

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

DATE: October 27, 2022

TIME: Closed Session – 12:00 PM
Open Session – 12:15 PM
Ceremonial Session – [1:30 PM]

PLACE: Closed and Special Session:
Join Zoom Meeting
<https://us02web.zoom.us/j/6917934402>

Meeting ID: 691 793 4402
One tap mobile
(669) 900-9128, 6917934402#

Ceremonial Session: Fisherman’s Statute located at the south end of Woodley Island, Eureka, California

In accordance with Assembly Bill 361 and Resolution 2021-16, the Closed and Special Session of the Board of Commissioners will be conducted virtually using ZOOM. Members of the public may observe and participate in the Closed and Special Sessions via Zoom or teleconference using the information set forth above. The Ceremonial Session, which will take place outside with the ability to socially distance, will be open to the public to attend in-person.

1. Call to Order Closed Session at 12:00 PM

2. Public Comment

Note: This portion of the Agenda allows the public to speak to the Board on the closed session items. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Closed Session Agenda. 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.

3. Appoint real property negotiators to negotiate with Crowley Wind Services, Inc. concerning the real property commonly known as Assessor Parcel Nos. 401-112-024-000, 401-031-040-000, 401-031-078-000, and 401-031-083-000, and portions of the tidelands along the Samoa Peninsula adjacent to Redwood Marine Terminal I.

4. Move to Closed Session

Agenda for October 27, 2022 Special Board Meeting

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Property: All or Portions of Humboldt County Assessor Parcel Nos.: 401-112-024-000, 401-031-040-000, 401-031-078-000, and 401-031-083-000, and portions of the tidelands along the Samoa Peninsula adjacent to Redwood Marine Terminal I. Agency negotiator: Larry Oetker, Executive Director; Ryan Plotz, District Counsel. Negotiating parties: Crowley Wind Services, Inc. Under negotiation: price and terms of payment.
- b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Property: Humboldt County Assessor's Parcel Nos.: 401-112-021 and 401-112-024. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Nordic Aquafarms California, LLC. Under negotiation: price and payment terms.

5. Call to Order Special Session at 12:15 PM and Roll Call

6. Pledge of Allegiance

7. Report on Closed Session

8. 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**. 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. Callers can "raise their hand" by pressing (STAR) *9 and unmute themselves by pressing (STAR) *6.*

9. Business

- a) **Discuss and Consider Approval of an Exclusive Right to Negotiate Agreement with Crowley Wind Services, Inc. for the Potential Lease of Real Property for the Development and Operation of a New Heavy Lift Marine Terminal for the Proposed Offshore Wind Industry**

Recommendation: Staff recommends the Board Receive public comments and authorize the Executive Director to enter into an Exclusive Right to Negotiate with Crowley Wind Services Inc.

10. Adjourn to Ceremonial Session

Agenda for October 27, 2022 Special Board Meeting

- 11. Ceremonial Session [to be held at 1:30 PM in the Parking Lot immediately in front of Fisherman's Statue at Southern end of Woodley Island, Eureka Ca]**
- 12. Adjournment**

Note:

Americans with Disabilities Act: Individuals requiring special accommodations to participate in this meeting are requested to contact the District Office at (707) 443- 0801. Notification 12 hours prior to the meeting will enable the Commission to make reasonable arrangements to ensure accessibility to this meeting.

COMMISSIONERS
 1st Division
 Aaron Newman
 2nd Division
 Greg Dale
 3rd Division
 Stephen Kullmann
 4th Division
 Richard Marks
 5th 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 SPECIAL MEETING
October 27, 2022

TO: Honorable Board President and Harbor District Board Members

FROM: Rob Holmlund, Development Director

DATE: October 25, 2022

TITLE: Discuss and Consider Approval of an Exclusive Right to Negotiate Agreement with Crowley Wind Services, Inc. for the Potential Lease of Real Property for the Development and Operation of a New Heavy Lift Marine Terminal for the Proposed Offshore Wind Industry

STAFF RECOMMENDATION: Receive public comments and authorize the Executive Director to enter into an Exclusive Right to Negotiate with Crowley Wind Services Inc.

