

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

**DATE:** August 10, 2023

**TIME:** Closed Session – 4:00 P.M.  
Regular Session – 6:00 P.M.

**PLACE:** Wharfinger Building # 1 Marina Way, Eureka, CA 95501

*The Wharfinger Building 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 (707) 443-0801 at least 24 hours in advance of the meeting.*

- 1. Call to Order Closed Session at 4:00 P.M.**
- 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. Move to Closed Session**

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS**  
Property: 364 Vance Avenue, Samoa, Humboldt County APN 401-112-021-000; and APN 401-112-024-000. Agency negotiator: Larry Oetker, Executive Director; Ryan Plotz, District Counsel. Negotiating parties: Humboldt Bay Development Association.  
Under negotiation: price and terms of payment
- b) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Title: Executive Director
- c) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Title: Deputy Director
- d) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Title: Director of Administrative Services
- e) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Title: Development Director

## **Agenda for August 10, 2023 Regular Board Meeting**

**f) CONFERENCE WITH LABOR NEGOTIATORS**

Agency designated representatives: Larry Oetker, Executive Director; Ryan Plotz, District Counsel

Unrepresented employee: Deputy Director

**4. Call to Order Regular Session at 6:00 P.M. and Roll Call**

**5. Pledge of Allegiance**

**6. Report on Closed Session**

**7. 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.*

**8. Consent Calendar**

- a) Adopt Minutes for July 13, 2023 Regular Board Meeting
- b) Adopt Minutes for July 27, 2023 Special Board Meeting
- c) Approve Employment Contract Renewal for Director of Administrative Services
- d) Approve Employment Contract Renewal Marina Manager
- e) Consider Approving a Contract Amendment with Redwood Community Action Agency in the Amount of \$119,392 with a contingency of up to 10% for an expanded Scope of Services for the Samoa Peninsula Beautification Project

**9. Communications, Reports and Correspondence Received**

- a) Correspondence Received
- b) Executive Director's Report
- c) Staff Reports
- d) District Counsel and District Treasurer Reports
- e) Commissioner and Committee Reports

**10. Unfinished Business – None**

**11. New Business**

- a) Consider Adopting Resolution 2023-15, A Resolution Authorizing the Submission of a US Department of Transportation FY 2023-2024 Multimodal Project Discretionary Grant Opportunity for the Humboldt Offshore Wind Terminal Project for the Construction of a Phase of a New Heavy Lift Multipurpose Terminal to Support the Offshore Wind Industry**

*Recommendation:* Staff recommends the Board: Adopt Resolution 2023-15, authorizing staff to submit a grant application and authorizing the Executive Director to sign an associated Letter of Commitment to the US Department of Transportation for the FY 2023-2024 Multimodal Project Discretionary Grant Opportunity (MPDG) for the Humboldt Offshore Wind Terminal Project.

*Summary:* A supplemental staff report to this staff report will be issued on 8/8/23 or sooner to clarify total grant amount, matching funds, and proposed project elements.

- b) Consider Approval of a Project Labor Agreement with the State Building and Construction Trade Council of the State of California, Building and Construction Trades Council of Humboldt and Del Norte Counties, and the Signatory Craft Councils and Unions**

*Recommendation:* Staff Recommends that the Board: Approve the Project Labor Agreement.

*Summary:* The District's Offshore Wind Subcommittee and the State Building and Construction Trades Council have come to agreement on a Project Labor Agreement for the New Terminal Project (Attachment 1). The project is projected to require a significant amount of assistance from both the Federal and State Governments. On February 4, 2022, President Biden issued an Executive Order on Use of Project Labor Agreements For Federal Construction Projects which requires project labor agreements for federally funded projects of more than \$35 Million.

- c) Consider Awarding an Audit Contract for the Humboldt Bay Harbor, Recreation and Conservation District to Harshwal & Company LLP**

*Recommendation:* Staff Recommends that the Board award a contract to Harshwal & Company LLP to audit its financial statements for the fiscal years ending 6/30/2023, 6/30/2024 and 6/30/2025, with the option to extend the contract an additional two fiscal years ending 2026 and 2027.

*Summary:* On May 23, 2023 the Harbor District released an RFP for Auditing Services. Harshwal & Company LLP is the only firm to respond to the request for proposals. The proposed not-to-exceed price is \$20,500 for the first year, increasing annually by 5%.

