel's and District Treasurer's Reports
- d. Commissioner and Committee Reports
- e. Other

7. **Non Agenda**

8. **Unfinished Business**

- a. Consideration of tideland lease agreement with Hog Island Oyster Company.

Agenda for October 10, 2013 Regular Board Meeting

9. New Business

- a. Consideration of approval of Amendment 2 to the June 13, 2013 Agreement with New Directions for the *Spartina densiflora* Eradication Project.
- b. Discussion of potential dredge purchase.
- c. Consideration of exercising letter of credit with Pacific Choice Seafoods.

10. Administrative and Emergency Permits

11. Adjournment

7a

**MINUTES (Subject to Approval)
SPECIAL MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

August 2, 2013

PRESENT

Commissioner Newman
Commissioner Dale
Commissioner Wilson
Commissioner Marks
Commissioner Higgins

President Wilson called to order the Special Board Meeting of the Board of Commissioners at 2:15 p.m. and lead those present in the Pledge of Allegiance.

COMMISSIONER DALE MOVED TO MOVE CLOSED SESSION TO THE END OF THE MEETING AND CONSIDER THE NEW BUSINESS ITEMS FIRST. COMMISSIONER MARKS SECONDED. MOTION CARRIED WITHOUT DISSENT.

PUBLIC COMMENT

Kent Sawatzky reminded the Board of their fiscal responsibility. The Harbor District does not have extra funds to spend and investing in risky things without selling others, puts one in a serious situation. He referred to Commissioner Marks being on the NCRA Board and the talk that Board is having regarding bankruptcy.

Sebastian Elrite asked who gets notified of a Special Meeting? Media? Individuals?

NEW BUSINESS

A. CONSIDERATION OF ACCEPTING FOR FILING APPLICATION FOR PERMIT NO. 13-04 TO THE PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT DECOMMISSIONING PROGRAM INTAKE AND DISCHARGE CANAL REMEDIATION PROJECT, HUMBOLDT COUNTY, CALIFORNIA.

COMMISSIONER HIGGINS MOVED TO ACCEPT FOR FILING APPLICATION FOR PERMIT NO. 13-04 TO THE PACIFIC GAS AND ELECTRIC COMPANY FOR THE HUMBOLDT BAY POWER PLANT DECOMMISSIONING PROGRAM INTAKE AND DISCHARGE CANAL REMEDIATION PROJECT, HUMBOLDT COUNTY, CALIFORNIA. COMMISSIONER MARKS SECONDED.

Karen Brooks asked if there was mitigation for this project. She said she was advocating on behalf of HASA and recommended the artificial reef be used for mitigation.

Director of Conservation explained the project and how it differs from canal dredging.

MOTION CARRIED WITHOUT DISSENT.

B. DISCUSSION OF PURCHASE OF DREDGE EQUIPMENT.

CEO reported Nehalem Dredging Company has a pipeline cutter head dredge for sale. Owner Vern Scovill has a 50-year history in the business and is ready to retire. The cost of

the dredge plus the work boat is \$1.2 million. CEO stated this is an opportunity for a partnership worth discussing with the City of Eureka.

There are several City-side docks, the City's Public Marina, as well as the Woodley Island Marina that are all in need of dredging. Removing small volumes of dredge material annually from these areas would be beneficial.

Bill McBroome asked how old the dredge is. CEO responded it was built in 1982 and was completely rebuilt in 1997.

Kent Sawatzky said the long-term profitability of such a purchase sounds possible. He asked about financing options.

Monte Provolt said when equipment sits unused, it usually costs more to operate and maintain than if it is used constantly. He asked the Board to justify the dollars that would be invested and asked the Board for a report on the definite work available in order to pay the costs of the purchase and operation of the dredge.

Susan Penn asked about the \$400,000 lien currently on the equipment. Was it borrowed to cover a loss incurred on a job?

Karen Brooks asked how deep the dredge could work. CEO stated 38' plus there is an extension to get under the slips. Dock owners are responsible for dredging out to 150' in front of their docks. Currently ships cannot be fully loaded due to the silting.

Kent Sawatzky asked if operating the dredge would be union jobs. CEO stated Harbor District employees would be operators and many of them are union.

Bill McBroome asked where the dredge materials would be dumped if beach dumping is not allowed. Where would the flow-lane be and how expensive would that typed of dumping be?

Karen Brooks said materials are needed to offset sea level rise for levy and dike improvement.

Commissioners Dale and Wilson will work with City of Eureka representatives on a potential partnership.

PUBLIC COMMENT ON CLOSED SESSION

Sebastian Elrite requested the Board to moved forward with private negotiations with other parties that would occupy the property.

Kent Sawatsky said he is property investor and developer and urged the Board to be careful; minimize the investment and try to put the property back into the public's hands.

Karen Brooks said conceptually the community is excited, but there are not enough public details. When will the specifics of the purchase be available to the public? There is a lot of contaminated land at the pulp mill site; what are the costs? She said it would be a good thing to put the property back into the public tax base.

Monte Provolt said he would like to see a feasibility and market study done on the property so that the Board is not throwing away the public's money.

Minutes (Subject to Approval)
Special Meeting of the Board of Commissioners
Humboldt Bay Harbor, Recreation and Conservation District
August 2, 2013
Page 3 of 3

The Board of Commissioners adjourned to Executive Closed Session at 3:05 p.m.

President Wilson adjourned the Executive Closed Session at 4:06 p.m.

President Wilson called to order the Regular Meeting of the Board of Commissioners at 4:07 p.m.

District Counsel reported on the Executive Closed Session as follows: Freshwater Tissue Company property purchase negotiations - No action taken. T-Mobile Fields Landing lease negotiations: The Board voted 4-0 to approve the T-Mobile lease agreement. Commissioner Dale left early from Closed Session.

The Board will convene a Special Meeting on August 12, 2013 at 4:00 p.m. The Board Meeting of August 8, 2013 will be cancelled.

The Special Meeting of the Board of Commissioners was adjourned at 4:10 p.m.

APPROVED BY:

RECORDED BY:

Patrick Higgins
Secretary

Patricia Tyson
Director of Administrative Services

**MINUTES (Subject to Approval)
SPECIAL MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

August 12, 2013

PRESENT

Commissioner Dale
Commissioner Wilson
Commissioner Marks
Commissioner Higgins

ABSENT:

Commissioner Newman

President Wilson called to order the Special Board Meeting of the Board of Commissioners at 4:08 p.m.