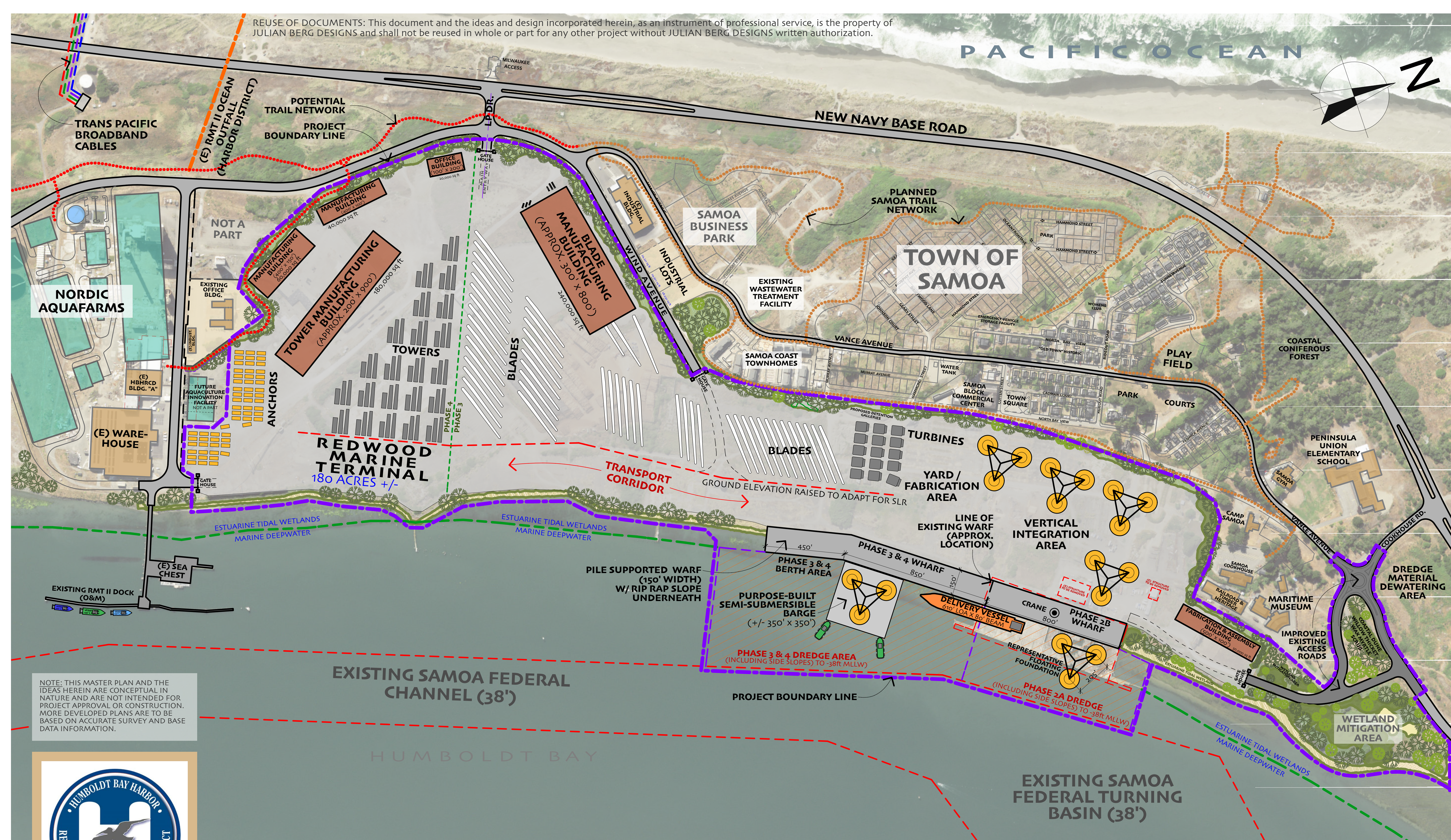
DISCUSSION: In August of 2019, the District released a Request for Proposals “Lease of Redwood Marine Terminal I” in which the District sought a development company to lease a series of parcels to “develop a new multipurpose terminal and associated facilities to support the offshore floating wind industry and other maritime uses.” In 2021, with funding from the County’s Headwaters Fund, the District produced a Master Plan for the “Humboldt Bay Offshore Wind and Heavy Lift Marine Terminal” and was awarded \$10,450,000 from the California Energy Commission and \$576,191 from the State Lands Commission to assist the District to prepare environmental documents, up to 30% engineering design, complete required mitigation, and obtain Coastal Development and other permits for the project.

District Staff has conducted a series of site visits and held a number of discussions with several companies interested in developing a new terminal in Humboldt Bay. As part of our ongoing real property marketing efforts, Crowley Wind Services, Inc (Crowley) has submitted a proposal which staff and the Board’s Offshore Wind Subcommittee determined was the best fit for Humboldt Bay. As part of the Exclusive Right to Negotiate, Crowley and the Harbor District have agreed that there will be a Project Labor Agreement.

The Harbor District is committed to working with the County of Humboldt, City of Eureka, Humboldt Core Hub, residents of the Samoa Peninsula, adjacent Coastal Dependent Industrial (CDI) property owners, as well as other CDI property owners around the Humboldt Bay to take advantage of the tremendous opportunities that the offshore wind industry can provide to our region. As part of the development process, the District is committed to having a robust public input process.

Attachments

- A. Master Plan for the “Humboldt Bay Offshore Wind and Heavy Lift Marine Terminal
- B. Draft Exclusive Right to Negotiate



NOTE: THIS MASTER PLAN AND THE IDEAS HEREIN ARE CONCEPTUAL IN NATURE AND ARE NOT INTENDED FOR PROJECT APPROVAL OR CONSTRUCTION. MORE DEVELOPED PLANS ARE TO BE BASED ON ACCURATE SURVEY AND BASE DATA INFORMATION.