**d) Consider Adopting Resolution 2023-14 Establishing Findings Relative to Humboldt Bay Harbor, Recreation and Conservation District Permit 2023-03; a CEQA Exemption; and Conditional Approval of Permit 2023-03 for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project**

*Recommendation:* Staff recommends that the Board receive a staff report, receive public comment, and adopt Humboldt Bay Harbor, Recreation, and Conservation District Resolution No. 2023-14 which includes:

- Establishing Findings Relative to the Permit Application for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project and the California Environmental Quality Act Exemption
- Approving Permit 2023-03 with conditions for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project

*Summary:* The Caltrans Eureka Slough Bridges Geotechnical Investigation Project (Project) will characterize subsurface conditions to support the design and construction of the proposed replacement of northbound and southbound Eureka Slough Bridges on U.S. Highway 101. The geotechnical investigation includes drilling and performing geophysical surveys for the proposed bridge alignments at or near the proposed foundation locations. Up to six (6) geophysical surveys would occur. No earthwork would be required to access or perform the proposed surveys. Up to 22 borings would be drilled. Depending on location, the borings would be advanced through the existing bridge deck, highway pavement surface, median strip, or vegetated area adjacent to the approach embankments. A majority of the work locations would be accessed along the highway shoulders and median and through the Eureka Slough Bridges bridge decks within the existing Caltrans right of way.

**12. Future Agenda Items**

**13. Adjournment**



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

**July 13, 2023**

The Humboldt Bay Harbor, Recreation and Conservation District met in regular session on the above date, Closed Session met at 5:00 P.M., Regular Session met at 6:00 P.M. at the Woodley Island Marina meeting room, 601 Startare Drive, Eureka, CA 95501.

**CLOSED SESSION – 5:06 P.M.**

**PUBLIC COMMENT:** The following individuals addressed the Commission regarding subject matters on the closed session meeting agenda: No one.

**BUSINESS**

- a) PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Government Code section 54957(b)(1). Title: Executive Director – Larry Oetker
- b) CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Larry Oetker, Executive Director  
Unrepresented employee: Title: Deputy Executive Director
- c) CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Larry Oetker, Executive Director  
Unrepresented employee: Title: Director of Development
- d) CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Larry Oetker, Executive Director  
Unrepresented employee: Title: Director of Administrative Services
- e) CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Larry Oetker, Executive Director  
Unrepresented employee: Title: Natural Resources Coordinator II
- f) CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Larry Oetker, Executive Director  
Unrepresented employee: Title: Marina Manager
- g) CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Larry Oetker, Executive Director  
Unrepresented employee: Title: Maintenance Manager

**REGULAR SESSION – 6:04 P.M.**

ROLL CALL

**Draft Minutes for July 13, 2023 Regular Board Meeting**

PRESENT: BENSON  
KULLMANN  
HIGGINS  
NEWMAN

ABSENT: DALE

QUORUM: YES

**PLEDGE OF ALLEGIENCE**

**REPORT ON SPECIAL CLOSED SESSION:** No reportable action.

**PUBLIC COMMENT:** The following individuals addressed the Commission regarding subject matters not on the regular session meeting agenda: No one.

**CONSENT CALENDAR**

- a) Adopt Minutes for June 8, 2023 Regular Board Meeting
- b) Adopt Minutes for June 22, 2023 Special Board Meeting
- c) Receive District Financial Reports for May 2023
- d) Approve Salary Schedules for CalPERS Audit Compliance
- e) Charter Agreement Renewal for Andrew Smyth dba North Coast Sportfishing to operate a Charter Service at Woodley Island Marina

COMMISSIONER HIGGINS MOVED TO ACCEPT CONSENT CALENDAR ITEMS A-E.

COMMISSIONER NEWMAN SECONDED.

VOICE VOTE WAS CALLED, MOTION CARRIED.

Ayes: BENSON, HIGGINS, KULLMANN, NEWMAN

Noes: NONE

Absent: DALE

Abstain: NONE

**COMMUNICATIONS, REPORTS AND CORRESPONDENCE RECEIVED**

- a) Correspondence Received – None.
- b) Executive Director’s Report
  - I. Executive Director presented Executive Director’s report.
- c) Staff Reports
  - I. Staff presented on recent District activities.
- d) District Counsel and District Treasurer Reports
  - I. No report.
- e) Commissioner and Committee Reports
  - I. Commissioners reported on recent activities and subcommittees.

**UNFINISHED BUSINESS** - None

**NEW BUSINESS**

- a) **Award a Contract for the Woodley Island Marina Dredging Project**

**Draft Minutes for July 13, 2023 Regular Board Meeting**

- I. District staff presented the item.
- II. The Commission discussed the item.
- III. Vice Chair Kullmann opened the item to public comment. Cody Freitas commented.
- IV. Vice Chair Kullmann moved the discussion back to the Commission.  
COMMISSIONER BENSON MOVED TO AWARD THE DREDGE CONTRACT TO THE DUTRA GROUP FOR UP TO \$3,500,000.  
COMMISSIONER NEWMAN SECONDED.  
ROLL CALL VOTE WAS CALLED, MOTION CARRIED.  
Ayes: BENSON, HIGGINS, KULLMANN, NEWMAN  
Noes: NONE  
Absent: DALE  
Abstain: NONE

**ADJOURNMENT – 6:56 P.M.**

APPROVED BY:

RECORDED BY:

\_\_\_\_\_  
Aaron Newman  
Secretary of the Board of Commissioners

\_\_\_\_\_  
Mindy Hiley  
Director of Administrative Services

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

**July 27, 2023**

The Humboldt Bay Harbor, Recreation and Conservation District met in Special Session on the above date, at 6:00 P.M. at the Woodley Island Marina meeting room, 601 Startare Drive, Eureka, CA 95501.