PUBLIC COMMENT

Kent Sawatzky commended the Board for their intentions of cleaning up the toxic materials on the pulp mill property. He said he is concerned about the proposed uses and is worried about the public dollars at risk; a potential money pit. Mr. Sawatzky also urged the Board to be transparent in their considerations of the purchase. He said there has not been enough time for the public to review the Phase I documents and he respectfully asked the Board to postpone their decision.

The Board of Commissioners adjourned to Executive Closed Session at 4:14 p.m.

President Wilson adjourned the Executive Closed Session at 4:30 p.m.

President Wilson called to order the Regular Meeting of the Board of Commissioners at 4:31 p.m.

District Counsel reported on the Executive Closed Session as follows: Freshwater Tissue Company property purchase negotiations - No action taken.

NEW BUSINESS

A. CONSIDERATION OF PURCHASE OF FRESHWATER TISSUE COMPANY PROPERTY, SAMOA, CALIFORNIA.

CEO made a PowerPoint presentation on the specifics of the Freshwater Tissue Company property: Parcel A is 72 acres; road easements solves adjacent property owner issues; there is a connection to the federal highway system, allowing the use of Redwood Marine Terminal Berth 2, which is the District's best docking facility; and there are several buildings and a recovery boiler located on the parcel

COMMISSIONER MARKS MOVED FOR THE PURCHASE OF THE FRESHWATER TISSUE COMPANY PROPERTY, SAMOA, CALIFORNIA, FOR THE TERMS AS LAID OUT IN THE PURCHASE AND SALE AGREEMENT. COMMISSIONER HIGGINS SECONDED.

Commissioner Higgins stated with the threat of pollution to the bay imminent, the District is in a unique position to clean the site and reduce the threat. The community will end up with the green development, new jobs and a healthy bay.

Commissioner Marks said he worked at the facility for nearly 30 years. The former owner created the environmental issues, not caused by Freshwater Tissue Company. This is the District's response to help protect the bay.

Commissioner Dale said this is a nerve-racking proposition, the magnitude of the facility is incredible, conditions are grave; but he sees the Harbor District has an opportunity and an obligation.

Commissioner Wilson said there have been talks with many agencies about project concepts; there has been positive feedback and a vision for development. He said he worked with the Wiyot Tribe to purchase the North end of Indian Island; it was daunting, but the right thing to do.

District Counsel said Louisiana-Pacific remains liable for what happened on their watch (spills on the property) and prior; there has been ongoing monitoring of the stormwater discharge. There are assurances that Freshwater Tissue Company and their unnamed predecessors will not be held liable.

Bruce Rupp, Humboldt Bay Municipal Water District Board Member, said he heard a presentation in January on this project and has been impressed by the level of due diligence by the Board and staff. He said the Water District supports this effort.

Jessica Hall, Humboldt Baykeeper, said her organization wants to see the site cleaned of the contamination.

Jennifer Kalt, Humboldt Baykeeper, asked for elaboration on the indemnification of Freshwater Tissue Company.

Monte Provolt said it appears the Board is going to make their decision without the benefit of a market plan. There is no assurance to taxpayers; what is the public liable for? He asked about the cost of the maintenance and cleaning of the outfall pipe.

Rhea Williamson reemphasized Humboldt State University's interest in this site and support of this entrepreneurial effort. There is incredible opportunity for the community and HSU.

Ted Kuiper thanked the Board for their leadership and hundreds of research hours. He said it is imperative to protect Humboldt Bay's water quality.

District Counsel responded regarding liability and indemnification of Freshwater Tissue Company (FTC). He said if FTC is sued for their ownership liability, the Harbor District is now responsible; however Louisiana-Pacific is working with the water board on their issues for which they are liable. Liability for the liquor spills are the biggest concern for the Harbor District and negotiations are ongoing for a catastrophic loss insurance policy.

CEO stated it is virtually impossible for a private party to get a grant to remove the liquors. Also the outfall pipe was inspected five years ago and the zincs were changed; a current inspection is necessary.

MOTION CARRIED WITHOUT DISSENT, COMMISSIONER NEWMAN ABSENT.

Minutes (Subject to Approval)
Special Meeting of the Board of Commissioners
Humboldt Bay Harbor, Recreation and Conservation District
August 2, 2013
Page 3 of 3

COMMISSIONER MARKS MADE A FRIENDLY AMENDMENT AND CLARIFIED THE MOTION AS FOLLOWS: MOVE FOR THE BOARD TO AUTHORIZE THE PRESIDENT TO EXECUTE THE REAL ESTATE PURCHASE AND SALE AGREEMENT WITH FRESHWATER TISSUE COMPANY, LLC FOR THE PURCHASE OF THE FRESHWATER TISSUE COMPANY PROPERTY, PARCEL A, LOCATED AT SAMOA, CALIFORNIA, AND TO CLOSE ESCROW. COMMISSIONER HIGGINS ACCEPTED THE FRIENDLY AMENDMENT. MOTION CARRIED WITHOUT DISSENT, COMMISSIONER NEWMAN ABSENT.

The Special Meeting of the Board of Commissioners was adjourned at 5:05 p.m.

APPROVED BY:

RECORDED BY:

Patrick Higgins
Secretary

Patricia Tyson
Director of Administrative Services

7C

**MINUTES (Subject to Approval)
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

August 22, 2013

PRESENT

Commissioner Newman
Commissioner Dale
Commissioner Wilson
Commissioner Marks

ABSENT

Commissioner Higgins

President Wilson called the Executive Closed Session to order at 6:10 P.M.

President Wilson adjourned the Executive Closed Session at 6:55 P.M.

President Wilson called the Regular Meeting of the Board of Commissioners to order at 7:10 P.M.

President Wilson asked Director of Conservation to lead those present in the Pledge of Allegiance.

District Counsel reported out of the Executive Closed Session as follows: Potential sale of District's boiler located on recently acquired Samoa Pulp Mill site – no action to report; Chief Executive Officer Annual Evaluation – no action to report due to time constraints on a procedural process.

PUBLIC COMMENT

Kent Sawatzky suggested the conference room doors be made ADA compliant with handles that are easier to turn; recommended a sign be placed on the doors during Executive Closed Session to let the public waiting for the Open Session know when they can enter.

Ken Bates said he has been concerned about the recent water quality in Humboldt Bay as there has been much silt in the water and a lack of bait; has been telling boats looking for bait not to come into the Bay due to the absence of the bait, which is lost revenue for the Marina. Mr. Bates stated there was excessive turbidity in the Eureka Channel and between Indian and Woodley Islands from mid-April until the second week in June; stated he is concerned it could be from cord grass (spartina) remediation. Mr. Bates asked the District as the permitting agency for the cord grass remediation to look into its effects.