HUMBOLDT BAY OFFSHORE WIND & HEAVY LIFT MULTIPURPOSE MARINE TERMINAL CONCEPTUAL MASTER PLAN

JULIAN BERG DESIGNS
ARCHITECTURE & PLANNING
julianbergdsgns.com
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EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

This Exclusive Right to Negotiate Agreement (this “Agreement”), dated as of October 27, 2022, is entered into by and between HUMBOLDT BAY HARBOR RECREATION AND CONSERVATION DISTRICT, a California special district formed pursuant to Appendix 2 of the California Harbors and Navigation Code (the “Harbor District”), and CROWLEY WIND SERVICES, INC., a Delaware corporation (“Crowley”). (Harbor District and Crowley are sometimes referred to individually as a “Party” and collectively as the “Parties.”)

Recitals

A. Harbor District owns, holds in trust, or is under contract to acquire (as is the case with APN 401-031-083-000), the following real property located in Humboldt County, California, adjacent to the Humboldt Bay (collectively, the “Land”):

(1) Approximately 64 acres of land, which consists of a portion of Humboldt County Assessor Parcel Nos. 401-031-040-000 and the whole of Humboldt County Assessor Parcel No. 401-031-083-000, which properties are depicted on Exhibit A attached as the “North Development Area”;

(2) Approximately 22 acres of land, commonly referred to as Humboldt County Assessor Parcel No. 401-112-024-000 and depicted on Exhibit A attached as the “South Development Area”; and

(3) Approximately 12.1 acres of land, which is a portion of Humboldt County Assessor Parcel No. 401-031-078-000 and is depicted on Exhibit A as the “North Road and Mitigation Area”).

B. Harbor District and Crowley are in discussions regarding a possible development of a new heavy lift marine terminal on the North Development Land and the South Development Land. Such development would require certain road access and environmental mitigation areas, and the Parties are in discussions regarding the use of the North Road and Mitigation Land for such purposes.

C. Harbor District and Crowley are in the process of preparing for certain purchases by third party developers (“Offshore Wind Developers”) of offshore wind energy rights in the Pacific Ocean from the U.S. Bureau of Ocean Energy Management (the “BOEM”), which will occur pursuant to an auction process (the “BOEM Auction”) in early December 2022. In preparation for the award of such offshore leases by BOEM, the Harbor District and Crowley intend by this Agreement to engage in exclusive negotiation through which the Parties desire to reach a definitive agreement in which the Harbor District will grant to Crowley an option to lease the Land for operation, development and sub-lease of the Land to Offshore Wind Developers as a West Coast offshore wind energy project fabrication and transportation hub. Crowley will benefit from the development and operation of the new heavy lift marine terminal on the Land to support the development of its Wind Services business.

D. Harbor District has a need to redevelop Humboldt Bay, and will benefit from the development of a new heavy lift marine terminal on the Land and further its express mandate as set forth in Appendix 2 of the California Harbors and Navigation Code.

E. In order to provide the Parties with the time and opportunity to negotiate the terms and conditions of the option to lease, the Parties now wish to enter into this Agreement.

F. Moreover, during the Negotiating Period (as defined below), the Harbor District intends to continue to engage in pre-permitting activities for the development of the new heavy lift marine terminal, including the work currently being performed by Moffatt & Nichols, and desires to work in partnership with Crowley in such efforts.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties agree as follows:

Agreement

1. **Agreement to Negotiate Exclusively and in Good Faith.** The Harbor District agrees that, during the Negotiation Period (as defined in Section 2, below) and provided that Crowley is not in default of its obligations under this Agreement, the Harbor District shall negotiate exclusively and in good faith with Crowley (and its designated agents) to reach a definitive option to lease agreement (the “Option Agreement”), through which Crowley would acquire the option (the “Option”) to lease the Land from the Harbor District for the Project (as defined below). During the Negotiation Period, the Harbor District shall not solicit or entertain offers or proposals from other parties concerning similar projects on the Land, including (without limitation) leases, purchases, joint ventures, or other arrangements where other parties would gain the right to construct and operate the Project. The Parties agree, in consideration of this Agreement, to negotiate in good faith with each other with respect to the potential Option Agreement. The Parties shall provide each other with any information regarding the Land that may be reasonably requested by the other Party that exists at the time of the request.