**SPECIAL SESSION – 6:02 PM**

ROLL CALL

PRESENT:       DALE (arrived at 6:04 PM)  
                  HIGGINS  
                  KULLMANN  
                  NEWMAN

ABSENT:        BENSON

QUORUM:       YES

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT:** The following individuals addressed the Commission regarding subject matters not on the regular session meeting agenda: Randy Sundberg, Rob McBeth, Pat Hooven, Ben Dalton and Tim Hooven.

**BUSINESS**

**a) Consider Adopting Resolution No. 2023-13, A Resolution Adopting the Final Fiscal Year 2023-2024 Humboldt Bay Harbor, Recreation and Conservation District Budget**

- I. Executive Director presented the item.
- II. The Commission discussed the item.
- III. Vice Chair Kullmann opened the item to public comment. No one commented.
- IV. Vice Chair Kullmann moved the discussion back to the Commission.

COMMISSIONER HIGGINS MOVED ADOPT RESOLUTION NO. 2023-13, A RESOLUTION ADOPTING THE FINAL FISCAL YEAR 2023-2024 HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT BUDGET.

COMMISSIONER NEWMAN SECONDED.

ROLL CALL VOTE WAS CALLED, MOTION CARRIED.

Ayes:       DALE, HIGGINS, KULLMANN, NEWMAN

Noes:       NONE

Absent:     BENSON

Abstain:    NONE

***Draft Minutes for July 27, 2023 Special Board Meeting***

**ADJOURNMENT – 6:29 PM**

APPROVED BY:

RECORDED BY:

\_\_\_\_\_  
Aaron Newman  
Secretary of the Board of Commissioners

\_\_\_\_\_  
Mindy Hiley  
Director of Administrative Services

**EMPLOYMENT AGREEMENT**  
**With**  
**Mindy Hiley**

THIS AGREEMENT, is between the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, a public entity, located in Humboldt County, California, herein referred to as "District", and Mindy Hiley, herein referred to as "Employee".

The parties recite that:

- A. District is a public entity with legal duties, powers and obligations set forth in Sections 1 through 83 of Appendix 2 of the Harbors and Navigation Code of the State of California.
- B. Employee is willing to be employed by District, and District is willing to employ Employee in the unclassified, at-will position of Director of Administrative Services on the terms and conditions hereinafter set forth.
- C. The position of Director of Administrative Services is an unclassified service employee as defined in Section 73 of Appendix 2 of the Harbors and Navigation Code. Said position is an "At Will" position terminable at the will of either the employer or the employee.

**FOR THE REASONS SET FORTH ABOVE, AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES HERETO, DISTRICT AND EMPLOYEE COVENANT AND AGREE AS FOLLOWS:**

- 1. Pursuant to this Agreement, Employee is employed as Director of Administrative Services for the Humboldt Bay Harbor, Recreation and Conservation District effective July 1, 2023, and Employee hereby accepts and agrees to such continued employment.
- 2. Employee shall perform and complete the services and tasks set forth in and according to the time frame set forth in Exhibit "A", attached hereto and incorporated by reference.
- 3. Employee shall at all times faithfully, industriously, and to the best of her ability, experience, and talent perform all duties that may be required pursuant to the expressed and implicit terms as set forth by the Executive Director of the District. Such duties shall be rendered in Humboldt County, California and at such other place or places as District shall in good faith require or the interest and needs or requests of District shall require or make advisable.
- 4. Employee shall serve in the position of Director of Administrative Services at the will and pleasure of the Executive Director of District. The Executive Director of the District or Employee may terminate this Agreement and terminate Employee's employment with or without cause at any time. In the event Employee desires to terminate employment with the District as Director of Administrative Services, it is expected that Employee shall give to District a

minimum of thirty (30) days written notice of said intention to terminate. Employee shall be compensated for accrued benefits to the date of termination in accordance with the provisions of the Personnel Policy.

5. District shall pay Employee and Employee agrees to accept from District, \$99,511/year in full payment of Employee's services for her position as Director of Administrative Services hereunder, compensation to be set by the Board of Commissioners and as adjusted from time to time, currently under Resolution 2021-12 adopted on August 12, 2021.

In addition to the foregoing, Employee shall receive five days Management Leave plus all the employee benefits for full time employees as now established by the District's personnel policy, or different employee benefits as may be modified or established by the District in the future. However, nothing in this section or any other part of this Agreement shall be interpreted as preventing or precluding the District from rescinding, amending or otherwise modifying the existing Personnel Policy or from adopting additional personnel policies or procedures concerning the employment, including but not limited to modifications of the benefits of employment.