CONSENT CALENDAR: None

COMMUNICATIONS AND REPORTS

CHIEF EXECUTIVE OFFICER REPORT

- ❖ Has been reviewing the costs of purchasing a dredge and flow-laning versus hiring someone else to do the dredging; the figures do not include the permitting costs at this time. Has been in discussions with the City of Eureka about purchasing a dredge; said after Mr. Bates' report, it may be sooner than previously thought that the Marina needs to be dredged.

**Minutes (Subject to Approval)
Regular Meeting of the Board of Commissioners
Humboldt Bay Harbor, Recreation and Conservation District
August 22, 2013
Page 2 of 7**

- ❖ Reported NOAA has been very interested in the District's recent acquisition of the Pulp Mill and there could be applicable grant opportunities to assist in its cleanup.

STAFF REPORTS

Bar Pilot Tim Petrusha

- ❖ Said the aquaponics project is coming along; there are now plants in the greenhouse. Stated the Maintenance Department has been assisting and that Staff found an extra fan at the Pulp Mill that is being used for the greenhouse. Reported the Sheriff's Department donated some confiscated equipment from marijuana grow activities to the project.
- ❖ Stated the dredge *Yaquina* was in the Bay this past week for additional dredging.

Director of Facility Maintenance

- ❖ Reported District Staff responded to a fire this week with the Fire Boat performing flawlessly and able to extinguish the flames right away; said the flames were about 100 feet from the Renner tanks and moving closer.

DISTRICT COUNSEL REPORT

- ❖ Stated a contract with T-Mobile for a cell phone tower at the Fields Landing Boat Yard should be on an Agenda soon.

COMMISSIONER AND COMMITTEE REPORTS

Commissioner Newman

- ❖ Apologized for missing the last Board Meeting.
- ❖ Participated in NCLACC, where the Halibut quote for recreational fishing was discussed.

Commissioner Wilson

- ❖ Reported he and Commissioner Newman have been discussing the District's need for a Planner; put an RFQ together that will be coming before the Board soon.

Commissioner Marks

- ❖ Chaired the Economic Development Committee meeting, where the use of docks by private owners and their issues was discussed.
- ❖ Attended the Humboldt County Democrat and Central Labor Council meetings, where the attendees were excited about the District's recent Pulp Mill purchase.

NON AGENDA

Commissioner Wilson requested adding Resolution 2013-11 as Item 11a; the resolution is time-sensitive and was brought forward after the Agenda was published.

COMMISSIONER MARKS MOVED FOR ADDING RESOLUTION 2013-11 AS ITEM 11A TO THE AGENDA. COMMISSIONER DALE SECONDED. MOTION CARRIED WITHOUT DISSENT.

UNFINISHED BUSINESS: None

NEW BUSINESS

A. CONSIDERATION OF APPROVAL OF RESOLUTION 2013-11 WHICH CONCERNS NORTH COAST CALIFORNIA GOVERNMENT PACIFIC HALIBUT MANAGEMENT.

Commissioner Wilson read Resolution 2013-11.

Commissioner Newman said he has an active role in the Pacific Fisheries Management Council as the California Salmon Advisor; and while Halibut management is not his area of expertise, he has been following the issue because it is important to the local community. Commissioner Newman stated there is an area of Halibut management that uses the Salmon management line; the only Halibut fishing being done is by recreational fishermen and there is a very small quota for recreational use. Commissioner Newman stated there was never the intention of mandating a maximum catch quota and these numbers are being reviewed due to the Halibut fishing being good and over the .62% limit. Commissioner Newman reported there are more Halibut in this area than it is getting credit for in this quota and with no existing surveys, there is no data; this resolution asks for a more reasonable quota separating California's from Oregon and asks that new data be used for 2014.

Commissioner Wilson said there are three goals included: separate Oregon and California's quotas, restrictions be deferred until new data is collected, and implementing a science-based quota.

COMMISSIONER DALE MOVED FOR APPROVAL OF RESOLUTION 2013-11 WHICH CONCERNS NORTH COAST CALIFORNIA GOVERNMENT PACIFIC HALIBUT MANAGEMENT. COMMISSIONER NEWMAN SECONDED.

The language of the Resolution was discussed.

Jim Yarnell, HASA Board Member, reported this is a complex issue and is a resource allocation issue, not resource conservation; said the Board is on the right track and that the revised language is an improvement.

Kent Sawatzky stated the Board should keep up the good work to improve this fishery and the economy.

Rex Olander reported while he understands this Resolution regards recreational fishing, asked if it affected incidental catch.

Commissioner Newman said it would not affect incidental catch because they are separate quotas.

ROLL CALL VOTE WAS TAKEN:

COMMISSIONER NEWMAN – AYE
COMMISSIONER DALE – AYE
COMMISSIONER WILSON – AYE
COMMISSIONER MARKS – AYE
COMMISSIONER HIGGINS – ABSENT

MOTION CARRIED WITHOUT DISSENT, COMMISSIONER HIGGINS ABSENT.

B. CONSIDERATION OF APPROVAL OF AMENDMENT 1 TO THE JUNE 13, 2013, AGREEMENT WITH NEW DIRECTIONS FOR THE *SPARTINA DENSIFLORA* ERADICATION PROJECT.

Director of Conservation stated the District has been employing New Directions as the main labor force in Spartina eradication; the previous contract used the last funds available in a grant that has run out, so this Amendment spends new funds from the recently-approved Coastal Conservancy grant.

COMMISSIONER NEWMAN MOVED FOR APPROVAL OF AMENDMENT 1 TO THE JUNE 13, 2013, AGREEMENT WITH NEW DIRECTIONS FOR THE *SPARTINA DENSIFLORA* ERADICATION PROJECT. COMMISSIONER MARKS SECONDED.

Debbie Provolt reported it seems like a good time to review Mr. Bates' comments regarding cord grass.

Director of Conservation said he would like to follow up with Mr. Bates as this is the first comment he has heard of people concerned about the turbidity of the Bay; there have been similar size crews doing the same work for about three years now with no reported turbidity issues. Mr. Berman stated if there has been a dramatic change in water quality in the Bay, it should definitely be followed up on.

Commissioner Newman asked Commissioner Dale if he had notice higher water temperatures in the Bay this year.

Commissioner Dale reported he had and also that there is a lot of food in the Bay presently, with oysters growing better and decreased visibility and water color.

MOTION CARRIED WITHOUT DISSENT.