2. **Negotiating Period.** The negotiating period shall commence at Noon Pacific time Friday, October 28th, 2022 (the “Effective Date”), and terminate at 5:00 p.m. Pacific time on the earlier of (a) the ninetieth (90th) day after the date that the BOEM Auction occurs, or (b) March 31, 2023 (the “Negotiating Period”). Crowley shall have the right, in its sole discretion, to extend the Negotiating Period on a monthly basis for up to nine (9) additional months (each such right being a “Monthly Extension”). To exercise any Monthly Extension, Crowley shall provide Harbor District with written notice at least three (3) Business Day prior to the expiration of the then-current Negotiating Period, which notice shall be accompanied by payment of the Extension Fee described in Section 4 below. If Crowley exercises any Monthly Extension, the phrase “Negotiating Period” will mean the Negotiating Period as so extended. If the Parties have not executed an Option Agreement by the end of the Negotiation Period (as the same may be extended as stated above, or as the Parties may mutually agree to extend this Agreement beyond its contemplated term), then this Agreement shall automatically terminate, except for those provisions that are expressly stated to survive the termination of this Agreement.

3. Agreement to Negotiate Option Agreement.

3.1 Negotiation of the Option Agreement. During the Negotiating Period, the Parties shall in good faith negotiate the terms and conditions of an Option Agreement through which Crowley would acquire an Option to lease the Land for the Project.

3.2 Minimum Terms and Conditions. If the Option Agreement is agreed upon, it shall include a grant by Harbor District to Crowley of an Option to enter into a lease of the Land. The Option Agreement will set forth the procedure by which Crowley will have the right to exercise the Option. The Lease will be an exhibit to the Option Agreement, and the Lease shall at a minimum include the following terms:

3.2.1 Premises. Under the Option Agreement, Crowley will have the option to enter into a lease of the Land (the "Premises") on the terms and conditions set forth in the Lease to be negotiated during the "Negotiating Period" (as defined below).

3.2.2 Initial Plans. In cooperation and coordination with the Harbor District, Crowley shall prepare plans and specifications (which shall be subject to the Harbor District's review and approval), in sufficient detail to submit all applications and other submittals needed to obtain the necessary "Entitlements" (as defined below) for the "Project" (as defined below) (the "Initial Plans").

3.2.3 Entitlements.

(a) The Harbor District and Crowley shall cooperate and work together to formulate a plan and delegate responsibility among the Parties to obtain all permits (including, without limitation, a Coastal Development Permit from the California Coastal Commission (a "Coastal Development Permit"), licenses, governmental authorizations and approvals, zoning changes, and other entitlements (collectively, "Entitlements")) for the "Project" (as defined below). The Parties will work with each governmental authority having jurisdiction and their consultants to develop a Project description for any environmental review needed to achieve Entitlements, including by assisting with the preparation of the project description for environmental review under the California Environmental Quality Act (set forth in Public Resources Code, Section 21000 *et seq.*) and the State CEQA Guidelines (set forth in California Code of Regulations section 15000 *et seq.*) ("CEQA"), and conducting such site environmental, geotechnical testing, and utility and infrastructure evaluations, and review, evaluation, and strategic thinking, related to obtaining CEQA approvals.

(b) In addition, the Parties shall cooperate in efforts to obtain grants and other funding from the United States government, State of California or other sources (including, without limitation, a Port Infrastructure Development Grant from the U.S. Department of Transportation Maritime Administration in the approximate amount of \$12,000,000.00), to be used for paying the costs and expenses of obtaining Entitlements and constructing the Project.

3.2.4 Construction Drawings. After obtaining the Entitlements, Crowley shall prepare plans and specifications (which shall be subject to the Harbor District's review and

approval), in sufficient detail to serve as construction drawing for the Project (“Construction Drawings”).

3.2.5 Definition of “Project.” The “Project” shall consist of the construction of a new heavy lift marine terminal (the “New Terminal”) on the North Development Land, the South Development Land, and the use of the North Road and Mitigation Land for purposes of an entrance roadway and as a mitigation area in order to facilitate any wetland and environmental mitigation that may be required in connection with the Project. The scope of the Project shall be described in more detail in the Option Agreement, and the Project shall include, at a minimum, the following elements:

(a) Sufficient facilities to be able to provide ground support operations for the construction of Crowley’s intended new off-shore wind generation project.

(b) Facilities to support offshore wind component manufacturing, installation, marshalling, vertical assembly, and operations.

(c) Enhancement of all components above to ensure “future-proofing” the site to accommodate offshore wind development through the year 2035, including ground bearing capacities and heavy-lift crane(s) sufficient to accommodate a minimum of 25 MW floating offshore wind turbines, floats, and related components.

(d) Site designed for minimum top of subgrade elevation of +17.0 ft NAVD88 to accommodate FEMA 100 year flood elevation and medium high risk aversion for 2080 sea level rise as dictated by the State of California Sea-Level Rise Guidance 2018 Update and the California Coastal Commission Recent Update to Best available Science Rising Seas Science Report and OPC State of California Sea-Level Rise Guidance, 2018 Update.

(e) Execution of wetlands and ESHA mitigation project(s).

(f) A minimum of 100,000 square feet of on-site manufacturing building(s).

(g) Demolition of various existing buildings.

(h) Demolition of existing site utilities.

(i) Grading and compaction of soil.