6. Employee's salary, job duties and performance shall be reviewed in June of each year by the Executive Director of the District. The annual performance review may be used to adjust Employee's salary based upon the salary schedule for Mid Management, Management, and Appointed Classifications, which has been approved by the Board of Commissioners. However, nothing in this section shall be construed as a promise or commitment by the District to increase compensation, or concerning the amount of any such increase.
7. The effective date of appointment of Employee as Director of Administrative Services shall be July 1, 2023 and unless renewed, will terminate on June 30, 2026. In the event the Employee is terminated without cause or the Employee's contract is not renewed, Employee will be given the opportunity to retire.
8. Employee shall devote his full time, attention, knowledge and skill solely and exclusively as Director of Administrative Services, solely and exclusively to the business and interest of the District. The position is considered to be an exempt position within the meaning of the California Labor Code for the purposes of wage and hour provisions. Employee's workweek is not necessarily limited to 40 hours per week. Employee may be expected to work in excess of 40 hours per week if required to perform his duties as Director of Administrative Services at the regular monthly salary with no provision for overtime pay.
9. Employee is an unclassified employee as Director of Administrative Services. The position of Director of Administrative Services is not entitled to participate as a member of the Operating Engineers Local Union No.3, AFL-CIO, pursuant to the Union Contract with District and Director of Administrative Services is not included as a member of the bargaining unit represented by the Union.

10. Employee shall abide by all applicable provisions of District's Personnel Policy as amended and with all other District policies and procedures currently in force or as may be implemented during the term of employment.
  
11. This written Agreement contains the sole and entire agreement between the parties. It supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or any representations including the execution and delivery hereof except such representations as are specifically set forth herein, and each party acknowledges that he/she or it has relied on his/her or its own judgment in entering into this Agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his or its dealings with the other.
  
12. No waiver of modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.
  
13. This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceedings that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other form. Any legal proceedings or actions arising out of this agreement shall be venued in Humboldt County, California.

Executed at Humboldt County, California, on the date first written below.

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

\_\_\_\_\_  
Larry Oetker, Executive Director

\_\_\_\_\_  
Date

**EMPLOYEE**

\_\_\_\_\_  
Mindy Hiley

\_\_\_\_\_  
Date

**EXHIBIT A**



## **DIRECTOR OF ADMINISTRATIVE SERVICES**

### **Scope of Work Updated August 12, 2019**

#### **Definition of Duties:**

Under the direction of Executive Director, Director of Administrative Services shall supervise the administrative details of the Harbor District office and its staff, shall perform accounting and keeping of financial and statistical records, maintain lease and permit records, review agreements for compliance, perform clerical and stenographic work and preparation of and maintenance of records and minutes of Board Meetings, act as Clerk of the Board and other related work as required.

#### **Examples of Duties:**

- Supervise the receiving of monies from the public and issuance of receipts
- Prepare payrolls and related records and reports
- Perform accounting, bookkeeping, billing and collection duties
- Collect lease payments and ensure that leases are current.
- Prepare monthly financial reports
- Work closely with annual auditor and ensure District financial records are ready for audit
- Coordinate in preparing the budget including financial projections, analysis, goals, and planning.
- Maintain financial and administrative records
- Ensure compliance with grant milestones and recordkeeping.
- Supervise office personnel
- Maintain personnel files, including legal documents and confidential personnel information
- Maintain Permit records and timelines
- Assure compliance with applicable state and federal personnel laws
- Maintain proper insurance coverage for District property, liability, Workers Compensation and Marina Operations
- Assist Executive Director with administrative duties
- Plan and direct the work involved in maintaining Official District documents and records, including the Seal of the District
- Prepare Board agendas, attends Board meetings, prepares Board minutes and supervises the keeping of a journal of Board proceedings and of ordinances, resolutions and other official documents
- Organize meetings, travel arrangements, letters, files, and documents as requested by the Board of Commissioners and Executive Director
- Answer questions from the public and officials regarding District organization and practice, ordinances and the status of communications, resolutions and actions of the Board
- Prepare Bid documents for distribution
- Prepare required legal notices for publication
- Update website with Board agendas, minutes, legal notices, other miscellaneous information
- Maintain current Notary Public commission
- Manage Woodley Island Marina

**EMPLOYMENT AGREEMENT**  
**With**  
**Cory Mooers**

THIS AGREEMENT, is between the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, a public entity, located in Humboldt County, California, herein referred to as "District", and Cory Mooers, herein referred to as "Employee".