C. DISCUSSION OF PULP MILL PROPERTY PURCHASE AND CURRENT ACTIVITIES.

CEO said Taylor Shellfish is excited to move ahead with their expansion plans; cleanup of the Pulp Mill begins next week, and there has already been some interest in the acids and some of the assets acquired with the Pulp Mill. CEO stated the current goal is learning the operations of the facility, which takes up a lot of Director of Facility Maintenance's time due to the learning curve.

Minutes (Subject to Approval)
Regular Meeting of the Board of Commissioners
Humboldt Bay Harbor, Recreation and Conservation District
August 22, 2013
Page 5 of 7

Commissioner Wilson requested a timeline of the planned activities over the next few years.
Commissioner Dale asked if there was a priority list.

Director of Facility Maintenance reported a listing of priorities has been made with CEO; there is a lot of housekeeping to be done getting ready for the rainy season.

D. CONSIDERATION OF APPROVAL OF PERSONAL SERVICES CONTRACT WITH JOHN GUGGENBICKLER FOR SERVICES RELATED TO THE DISTRICT'S PULP MILL PROPERTY.

CEO said the amount for this contract is \$1500.00 per week on an as-needed basis when the District needs Mr. Guggenbickler's expertise; stated Mr. Guggenbickler retired from the Pulp Mill, has 45 years experience and has the qualifications to move the acids and liquors.

COMMISSIONER MARKS MOVED FOR APPROVAL OF PERSONAL SERVICES CONTRACT WITH JOHN GUGGENBICKLER FOR SERVICES RELATED TO THE DISTRICT'S PULP MILL PROPERTY. COMMISSIONER DALE SECONDED.

Debbie Provolt asked if Mr. Guggenbickler would have self-coverage from hazards or if the District would be providing that coverage.

CEO reported Mr. Guggenbickler will have self-coverage.

Commissioner Marks said Mr. Guggenbickler is knowledgeable about the processes and chemicals.

E. CONSIDERATION OF APPROVAL OF PURCHASE OF PREMISES POLLUTION LIABILITY III INSURANCE POLICY FOR THE DISTRICT'S PULP MILL PROPERTY.

COMMISSIONER NEWMAN MOVED FOR APPROVAL OF PURCHASE OF PREMISES POLLUTION LIABILITY III INSURANCE POLICY FOR THE DISTRICT'S PULP MILL PROPERTY. COMMISSIONER MARKS SECONDED.

CEO stated this Item is for specialty insurance with a \$250,000 deductible and \$10 million in coverage to cover a catastrophic event; the initial binders are Coast Seafoods and Freshwater Tissue. CEO reported they are working on getting LP as an additional binder.

Commissioner Wilson asked if the District can terminate the policy early if the liquors removal is complete before the policy expires.

Kent Sawatzky asked if the public could get a copy of the price ranges of other insurances and what the binding cost was.

CEO reported it is still being negotiated.

MOTION CARRIED WITHOUT DISSENT.

F. CONSIDERATION OF SUPPORT LETTER FOR HUMBOLDT STATE UNIVERSITY'S SCHATZ ENERGY LAB APPLICATION TO THE U.S. DEPARTMENT OF ENERGY FOR FUNDS TO ASSESS HUMBOLDT BAY AS A POTENTIAL LOCATION FOR A NATIONAL WAVE ENERGY TEST CENTER AND POSSIBLE MATCH NOT TO EXCEED \$5,000 (CASH AND/OR IN-KIND).

COMMISSIONER NEWMAN MOVED FOR APPROVAL OF SUPPORT LETTER FOR HUMBOLDT STATE UNIVERSITY'S SCHATZ ENERGY LAB APPLICATION TO THE U.S. DEPARTMENT OF ENERGY FOR FUNDS TO ASSESS HUMBOLDT BAY AS A POTENTIAL LOCATION FOR A NATIONAL WAVE ENERGY TEST CENTER AND POSSIBLE MATCH NOT TO EXCEED \$5,000 (CASH AND/OR IN-KIND). COMMISSIONER MARKS SECONDED.

Commissioner Wilson read the proposed support letter; said he attended a meeting with Schatz Energy Lab representatives last week; and while there are no specific plans yet, they are still discussing to see if Humboldt Bay is a viable alternative

Commissioner Newman stated he thinks it is a good idea.

Kent Sawatzky asked if the grant is \$900,000 for a feasibility study.

Arne Jacobson reported \$750,000 is from the Energy grant and there is \$150,000 cost share; there is another site that is also being studied.

Commissioner Dale asked if the District can do anything more to make Schatz Energy Lab's application more attractive.

Mr. Jacobson said additional resources would probably not help at this time and that it is likely a Pacific Coast candidate will be awarded the grant; stated he believes the Pulp Mill is stronger site out of the choices with two sites being studied in California.

Commissioner Newman asked if they have access to the Wave Connect information from four years ago. Mr. Jacobson said they do. Commissioner Wilson asked for a copy of that information

Debbie Provolt said some of the information used to be on the County's website; asked how many jobs the site would create if awarded the grant.

Mr. Jacobson stated they have the public information that was available, but there is more available information and they are requesting that information from the County. The number of jobs created will be included in the feasibility study.

MOTION CARRIED WITHOUT DISSENT.

G. CONSIDERATION OF APPROVAL OF TIDELAND LEASE WITH HOG ISLAND OYSTER COMPANY.

Director of Conservation reported the Permit and Resolution for this Item were approved at a previous meeting; compared other District leases and recommends \$5,000 per acre per year. Mr. Berman said this lease is for a prime site with great access.

District Counsel stated is a difficult task to establish values on something like this.

Commissioner Dale reported Coast Seafoods is charged acreage and gallonage in its lease; said \$5,000 is a good starting point, especially when the District is trying to encourage business in Humboldt Bay.

Commissioner Wilson said he thinks it is an inexpensive beginning and asked how long the lease term would be. Director of Conservation stated it is five to ten years with an option to renew. Kent Sawatzky said he believes it to be a reasonable lease period.

Debbie Provolt asked if this project would interfere with the dock there if ships needed to tie up to it. Director of Conservation stated the project area is too small and is not used for shipping.

Commissioner Wilson said this Item is discussion only.

ADMINISTRATIVE AND EMERGENCY PERMITS: None

President Wilson adjourned the Regular Meeting of the Board of Commissioners at 9:08 P.M.

APPROVED BY:

RECORDED BY:

Patrick Higgins
Secretary

Kim Farrell
Clerk

10a

HOG ISLAND OYSTER COMPANY
TIDE AND SUBMERGED LAND LEASE

This Lease is made and entered into as of the 10th day of October, 2013, by and between the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT (hereinafter referred to as “Lessor”), a California public entity acting pursuant to Harbors and Navigation Code Appendix II, and HOG ISLAND OYSTER COMPANY, a California corporation (hereinafter referred to as “Lessee”).