(j) Ground improvement.

(k) Installation of site storm water collection and treatment system.

(l) Installation of potable and fire suppression water systems.

(m) Installation of wastewater systems.

security. (n) Installation of perimeter fencing and associated lighting and

(o) Installation of new high mast lighting grid.

(p) Installation of electrical service to meet site requirements.

(q) Installation of elevated outlet racks for nacelles.

(r) Installation of dense graded aggregate top surface to support operational loading of 3,000psf to 6,000psf ground-bearing capacity.

(s) Demolition of 200,000 sf existing timber pile-supported wharf structure.

(t) Installation of two pile-supported wharves (steel piles & concrete superstructure) at a minimum collective length of 1,800 linear feet and that can simultaneously accommodate a minimum of two vessels of 800' in length each.

(u) Dredging to accommodate delivery vessels and floating foundations at wharf berth.

(v) Upgrading of shoreline transition and placement of slope protection (rock revetment).

(w) Installation of mooring dolphins for vessel berthing.

(x) Installation of mooring dolphins for wet storage of floating foundation and fully integrated devices.

(y) Dredging a sinking basin to accommodate semi-submersible barge(s).

(z) Dredging the designated wet storage areas around the navigation channels.

(aa) The Parties are aware that one or more Project Labor Agreements for the construction of the Project may be required (or desired) to be entered into with the Building and Construction Trade Council of California, among other potential local organizations.

3.2.6 Term of the Option Period. The pre-development option period (the “Pre-Development Option Term”) shall commence upon the execution of the Option Agreement and shall expire on the earlier of (a) the date that Parties obtain the Coastal Development Permit, or (b) five (5) years from March 7, 2023 (the “Outside Permit Date”). If the Parties obtain the Coastal Development Permit by the Outside Permit Date, Crowley shall have the right to exercise its Option to enter into the Lease of the Land for the development and operation of the Land as a

West Coast offshore wind fabrication and logistics hub for an additional term of thirty (30) years from the effective date of the Coastal Development Permit (the “Operational Term”). During the Pre-Development Option Term, Crowley shall be granted a license by way of the Option Agreement to enter upon the Land to conduct studies or other activities related to the acquisition of the Entitlements.

3.2.7 Option Fee; Rent.

(a) During the Pre-Development Option Term, Crowley shall pay to the Harbor District \$65,000 per month as a license and option fee.

(b) Rent for the Operational Term shall be determined during the Negotiating Period as set forth in the Option Agreement. To determine such rent, the Harbor District shall retain Ernst & Young or another qualified government financial advisor to develop a project financial plan and rent analysis which may be used by the Parties to negotiate the rent for the Extended Term.

3.2.8 Inspection of Premises.

(a) Due Diligence Period. Crowley shall have the right during the period commencing upon execution of this Agreement and expiring at the end of the Pre-Development Option Term (the “Due Diligence Period”) to conduct, at Crowley’s sole cost and expense, a full investigation of the Land, including but not limited to a physical inspection of the condition of the Land, an inspection and examination of the soils and the environmental condition of the Land including, without limitation, a Phase I environmental assessment of the Land and, if Crowley deems it to be appropriate, Phase II environmental testing which may include intrusive borings or other forms of physical testing, a survey, an inspection of the condition of title to the Land pursuant to Sub-section (b), below, and a review and investigation of the effect of any zoning, maps, permits, reports, engineering data, regulations, ordinances and laws affecting the Land, availability of utilities, permits, governmental approvals, and such other matters as Crowley deems relevant to its evaluation of Land. Notwithstanding anything in this Agreement to the contrary, Crowley shall not have a license or otherwise have authorization to enter upon that real parcel commonly referred to as APN 401-031-083-000 unless and until the Harbor District acquires such property during the Negotiating Period or, alternatively, the Harbor District obtains the written permission from the property owner for Crowley to enter upon such property prior to the District’s acquisition. Crowley shall conduct its due diligence in a manner that does not unreasonably interfere with any existing tenants or other users of the Land.

(b) Title. During the Due Diligence Period, Crowley shall have the right to review any and all matters of and exceptions to title to the Land, including the legal description.

(c) Physical Inspection/Entry on the Land. During the Due Diligence Period, Crowley, its agents, consultants, contractors and subcontractors shall have the right to enter upon the Land, at reasonable times during ordinary business hours approved by Harbor District, to make any and all inspections and tests as may be necessary or desirable in

Crowley's reasonable discretion. Crowley shall indemnify, defend and hold Harbor District and its property harmless from any and all claims, damages or liabilities arising out of or resulting from the inspection of the Land by Crowley, its agents, employees, consultants, contractors and/or subcontractors in connection with such entry provided. Prior to Crowley entering the Land to conduct the inspections and tests described above, Crowley shall obtain and maintain, or shall cause each of its consultants and agents to maintain, at no cost or expense to Harbor District, general liability insurance, from an insurer reasonably acceptable to Harbor District, in the amount of One Million and No/100ths Dollars (\$1,000,000.00) for personal injury and property damage per occurrence. Such policies shall provide coverage against any claim for personal liability or property damage caused by Crowley or its agents, representatives or consultants in connection with such inspections and tests, and shall name the Harbor District as an additional insured, as evidenced by a valid certificate of insurance. Crowley shall coordinate its activities and entry onto the Land with existing tenant.