The parties recite that:

- A. District is a public entity with legal duties, powers and obligations set forth in Sections 1 through 83 of Appendix 2 of the Harbors and Navigation Code of the State of California.
- B. Employee is willing to be employed by District, and District is willing to employ Employee in the unclassified, at-will position of Marina Manager on the terms and conditions hereinafter set forth.
- C. The position of Marina Manager is an unclassified service employee as defined in Section 73 of Appendix 2 of the Harbors and Navigation Code. Said position is an "At Will" position terminable at the will of either the employer or the employee.

**FOR THE REASONS SET FORTH ABOVE, AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES HERETO, DISTRICT AND EMPLOYEE COVENANT AND AGREE AS FOLLOWS:**

- 1. Pursuant to this Agreement, Employee is employed as Marina Manager for the Humboldt Bay Harbor, Recreation and Conservation District effective July 1, 2023, and Employee hereby accepts and agrees to such employment.
- 2. Employee shall perform and complete the services and tasks set forth in and according to the time frame set forth in Exhibit "A", attached hereto and incorporated by reference.
- 3. Employee shall at all times faithfully, industriously, and to the best of his ability, experience, and talent perform all duties that may be required pursuant to the expressed and implicit terms as set forth by the Executive Director of the District. Such duties shall be rendered in Humboldt County, California and at such other place or places as District shall in good faith require or the interest, and needs or requests of District shall require or make advisable.
- 4. Employee shall serve in the position of Marina Manager at the will and pleasure of the Executive Director of District. The Executive Director of the District or Employee may terminate this Agreement and terminate Employee's employment with or without cause at any time. In the event Employee desires to terminate employment with the District as Marina Manager, it is expected that Employee shall give to District a minimum of thirty (30) days written notice of said intention to terminate. Employee shall be compensated for

accrued benefits to the date of termination in accordance with the provisions of the Personnel Policy.

5. District shall pay Employee and Employee agrees to accept from District, \$71,700/year in full payment of Employee's services for his position as Marina Manager hereunder, compensation to be set by the Board of Commissioners and as adjusted from time to time, currently under Resolution 2021-12 adopted on August 12, 2021.
6. In addition to the foregoing, Employee shall receive five days Management Leave plus all the employee benefits for full time employees as now established by the District's personnel policy, or different employee benefits as may be modified or established by the District in the future. However, nothing in this section or any other part of this Agreement shall be interpreted as preventing or precluding the District from rescinding, amending or otherwise modifying the existing Personnel Policy or from adopting additional personnel policies or procedures concerning the employment, including but not limited to modifications of the benefits of employment.
7. Employee's salary, job duties and performance shall be reviewed in June of each year by the Executive Director of the District. The annual performance review may be used to adjust Employee's salary based upon the salary schedule for Mid Management, Management, and Appointed Classifications, which has been approved by the Board of Commissioners. However, nothing in this section shall be construed as a promise or commitment by the District to increase compensation, or concerning the amount of any such increase.
8. The effective date of appointment of Employee as Marina Manager shall be July 1, 2023 and unless renewed, will terminate on June 30, 2026. In the event the Employee is terminated without cause or the Employee's contract is not renewed, Employee will be given the opportunity to retire.
9. Employee shall devote his full time, attention, knowledge and skill solely and exclusively as Marina Manager, solely and exclusively to the business and interest of the District. The position is considered to be an exempt position within the meaning of the California Labor Code for the purposes of wage and hour provisions. Employee's workweek is not necessarily limited to 40 hours per week. Employee may be expected to work in excess of 40 hours per week if required to perform his duties as Marina Manager at the regular monthly salary with no provision for overtime pay.
10. Employee is an unclassified employee as Marina Manager. The position of Marina Manager is not entitled to participate as a member of the Operating Engineers Union No. 3, AFL-CIO, pursuant to the Union Contract with District and Marina Manager is not included as a member of the bargaining unit represented by the Union.
11. Employee shall abide by all applicable provisions of District's Personnel Policy as amended and with all other District policies and procedures currently in force or as may be implemented during the term of employment.

12. This written Agreement contains the sole and entire agreement between the parties. It supersedes any and all other agreements between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or any representations including the execution and delivery hereof except such representations as are specifically set forth herein, and each party acknowledges that he/she or it has relied on his/her or its own judgment in entering into this Agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his or its dealings with the other.
  
13. No waiver of modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.
  
14. This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceedings that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other form. Any legal proceedings or actions arising out of this agreement shall be venued in Humboldt County, California.

Executed at Humboldt County, California, on the date first written below.

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

\_\_\_\_\_  
Larry Oetker, Executive Director

\_\_\_\_\_  
Date

**EMPLOYEE**

\_\_\_\_\_  
Cory Mooers

\_\_\_\_\_  
Date

**EXHIBIT A**  
**MARINA MANAGER**  
**Scope of Work**  
**Updated 8/12/19**

**DEFINITION OF DUTIES:**

Under the direct or general supervision of the Director of Administrative Services, performs a variety of professional and complex activities as they relate to the Harbor District's management, maintenance, operation, planning, development, safety, and security of the Woodley Island Marina, Fields Landing Boat Yard, and other District facilities related to commercial and recreational fishing, boating and watercraft. The Marina Manager works with commercial fishers, recreational boaters, the aquaculture industry, and others to ensure that District facilities meet their needs. The Marina Manager is a full-time, permanent, unclassified, management position.