1: Description of Lease Premises

1.1 Lessor hereby leases to Lessee and Lessee leases from Lessor, on the terms, covenants and conditions set forth herein, those certain tideland and submerged lands located in Humboldt County, California, and more particularly described in Exhibit A attached hereto and shown generally on Exhibit B attached hereto, hereinafter referred to as the “Lease Premises.”

2. Term

2.1 The original term of this Lease shall commence as of November 1, 2013 (the “Commencement Date”), and end on November 1, 2023, unless sooner terminated pursuant to any provision hereof. This lease is subject to the California Environmental Quality Act (CEQA), and conditional upon compliance with the CEQA process. This lease is further conditioned upon Lessee obtaining the necessary permits and authorizations from other agencies, including but not limited to the California Coastal Commission and U.S. Army Corps of Engineers. If the CEQA compliance process or obtaining the necessary permits and authorizations from other agencies is completed after the anticipated commencement for the term of this Lease, the parties will adjust the term of the lease accordingly.

2.2 If Lessee, after all reasonable efforts, is unable to secure all necessary permits and authorizations from other agencies required to commence the uses described in Paragraph 5.1 within one (1) year of the Commencement Date, it shall have the option to terminate this Lease, without any additional payment of rent or other penalty or remedy permitted pursuant to Paragraph 11.

2.3 Should the Lease Premises become impaired as a shellfish growing area as evidenced by the loss of or the imposition of a limitation on the ability to grow shellfish based upon a determination by the California Department of Food and Agriculture, California Department of Fish and Wildlife, California Fish and Game Commission, or any other state or federal agency with such regulatory authority that the Lease Premises are not suitable for shellfish cultivation, harvesting, or growing, and, further, should such determination result from actions or agencies beyond the control of Lessee, the obligations of the parties under this Lease shall be subject to termination at the option of the Lessee, upon thirty (30) days’ written notice to Lessor, without any additional payment of rent or other penalty or remedy permitted pursuant to Paragraph 11.

3. Option to Renew

3.1 Option: Lessee is hereby granted four (4) options to extend this Lease for a term of five (5) years from and after the expiration of the original term or upon the expiration of any extensions exercised pursuant to this Section 3, upon the same terms and conditions of the original Lease except for the establishment of a new rent for the additional five-year period, using the guidelines set forth in Paragraph 4.2 of this Lease.

3.2 Lessee's Exercise of Option: To exercise the option to renew, Lessee shall give written notice to Lessor of Lessee's exercise of the option no later than twelve (12) months prior to the expiration of the original Lease term.

3.3 Extension Subject to Terms of Lease: The extension of this Lease for any of the five (5) year renewal periods is subject to all covenants, terms, conditions, reservations, restrictions, time limitations, and other provisions of this Lease, including the new rental amount. If Lessee is in material breach of this Agreement as defined in Section 11 hereafter, at the time of exercising the option to renew or at the commencement of the extended term, Lessee's right to exercise the option to renew shall be waived and forfeited and the Lease shall terminate as of the termination date of the original term or any extended term, and Lessee shall no longer have the right to renew this Lease for an additional five (5) year term.

3.4 Lease Deemed Renewed Upon Notice. The parties agree that upon Lessee giving written notice of exercise of its written option to renew the original Lease for an additional five (5) year period, this Lease shall be deemed renewed and the rent established for the additional five (5) year period, pursuant to the provisions of Paragraph 4.2.

4. Rent

4.1 Payment of Rent. Subject to Paragraph 5.2.1, Lessee agrees to pay to Lessor at such place as Lessor may designate in writing and without deduction, offset, prior notice, or demand, as rent for the Lease Premises during the first year, the sum of five hundred eighty-four dollars (\$584) per month in lawful money of the United States of America, payable in advance on or before the first business day of each month during the term hereof commencing October 1, 2013.

4.2 Adjustments of Rent: Each year of this Lease, including during any extension term, the rent shall be adjusted for the next year by difference in the change of the U.S. Department of Labor Consumer Price Index, All Urban Consumers, West Urban Area. The most recent 12 months available in the Index 30 days prior to the start of the lease year will be used to calculate the increase. If there is a reduction in the index over the applicable period, there will be no increase or decrease in the rental amount for the next year.

4.3 Failure to Timely Pay Rent. If Lessee fails to pay the rent specified in this Lease by the fifteenth day of the month Lessee shall pay to Lessor a late charge of forty-five dollars (\$45) in addition to the accrued and unpaid rental, and, in addition to such charge, Lessee shall pay to Lessor interest at the rate of five sixths of 1 percent (0.8335%) per month upon the sum

due from the date on which such rental becomes due and payable to and including the date of payment in full. The Lessor shall apply any monies received from Lessee first to any penalty and interest charges and then to any rental or other sums then due. The penalty and interest charges provided by this paragraph are in addition to all other remedies that Lessor may have that are provided by this Lease or otherwise by law, to enforce payment of any rental or other sum that has become due and has not been paid.

4.4 Damage or Destruction of Premises. It is specifically agreed that in the event of the termination of this Lease by Lessor due to an uncured material default, prior to the expiration date of this original term, or prior to the expiration date of any renewal period, no portion of the rent paid in advance shall be refundable. It is specifically agreed that in the event the Lease Premises shall be damaged or destroyed by fire, the elements or an act of God such as an earthquake or tsunami that renders the Lease Premises substantially unusable by Lessee for the purposes for which the Lease Premises are devoted, Lessee shall have the right to terminate this Lease upon written notice to Lessor within thirty (30) days after the date of such fire, the elements or act of God such as an earthquake or tsunami that renders the Lease Premises substantially unusable by Lessee for the purposes for which the Lease Premises are devoted, and be entitled to a pro rata refund of the annual rental paid in advance from the date of such termination.

5. Land Use

5.1 Use by Lessee, Improvements Authorized. Lessee agrees to use the Lease Premises as a mariculture facility and related uses as detailed more fully in Lessee's approved Harbor District Permit, the associated mitigated negative declaration, and as described in Lessee's Coastal Development Permit application filed with the California Coastal Commission on July 3, 2013 ("Approved Uses"). Lessee is hereby authorized to install mariculture equipment and associated improvements on the Lease Premises so long as such equipment and improvements are consistent with all required regulatory permissions and approvals (See Section 5.4 below). Lessee agrees to give reasonable notice to Lessor regarding construction and improvement activities to be undertaken at the Lease Premises, and will coordinate such activities with the Lessor and adjacent users of Lessor's property.