3.2.9 Sublease. The Parties will cooperate with one another to select the initial sublease rights to wind energy developers.

3.2.10 Other Terms. Other terms and conditions for the Option Agreement will be negotiated and agreed upon during the Negotiating Period.

3.3 No Obligation. This Agreement shall not obligate either Party to enter into an Option Agreement or other definitive agreement with respect to the Land. The only obligation imposed by this Agreement is that, during the Negotiating Period, the Parties shall, in good faith, diligently negotiate the terms and conditions of the Option Agreement using all commercially reasonable efforts to attempt to reach agreement prior to the expiration of the Negotiating Period.

4. Consideration for Exclusive Right to Negotiate Fee. As consideration for Harbor District to enter into this Agreement, Crowley shall pay Harbor District the sum of \$350,000.00 (the "Initial ERN Fee") within three (3) Business Days after the date that this Agreement is signed. If Crowley exercises any Monthly Extension pursuant to Section 2 above, Crowley shall pay to Harbor District an extension fee in the amount of \$25,000.00 per Monthly Extension (each, an "Extension Fee, and collectively, the "Extension Fees"). (The Initial ERN Fee and the Extension Fees are referred to collectively as the "ERN Payments.") ERN Payments shall be independent consideration for this Agreement and shall be non-refundable; provided, however, that if Crowley exercises the Option and enters into the Lease, the Initial ERN Fee (i.e., \$350,000) shall be credited in twenty-four (24) equal installments against rent due during the first twenty-four (24) months of the Operational Term. Except for the monthly rent payable pursuant to Section 3.2.7(a), above, the Parties agree that, in the event the Parties reach an Option Agreement, the ERN Payments paid by Crowley pursuant to this Agreement shall be deemed and converted to full and adequate consideration for the option granted thereunder such that no further and separate option fees shall be payable by Crowley.

5. Third Party Acquisitions and Approvals.

5.1 Third Party Acquisition. Crowley understands, acknowledges, and agrees that District does not currently own, but is under contract with the owner to acquire fee title to that

portion of the Land commonly referred to as Humboldt County Assessor Parcel No. 401-031-083-000, which is more particularly described as Lot 135, as shown on Tract Map 665, recorded on August 18, 2021, in Book 25 of Maps, pages 127-141, in the Official Records of Humboldt County. The Harbor District presently intends to close escrow on such acquisition on or before March 1, 2023, provided, however, that nothing in this Agreement shall obligate the Harbor District to complete such acquisition, it being understood that the Harbor District's decision to acquire the afore-mentioned portion of the Land rests in the sole and absolute discretion of the Harbor District. In the event the Harbor District elects not to acquire or is otherwise unable to acquire the afore-mentioned portion of the Land, the Parties agree that such a circumstance shall not constitute a breach of this Agreement.

5.2 Third Party Approvals. Crowley understands, acknowledges, and agrees that District is obligated to obtain the approvals of certain third parties before it may approve and execute the Option Agreement, including, without limitation, the following: (i) the Humboldt Bay Development Association as to Humboldt County Assessor Parcel No. 401-112-024-000; (ii) New Markets Community Capital XVII, LLC, a Delaware limited liability company as to Humboldt County Assessor Parcel No. 401-112-024-000; (iii) CNMC SUB-CDE 69, LLC, a Delaware limited liability company as to Humboldt County Assessor Parcel No. 401-112-024-000; and (iv) the California State Lands Commission as to the portion of the Lands held in trust by the Harbor District. The Harbor District shall use commercially reasonable diligence to obtain all required approvals, but nothing in this Agreement shall operate to guarantee such approvals will be obtained.

6. Termination of Agreement. Concurrently with the exercise of the Option Agreement, this Agreement shall automatically terminate and be without any further force or effect except for obligations of either party that survives the termination of this Agreement as provided herein.

7. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF THE HARBOR DISTRICT (TOGETHER WITH ALL OF ITS AFFILIATES, OFFICIALS, EMPLOYEES, AND DIRECTORS) ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO THE ERN PAYMENTS PAID BY CROWLEY TO THE HARBOR DISTRICT HEREUNDER DURING NEGOTIATING PERIOD. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER CROWLEY NOR THE HARBOR DISTRICT SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF BUSINESS, LOSS OF DATA, LOSS OF PROFITS OR THE LIKE) ARISING UNDER THIS AGREEMENT, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. THE

LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES.