**EXAMPLES OF DUTIES:** duties may include, but are not limited to the following:

- Manages and trains staff on current laws, regulations, procedures, and best management practices.
- Ensures that high quality services are available for marina, slips, docks, and other water related users.
- Oversees the day to day operations of the marina, slips, docks, storage, and tideland leases to ensure that all accounts remain current and leases are executed, renewed, and enforced.
- Coordinates with maintenance staff to ensure that the facilities are clean, safe, and properly maintained.
- Handles customer concerns, disputes, and issues in a professional, courteous, and timely manner.
- Vigorously enforces the protection of the water quality of Humboldt Bay.
- Ensures that each dock, slip, and vessel moored at District facilities are checked daily to ensure that safety, security, and maintenance problems are identified, appropriate corrective action is taken and that there are not unauthorized persons present.
- Prepares meeting materials, reports, informational displays and presentations.
- Assists in planning efforts and permit requirements of the Harbor District and other agencies.
- Attends meetings in the office, field, and out of the Humboldt Bay area.
- Determines property improvement needs and assists the Director of Facility Management with the preparation of construction specifications, project management, and implementation of the District's dredging program.
- Conducts work progress inspections; prepares requests for payments to contractors as needed.
- Coordinates real property leasing, including marketing and advertising; preparing and processing leases; invoicing, monitoring and collecting rents; monitoring lease terms; regular inspections to ensure safety and compliance, performing minor repairs and coordinating those that require outsourcing, and handling tenant inquiries and complaints.
- Assists in emergency response as directed.
- Performs other duties as assigned.

## **REQUIREMENTS:**

- Must possess a valid California Driver License.
- Must be proficient in the use of general office equipment, computer programs such as Microsoft Word, Excel, Outlook and internet applications.
- Must possess customer service skills with knowledge in customer service management, methods, and techniques, and treat all individuals with courtesy, dignity, and respect.
- Ability to communicate well both verbally and in writing with internal and external staff, consultants, agencies, customers, and the public.
- Possess strong organizational and problem-solving skills.
- Possess a valid California Boater Card within six months of employment.
- Possess valid basic First Aid and CPR certification within six months of employment.
- Obtain a Transportation Worker Identification Credential within six months of employment.
- Ability and skills required to tie-up and handle boats.
- Ability to monitor and respond to radio transmissions and monitor video security cameras.
- Must be willing to work nights, weekends, standby, on-call, and overtime as necessary.
- Pass a pre-employment physical and random drug testing.

## **PHYSICAL REQUIREMENTS:**

Must be able to perform the physical aspects of the job, including sitting for periods of time, operating standard office equipment; working on and around boat and watercraft, traversing uneven terrain, climbing ladders and stairs, operating a motor vehicle; lifting or carrying up to 50 lbs.; working outside in varying weather and water conditions.

## **REQUIRED EDUCATION AND EXPERIENCE:**

- Four (4) years of increasingly responsible experience in maritime facility or marina management; or
- Four (4) years experience in commercial/property management field; or
- Four (4) years of related experience in the Coast Guard, Navy, or Merchant Marines, or
- Other combined work experience that meets the qualifications for the position.

## **NOT REQUIRED, BUT DESIREABLE QUALIFICATIONS:**

- Possess a valid US Coast Guard Operator of Uninspected Passenger Vessel (six – pack or charter boat captain’s license).
- Possess a valid Assistance Towing Endorsement
- Possess a valid US Coast Guard 25, 50, or 100 Ton Master License



COMMISSIONERS  
1<sup>st</sup> Division  
    Aaron Newman  
2<sup>nd</sup> Division  
    Greg Dale  
3<sup>rd</sup> Division  
    Stephen Kullmann  
4<sup>th</sup> Division  
    Richard Marks  
5<sup>th</sup> Division  
    Patrick Higgins

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

**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**August 10, 2023**

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

**FROM:** Larry Oetker, Executive Director

**DATE:** August 3, 2023

**TITLE: Consider Approving a Contract Amendment with Redwood Community Action Agency in the Amount of \$119,392 with a contingency of up to 10% for an expanded Scope of Services for the Samoa Peninsula Beautification Project**

---

**STAFF RECOMMENDATION:** Staff recommends approval of a contract amendment with Redwood Community Action Agency in the amount of \$119,392 with a 10% contingency.