5.2 Improvements at Lessee's Expense. Subject to Paragraph 5.2.1, Lessee shall, at its own expense, maintain and keep the Lease Premises and all improvements in good order and repair and sound condition. All approved equipment and other personal property brought, placed or erected on the Lease Premises by Lessee shall be and remain the property of Lessee.

5.3 Alteration of Lease Premises. No alteration of the Lease Premises shall be undertaken during the term of this Lease and any renewal term thereof without prior written permission from Lessor, with the exception of the alterations as specified in the Approved Uses.

5.4 Regulatory Permission and Approvals. The Lease Premises are subject to regulation by a variety of government agencies, including but not limited to the County of Humboldt, the Coastal Commission, the Regional Water Quality Control Board, the Harbor District, and the U.S. Army Corps of Engineers. Approval of this Lease does not authorize any

activities or improvements on the Lease Premises that have not received all required regulatory permissions and approvals. Approval of this Lease by the Harbor District is separate from the issuance of a Harbor District Use Permit. Lessee shall be responsible for all necessary permits and compliance with all applicable requirements and regulations.

5.5 Access, Compatible Use of Surrounding Areas. Lessee acknowledges that the surrounding premises may be leased by Lessor to other parties for other uses, and Lessor agrees that such uses will be compatible and will not interfere with Lessee's use of the Lease Premises.

5.6 Non-Discrimination. Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, national origin, sex, age or physical disability.

5.7 Residential Structures. Improvements on the Lease Premises shall not be used as a residence or for the purpose of mooring a floating residence.

6. Reservations and Encumbrances

6.1 Mineral Rights Reserved to the State of California. Lessor and Lessee acknowledge that all deposits of minerals, including oil and gas, on the Lease Premises have been reserved to the State of California pursuant to the Harbors and Navigation Code Appendix II, Section 78(g). Lessor furthermore expressly reserves all other natural resources in or on the Lease Premises, including but not limited to sand, gravel and inert earth. In no event shall any minerals or other natural resources be removed from the Lease Premises without the prior consent of Lessor. No dredge spoils materials shall be removed from the Lease Premises without Lessor's written consent which shall not be unreasonably withheld.

6.2 Lessor's Right of Entry. Lessor shall have the right to go on the Lease Premises during normal business hours and in groups of not more than three people and upon not less than 24 hours' notice for purposes of inspecting the Lease Premises or showing the same to prospective lenders or lessees.

6.3 Lessor's Right to Encumber Lease Premises. Lessor expressly reserves the right to lease or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent nor incompatible with the rights and privileges of Lessee under this Lease and provided that such lease or encumbrance does not interfere with Lessee's right to use and quiet enjoyment of the Lease Premises. Prior to leasing or encumbering the Lease Premises in whole or in part consistent with this Paragraph 6.3, Lessor will give Lessee six (6) months' notice and provide Lessee an opportunity to comment on Lessor's proposed lease or encumbrance.

6.4 Lease Subject to Pre-Existing Contracts; No Warranty of Fitness. This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances and claims and it is made without warranty by Lessor of condition of fitness of the land for the stated or intended use.

6.5 Lessee's Right to Exclude Persons from Lease Premises. Nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitute a material interference with Lessee's use and quiet enjoyment of the Lease Premises as provided under this Lease.

7. Rules, Regulations and Taxes

The Lessee is hereby notified by Lessor that the possessory interest created hereunder may be subject to a possessory interest tax or property taxation when created, pursuant to Sections 107 to 107.6 of the California Revenue and Taxation Code or other applicable law, and that Lessee and/or the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interests. Lessee agrees and acknowledges that it has actual notice pursuant to Section 107.6 of the California Revenue and Taxation Code that it may be required to pay a possessory interest tax as a result of this Lease and the letting to Lessee of the Lease Premises. Lessee hereby acknowledges that it has actual knowledge of the possible existence of a possessory interest tax and has read the provisions of Sections 107 to 107.6 of the California Revenue and Taxation Code. Lessee shall pay all possessory interest taxes levied by any governmental agencies by reason of this Lease or Lessee's possession of the Lease Premises.

8. Indemnification

8.1 Lessee's Indemnification of Lessor. Lessor shall not be liable for and Lessee hereby agrees to indemnify, defend, hold harmless and to release Lessor, its Board of Commissioners, officers, agents and employees from and against any and all claims, demands, losses, fines, penalties, liabilities, actions, lawsuits and other proceedings, judgments and awards, and costs and expenses (including reasonable attorneys' fees) arising directly or indirectly, in whole or in part, or in any way connected with the breach of this Lease or Lessee's use of the Lease Premises. Nothing herein shall be construed as an assumption of liability by Lessee for pre-existing environmental conditions, known or unknown at execution of this Lease, caused by prior tenants or users of the Lease Premises or surrounding areas. Lessee does not assume nor does the Lessor assign to Lessee any liability or responsibility for environmental conditions that exist at the Lease Premises prior to the term of this Agreement, including but not limited to liability for Hazardous Substances, as that term is defined under relevant California State and Federal Law, that have come to be located at the Lease Premises.

8.2 Lessor's Indemnification of Lessee. Lessee shall not be liable for and Lessor hereby agrees to indemnify, defend and hold harmless and to release Lessee, its Board of Directors, officers, agents and employees from and against any and all claims, demands, losses, fines, penalties, liabilities, actions, lawsuits and other proceedings, judgments and awards and costs and expenses (including reasonable attorneys' fees) caused by the gross negligence or intentional misconduct of Lessor or Board of Commissioners, officers, agents and employees. Lessor agrees to indemnify and hold harmless Lessee for pre-existing environmental conditions, known or unknown at the execution of this Lease, caused by prior tenants or users of the Lease Premises or surrounding areas.

9. Insurance

9.1 Liability Insurance Required. Lessee shall obtain, at its own expense and keep in full force and effect during the Lease term with an insurance company acceptable to Lessor, comprehensive, commercial general liability insurance providing bodily injury and property damage coverage, and shall include products liability and personal injury coverage with liability limits of not less than Two Million Dollars (\$2,000,000.00) combined single limit insuring Lessee and Lessor and their authorized representatives, against any and all claims or liability, including but not limited to liability for injuries to persons and property, and for the death of any person or persons occurring in or about the Lease Premises, arising out of the use, occupancy, condition or maintenance of the Lease Premises and all improvements thereon. Lessee shall be the named insured. Lessee agrees that Lessor, its officers, agents and employees, including members of the Board of Commissioners of the Lessor, shall be named as an additional insured under such liability policy. Such insurance shall be primary to any insurance maintained by the Lessor.