8. Miscellaneous.

8.1 Incorporation of Exhibits. The exhibits attached hereto are incorporated herein by this reference.

8.2 Notices. All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section, shall be addressed to the parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that notices which are hand delivered shall not be effective unless the sending party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by email to the email address set forth below (provided, however, that notices given by email shall not be effective if the Party sending the email receives an automatic notice that the email was undeliverable); (c) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that the sender has in its possession the return receipt to prove actual delivery); or (d) one (1) Business Day after the notice has been deposited with an overnight courier service (such as Federal Express or UPS) to be delivered by overnight delivery (provided that the sending Party receives a confirmation of actual delivery from the courier).

If to Harbor District: Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502-1030
Attention: Executive Director
Phone: (707) 443-0801
Fax: (707) 443-0800
Email: loetker@humbolddbay.org

With a copy to: The Mitchell Law Firm, LLP
426 First Street
Eureka, CA 95501
Attention: Ryan Plotz
Phone: (707) 443-5643
Fax: (707) 444-9586
Email: rplotz@mitchelllawfirm.com

If to Crowley: Crowley Wind Services, Inc.
225 Dyer St
Providence RI 02903
Attention: Jeffrey M. Andreini
Phone: 832-953-6878
E-mail: jeffrey.andreini@crowley.com

With a copy to: Crowley Maritime Corporation
9487 Regency Square Blvd.
Jacksonville, FL 32250
Attention: Arthur F. Mead, III
Phone: 904.631.2090
E-mail: art.mead@crowley.com

Each Party may change or supplement the addresses given above, or designate additional addressees, for purposes of this Section by delivering to the other Party written notice in the manner set forth above.

8.3 Brokers. Crowley and Harbor District hereby agree that no real estate brokers have been utilized in connection with this transaction. If any claims for brokers' or finders' fees for the consummation of this Agreement arise, then Crowley hereby agrees to indemnify, hold harmless and defend Harbor District from and against such claims if they shall be based upon any statement, representation or agreement by Crowley, and Harbor District hereby agrees to indemnify, hold harmless and defend Crowley if such claims shall be based upon any statement, representation or agreement made by Harbor District.

8.4 Waivers. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision of the Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation.

8.5 Time of Essence. Time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable default under this Agreement by the party so failing to perform.

8.6 Time; Business Day. The word "day" shall mean and refer to a calendar day. A "Business Day" shall mean and refer to any day other than a Saturday, Sunday or days on which banks in Humboldt County are closed for holidays. The time in which any act provided under this Agreement is to be done, shall be computed excluding the first day and including the last day. However, any deadline which would otherwise fall on a day which is not a Business Day shall be extended to 5:00 p.m. the next following Business Day.

8.7 Assignment. This Agreement shall be binding upon the parties and their respective heirs, successors, representatives or assigns. Crowley shall not assign this Agreement without Harbor District's prior written consent, which may be withheld in Harbor District's sole and absolute discretion. No assignment by Crowley shall affect or impair Crowley's liability under this Agreement or under the Option Agreement. Harbor District may not sell the Land or assign this Agreement without the consent of Crowley.

8.8 Entire Agreement. This Agreement (including all exhibits attached hereto) is the final expression of, and contains the entire agreement between, the parties with respect to

the subject matter hereof and supersedes all prior understandings of the parties with respect thereto. This Agreement may not be modified, changed, supplemented, superseded, canceled or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto and lawful assignees.

8.9 Headings. The headings in this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement.

8.10 Severability. If any paragraph, section, sentence, clause, or phrase contained in this Agreement becomes or is held by any court of competent jurisdiction to be illegal, null, void or against public policy, the remaining paragraphs, sections, sentences, clauses, or phrases contained in this Agreement shall not be affected thereby.

8.11 Governing Law. This Agreement is executed in and shall be governed and construed by the laws of the State of California. The exclusive venue for any claim by either Party to this Agreement shall be in the Superior Court of California, County of San Francisco.

8.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

8.13 Attorneys' Fees. In the event either party to this Agreement shall employ legal counsel to protect its rights under this Agreement or to enforce any term or provision hereof (including a suit for specific performance) the prevailing party shall be entitled to its reasonable attorney's fees (including any fees on appeal), costs and expenses incurred in connection with its claim.

8.14 CEQA Compliance. The actions contemplated by this Agreement have no potential effects on the environment. Each potential improvement, project and/or activity listed or contemplated in this Agreement has been or will be fully evaluated in compliance with the California Environmental Quality Act ("CEQA") or National Environmental Policy Act ("NEPA"), as applicable, when sufficient physical details and other information regarding the site and proposed design and construction is available to permit meaningful environmental review. Under the contemplated Option Agreement, Crowley's exercise of the Option will expressly be conditioned upon compliance with CEQA and/or NEPA. This Agreement does not, and is not intended to, bind or commit the Harbor District, or any other public agency, to a definite course of action or limit in any manner the discretion of the Harbor District or any other public agency, as applicable, in connection with consideration of permits or entitlements for projects described or contemplated in this Agreement, including, without limitation, all required environmental review, all required public notice and proceedings, consideration of comments received, and Harbor District's or other public agencies' evaluation of mitigation measures and alternatives, including the "no project" alternative.