**SUMMARY:** On June 9, 2022, the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District adopted Resolution 2022-05, accepting a Clean California Grant from the California Department of Transportation, in the amount of \$903,870. On September 1, 2022, the Board approved a contract with Redwood Community Action Agency (RCAA), which worked with the District to prepare a successful application, in the amount of \$438,978 to support the formal framework necessary for RCAA and the District to commence the project and to engage stakeholders, community members and vendors. As the project has further developed and entered its second year, the District and RCAA wish to amend the Scope of Services to include specific additional tasks.

**ATTACHMENTS:**

- A** Contract Amendment

**AMENDMENT NO. 1 TO THE SERVICE PROVIDER AGREEMENT BY AND BETWEEN THE HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT (DISTRICT) AND REDWOOD COMMUNITY ACTION AGENCY (RCAA), AS EXECUTED ON SEPTEMBER 22, 2022**

**Whereas**, the District and RCAA wish to expand the scope of services to provide additional tasks under the Clean California Grant-Samoa Peninsula Beautification Project to be completed by RCAA.

**As such**, The District and RCAA agree to the following contract amendment:

1. RCAA shall perform, or cause to perform, the specific tasks on the attached, Exhibit A, infrastructure engineer's cost estimate schedule detailed as items 4-5, 13-14, 16-20, 23-24, 26-29, 31-34, 36-41 for an amount of \$119,392 with a contingency of up to 10%.
2. All additional work must be completed and Invoiced no later than July 31, 2024.

All other aspects of the contract remain in effect.

Approved August 10, 2023, by:

---

Larry Oetker, Executive Director  
Humboldt Bay Harbor, Recreation, and Conservation District

---

Val Martinez, Executive Director  
Redwood Community Action Agency



Detailed Engineer's Estimate and Total Project Costs										
<b>Important: Read the Instructions in the first sheet (tab) before entering data. Do not enter data in shaded fields (with formulas).</b>										
Project Information:										
Agency: Humboldt Bay Harbor, Recreation and Conservation District						Date: 31-Jan-22				
Project Description: Beautification, litter abatement, and public access improvements to communities on the Samoa Peninsula adjacent to Humboldt Bay										
Project Title: Peninsula Beautification Project										
Project Location: Samoa Peninsula (towns of Manila, Samoa and Fairhaven) in Humboldt County, CA										
Name of Licensed Engineer in responsible charge of preparing or reviewing this PSR-Equivalent Cost Estimate: Brett Vivyan PE						License #:		84167		
Engineer's Estimate and Cost Breakdown:										
Engineer's Estimate (for Construction Items Only)						Cost Breakdown				
						CCLGP Participating		CCLGP Non-participating		
Item No.	Item	Quantity	Units	Unit Cost	Total Item Cost	Costs/Items		Costs/Items		
						%	Spent to date	%	\$	
<b>General Overhead-Related Construction Items</b>										
1	Mobilization, Demobilization, and Final Cleanup	1	LS	\$20,000	\$20,000		\$1,520			
2	Construction Survey/ Staking	1	LS	\$5,000	\$5,000		\$0			
3	Striping (Parking Lot)	1	LS	\$5,000	\$5,000		\$0			
4	Maintain Existing Planted Areas	3	LS	\$1,500	\$4,500		\$0			
5	Plant Establishment Work	1	LS	\$4,000	\$4,000		\$0			
<b>General Construction Items</b>										
11	Paving of parking areas for Manila Park	17,000	sq ft	\$9	\$153,000		\$0			\$0
12	Cast concrete picnic tables	5	tables	\$2,200	\$11,000		\$0			\$0
13	Interpretive sign fabrication (with sign bases)	6	signs	\$1,200	\$7,200		\$0			\$0
14	Installation bolts for signs and bike racks	100	bolts	\$2.50	\$250		\$0			\$0
15	Wood chips for Manila Park	300	cubic yds	\$56	\$16,800		\$10,881.30			\$0
16	Custom made play sculptures	4	sculptures	\$2,500	\$10,000		\$0			\$0
17	Informational, litter abatement & regulatory signs	20	signs	\$50	\$1,000		\$0			\$0
18	Entrance sign fabrication for Manila Park	2	signs	\$1,300	\$2,600		\$0			\$0
19	Dog waste disposal stations	9	stations	\$500	\$4,500		\$0			\$0
20	Monofilament Fishing line disposal/ recycling stations	5	stations	\$100	\$500		\$0			\$0
23	Sharps disposal receptacles, wall-mounted	4	receptacles	\$75	\$300		\$0			\$0
24	Bear-proof trash receptacles	4	receptacles	\$1,800	\$7,200		\$0			\$0
25	Boulders (1 ton, including delivery)	260	1 ton rock	\$130	\$33,800		\$4,000			\$0
26	Crushed rock for beach parking/ boat trailer areas (delivered)	80	cubic yds	\$49	\$3,920		\$0			\$0
27	Concrete k-rails (including delivery)	60	k-rails	\$225	\$13,500		\$0			\$0
28	Historical marker fabrication	12	markers	\$500	\$6,000		\$0			\$0
29	Bicycle racks	4	racks	\$700	\$2,800		\$0			\$0
30	Cast concrete benches/ seating	3	benches	\$1,400	\$4,200		\$0			\$0
31	Sneaker wave safety sign fabrication	3	signs	\$750	\$2,250		\$0			\$0
32	Abandoned vehicle abatement/ removal services	6.25	vehicles	\$400	\$2,500		\$0			\$0
33	Dumpster delivery and removal services	10	dumpsters	\$650	\$6,500		\$4,693.60			\$0
34	Concrete bases - sign, receptacles, bike racks	36	bases	\$150	\$5,400		\$0.00			\$0
36	Native plants (delivered)	100	plants	\$8	\$800		\$481.47			\$0
37	Motion-sensing solar mounted lighting	12	lights	\$35	\$420		\$0			\$0
38	Wayfinding signage fabrication	3	signs	\$100	\$300		\$0			\$0
39	Removal of vehicles located in deep sand/ dunes/ beach	6	vehicles	\$3,500	\$21,000		\$0			\$0
40	Disposal fees for solid waste disposal	50	tons	\$160	\$8,000		\$1,116.15			\$0
41	Paint for community volunteer-led murals	10	gallons	\$25	\$250		\$0			\$0
<b>Subtotal of Construction Items:</b>					<b>\$364,490</b>		<b>\$22,692</b>		<b>\$0</b>	<b>\$0</b>
<b>Construction Item Contingencies (% of Construction Items):</b>				<b>9.13%</b>	<b>\$33,293</b>		<b>\$33,293</b>		<b>\$0</b>	
<b>Total (Construction Items &amp; Contingencies) cost:</b>					<b>\$397,783</b>		<b>\$397,783</b>		<b>\$0</b>	
Project Delivery Costs:										
					Type of Project Cost	Cost \$				
					<b>Preliminary Engineering (PE)</b>					
					Environmental Studies and Permits(PA&E):			CCLGP Participating Costs		CCLGP Non-participating Costs
					Plans, Specifications and Estimates (PS&E):	\$	20,000	\$20,000		