9.2 Provision of Certificate of Insurance. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The certificate evidencing such insurance shall be filed with the Lessor upon the commencement of the term of this Lease and said certificate shall provide that such insurance coverage shall not be cancelled or reduced without at least thirty (30) days' written notice to Lessor. Within thirty (30) days of the renewal of any such policy, Lessee shall provide to Lessor a certificate showing that such coverage has been renewed.

9.3 Insurance in Effect at All Times. The liability insurance coverage specified in this Lease shall be in effect at all times during the Lease term including any and all renewal periods and subsequently until all of the Lease Premises has been accepted by Lessor as restored after completion by Lessee of the dismantling and removal of the improvements thereon pursuant to Section 13 of this Lease.

9.4 Adjustment of Insurance Coverage Upon Renewal. The required amount of insurance coverage may be reset by the parties at the beginning of any renewal term hereunder upon mutual agreement of the parties.

9.5 Performance of Indemnification Provision. All public liability insurance, property damage insurance and products liability insurance required by this Section 9 shall insure performance of the indemnity provisions of Section 8 of this Lease of the Lease Premises and the policy shall contain cross-liability endorsements.

10. Assignment

Lessee shall not either voluntarily or by operation of law assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, without the prior written approval of Lessor, which approval Lessor shall not unreasonably withhold. All assignments, transfers and subleases of this Lease, and each of them,

shall be subject to all the covenants, terms, conditions, reservations, restrictions, time limitations and other provisions of this Lease.

11. Default and Remedies

11.1 The occurrence of any one or more of the following events shall constitute a default or breach of this Lease by Lessee:

- (a) Lessee's failure to make any payment of rental or other consideration as required under this Lease, where such failure continues for three (3) days after written notice from Lessor to Lessee.
- (b) Lessee's failure to obtain or maintain any liability insurance required under Paragraph 9.1.
- (c) Lessee's failure to observe or perform any other term, covenant, or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

11.2 Other Remedies. In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may, at any time and with or without notice in addition to every other remedy given Lessor by law or equity, do any one or more of the following:

- (a) Continue this Lease in effect by not terminating Lessee's right to possession of said Lease Premises, in which event Lessor shall be entitled to enforce all Lessor's rights and remedies under this Lease including the right to recover the rent specified in this Lease as it becomes due under this Lease;
- (b) Terminate this Lease and recover from Lessee:
 - (1) The worth at the time of award of the unpaid rent which has been earned at the time of termination of the Lease;
 - (2) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that Lessee proves could have been reasonably avoided;
 - (3) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that Lessee proves could be reasonably avoided; and

- (4) Any other amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Lease; or
- (c) Terminate the Lease and, in addition to any recoveries Lessee may seek under subparagraph (b) of this Paragraph, bring an action to reenter and regain possession of said Lease Premises in the manner provided by the laws of unlawful detainer of the State of California then in effect.
- (d) Exercise any other rights or remedy which Lessor may have at law or in equity.

13. Removal of Improvements and Restoration of the Lease Premises Upon Expiration of Lease or Termination and Surrender of Lease Premises

13.1 Upon expiration or sooner termination of this Lease, Lessor may accept all or any portion of the Lease Premises; however, Lessee shall have the right to remove any improvements installed by Lessee or personal property owned by Lessee on the Lease Premises within thirty (30) days after such expiration or termination of this Lease. Lessor may also, in Lessor's absolute discretion, require Lessee to remove all or any portion of such improvements at Lessee's sole expense and risk, provided, however, that Lessee shall be required to remove only such improvements as Lessor shall identify in writing to Lessee no later than thirty (30) days after expiration or earlier termination date of this Lease and Lessee shall only be required to remove entire structures or all such portions of a structure as are located on the Lease Premises; or, if Lessee refuses, Lessor may itself remove or have removed all or any portion of such improvements at Lessee's sole expense.

13.2 Restoration of Premises. In removing any improvements, Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to their installation or construction, and shall complete all obligations of this Lease; provided that, nothing in the foregoing requirement shall be construed as expanding in any way the limitations of Lessee's indemnification obligations in Section 8 hereof. All such removal and restoration of the Lease Premises, required pursuant to this Section 13 of this Lease shall be commenced by Lessee no later than sixty (60) days and completed no later than one (1) year after the expiration or sooner termination of this Lease or any extension thereof. The deadlines for restoration of the premises shall be extended by the time that is required to obtain all necessary regulatory permits and approvals, provided that Lessee timely files applications for such permits and approvals. All such removal and restoration shall be to the reasonable satisfaction of Lessor.

13.3 Refusal to Timely Remove Improvements at end of Lease. If Lessee refuses or fails to timely dismantle and remove the improvements or portion of improvements designated by Lessor to be dismantled and removed from the Lease Premises and restore the Lease Premises as nearly as possible to its condition existing prior to the installation of the structures, buildings and facilities so placed thereon, Lessor may itself or may hire third parties to dismantle and remove such improvements and place the Lease Premises in a condition as near as possible to the condition of the Lease Premises existing prior to the installation of the structures, buildings and

facilities thereon at Lessee's sole expense and Lessee shall reimburse Lessor for all costs and expenses thereof of the dismantling and removal of improvements and restoration of the Lease Premises by Lessor or such parties designated by Lessor. Nothing in this provision shall be interpreted to preclude Lessor from bringing legal action for breach of contract and seeking damages in the form of anticipated cost of removal, even if said improvements have not actually been removed prior to the legal process.

13.4 Permits Required. In removing all improvements Lessee will be required to obtain any permits or any other governmental approval as may then be required by lawful authority.

13.5 No Removal or Replacement of Fill. Lessee shall not be required to remove or replace nor shall Lessor be required to pay for any fill remaining on this Lease Premises.

13.6 Surrender of Premises. Lessee agrees that on the expiration or sooner termination of this Lease or any renewal thereof Lessee shall responsibly leave and surrender the Lease Premises to Lessor in a state of good order, condition, repair and restoration, as provided in and subject to the time periods in Paragraphs 13.1 through 13.2.

14. Quitclaim

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor, a good and sufficient quitclaim of all rights under this Lease, subject to Lessee's right to occupy those portions of the Lease Premises necessary for removal of structures pursuant to Section 13. Should Lessee fail or refuse to deliver such a quitclaim, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Lessee and all other claimants of the termination of this Lease and any rights or interests of Lessee in the Lease Premises and improvements thereon.