8.15 Construction. No provision of this Agreement shall be construed against any party by reason of authorship or otherwise.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

HUMBOLDT BAY HARBOR RECREATION AND
CONSERVATION DISTRICT, a California special district formed
pursuant to Appendix 2 of the California Harbors and Navigation
Code

By: _____

Name: _____

Title: _____

Date of Signature: _____

CROWLEY WIND SERVICES, INC.,
a Delaware corporation

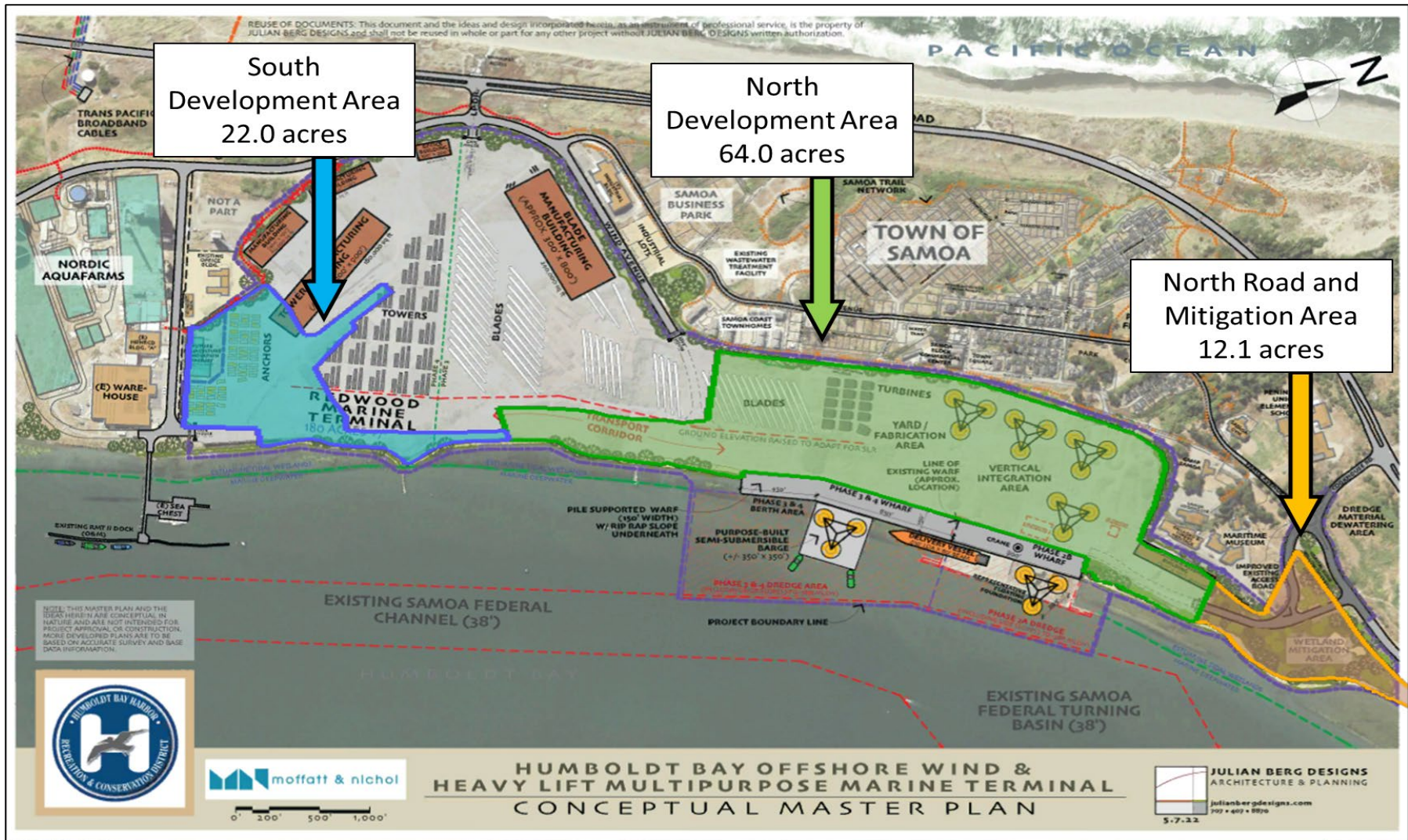
By: _____

Name: _____

Title: _____

Date of Signature: _____

EXHIBIT A



- ORANGE North Road and Mitigation Area = +/-12.1 acres
- GREEN North Development Area = +/-64.0 acres
- BLUE South Development Area = +/-22.0 acres
- **TOTAL** = +/-98.1 acres

**This map depicts the approximate boundaries of the "Land". The location of the actual boundaries shall be surveyed and confirmed.