15. Holding Over

Any holding over by Lessee after the expiration of the Lease term, or any renewal, with or without the express or implied consent to Lessor, shall constitute a tenancy from month-to-month and shall be on terms, covenants and conditions of this Lease with rental, royalty or other consideration payable in advance on the first day of each month at the monthly rental rate stated in Section 4.1. Upon expiration or sooner termination of the Lease, Lessee shall not be required to pay the full rent to Lessor during the period when Lessee occupies the required portion of the Lease Premises necessary for the purposes of removal of the improvements and restoration of the Premises, pursuant to the provisions of Section 13 of this Lease, except to the extent that Lessee's continued occupancy interferes with the use of the Lessor or Lessor's assignees, or otherwise restricts the Lessor's ability to lease or rent the property. In no event shall the rent for this period be less than one-third of the last rental amount rate.

16. Additional Provisions

16.1 No Waiver. The failure to enforce any right hereunder, or the waiver by either party of any default or breach of any covenant, term, condition, restriction or time limitation herein shall not constitute a waiver of the future exercise of any such right or of any other default or breach, whether of the same or any other covenant, term, condition, restriction or time limitation herein regardless of such party's knowledge of such other defaults or breaches. The subsequent acceptance of monies hereunder by Lessor shall not constitute a waiver of any preceding default or breach of any covenant, term, condition, restriction or time limitation, other than the failure of Lessee to pay the particular monies so accepted, regardless of Lessor's knowledge of such preceding default or breach at the time of acceptance of such monies, nor shall acceptance of monies after termination constitute a reinstatement, extension or renewal of this Lease or revocation of any notice or other act by Lessor.

16.2 Time is of the Essence. Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

16.3 Notice. All notices, requests and communications required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery by messenger, overnight courier or telecopier, or, if mailed, upon the first to occur of actual receipt of forty-eight (48) hours after being placed in the United States mail, postage prepaid, registered or certified mail, with return receipt requested, addressed to the parties as follows:

Lessor: Humboldt Bay Harbor, Recreation
and Conservation District
Post Office Box 1030
Eureka, CA 95502-1030
Attn: Chief Executive Officer
Telephone: (707) 443-0801
Facsimile: (707) 443-0800

Lessee: Hog Island Oyster Company
Attn: John Finger
PO Box 829
Marshall, CA 94940

16.4 Consent. Where a party's consent is required under this Lease, its consent for one transaction or event shall not be deemed to be consent to any subsequent occurrence of the same or any other transaction event.

16.5 Amendment, Termination. This Lease may be terminated and its terms, covenants and conditions amended, revised or supplemented by written mutual agreement of the parties.

16.6 Binding on Successors and Assigns. The terms, covenants and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the successors and assigns of the respective parties.

16.7 Severability. If any term, covenant or condition of this Lease is judicially determined to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.

16.8 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be a valid and binding original, but all of which together shall constitute one and the same instrument.

16.9 Jurisdiction. Lessor and Lessee consent to and agree that in the event any disputes or legal actions are commenced and litigated between Lessor and Lessee regarding the terms, conditions, rights, duties and obligations of the parties pursuant to the terms of this Lease, the Superior Court of California, County of Humboldt shall have exclusive jurisdiction of such disputes and/or legal actions. The parties further agree that this lease is entered into in Humboldt County, California, the place where the Lease Premises is located. This lease shall be construed and interpreted in accordance with the laws of the State of California.

16.10 Attorney's Fees and Costs: In the event of legal proceedings arising out the the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and other costs of litigation.

16.11 Termination of Rights. Lessee agrees that on the expiration or termination of this Lease, Lessee shall responsibly leave and surrender the Lease Premises to Lessor in a state of good order, condition, repair upon removal by Lessee of the improvements thereon and restoration of the Lease Premises as provided for in Section 13 of this Lease. The exercise of any right of termination shall not release Lessee from liability for any unpaid but accrued rental or any other consideration which may be due under this Lease or from any other obligations still applicable under the Lease. No portion of any rental paid by Lessee in advance shall be refunded except as provided in Paragraph 4.3.

16.12 Survival. Notwithstanding anything to the contrary contained in this Lease, the provisions (including, but not limited to, covenants, agreements, representations, warranties, obligations and liabilities described herein) of this Lease which from their sense and context are intended to survive the expiration or earlier termination of this Lease (whether or not such provision expressly provides as such) shall survive such expiration or earlier termination of this Lease and continue to be binding upon the applicable party.

16.13 Entire Agreement. This Lease supersedes any prior understanding or written or oral agreements between the parties hereto respecting the within subject matter and contains the entire understanding between the parties with respect thereto.

16.14 Negation of Agency. Each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Lease. No partnership, joint venture or other association of any kind is formed by this Lease.

In witness whereof, the parties have executed this Lease at Eureka, Humboldt County, California, as of the date specified immediately adjacent to their respective signatures.

HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT

DATE: October 10th, 2013

By Mike Wilson, President

Hog Island Oyster Company

DATE:

By: John Finger, President

11a

AMENDMENT 2
to the
June 13th 2013 Agreement with New Directions
for the
Spartina densiflora Eradication Project

WHEREAS, The June 13th 2013 Agreement between the Humboldt Bay Harbor, Recreation, and Conservation District, hereinafter "DISTRICT", and New Directions, hereinafter "CONTRACTOR", provides for contractual services to be paid to CONTRACTOR by DISTRICT on a Time & Expenses basis, with a total amount not to exceed \$10,000.

WHEREAS, DISTRICT and CONTRACTOR have amended this agreement once to increase the total amount of funds available through this agreement to a total of \$50,000.

WHEREAS, DISTRICT has need for additional services, additional funds are available to increase the amount of services provided by CONTRACTOR, and CONTRACTOR has the resources to provide these services,

THEREFORE, Both DISTRICT and CONTRACTOR agree to amend the June 13th 2013 Agreement to increase the total amount of funds available through this agreement to a total of \$90,000. The funds are available through an existing grant agreement with the California Coastal Conservancy.

All other aspects of the original agreement are unchanged by this amendment and remain in full effect. Total time and expenses incurred by CONTRACTOR are not to exceed the amended total of \$90,000.

IN WITNESS HEREOF, the parties hereto have executed this Amendment to the June 13th 2013 Agreement on the dates provided below:

DISTRICT

CONTRACTOR

By: _____

By: _____

Name: Jack Crider

Name: John Shelter

Title: Chief Executive Officer

Title: _____

Date: _____

Date: _____