## COMMISSIONERS

1<sup>st</sup> Division

Aaron Newman

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

4<sup>th</sup> Division

Craig Benson

5<sup>th</sup> Division

Patrick Higgins

**Humboldt Bay**  
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 (707)443-0801  
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 Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**August 10, 2023**

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

**FROM:** Rob Holmlund, Development Director

**DATE:** August 4, 2023

**TITLE: Consider Adopting Resolution 2023-15, A Resolution Authorizing the Submission of a US Department of Transportation FY 2023-2024 Multimodal Project Discretionary Grant Opportunity for the Humboldt Offshore Wind Terminal Project for the Construction of a Phase of a New Heavy Lift Multipurpose Terminal to Support the Offshore Wind Industry**

**STAFF RECOMMENDATION:** Staff recommends the Board: Adopt Resolution 2023-15, authorizing staff to submit a grant application and authorizing the Executive Director to sign an associated Letter of Commitment to the US Department of Transportation for the FY 2023-2024 Multimodal Project Discretionary Grant Opportunity (MPDG) for the Humboldt Offshore Wind Terminal Project.

**SUMMARY:** A supplemental staff report to this staff report will be issued on 8/8/23 or sooner to clarify total grant amount, matching funds, and proposed project elements.

This item is regarding an application for a grant from the Federal Multimodal Project Discretionary Grant (MPDG) Opportunity due on August 21, 2023. The MPDG Opportunity includes two eligible funding programs under which our proposal will be considered, the National Infrastructure Project Assistance grants program (Mega) and the Nationally Significant Multimodal Freight and Highways Projects grants program (INFRA). Attachment A to this staff report is a Resolution authorizing submittal of that grant application.

**DISCUSSION:** The State and Federal governments have established ambitious goals for renewable energy generation through offshore wind development. These efforts to combat climate change represent an economic opportunity for the Port, the State, the Pacific region, and the entire nation. Achieving these goals also presents complex logistical challenges, including the development of new port and port-terminal facilities throughout California, including within Humboldt Bay. Offshore wind development will require new heavy lift marine terminal facilities, upland infrastructure/laydown areas, manufacturing centers, and logistics facilities.

A report published by BOEM in early 2023 determined that only three ports in California are capable of hosting “Staging and Integration” (S&I) sites, which will “...assemble the floating turbine systems for towing to the offshore wind areas.”<sup>1</sup> The three ports capable of hosting S&I sites are Humboldt Bay, Los Angeles, and Long Beach. According to a different report<sup>2</sup> published less than a month ago by the California State Lands Commission:

- The Port of Humboldt plans to develop two S&I sites, with “Ready Dates” of 2028 and 2031.
- The Port of Long Beach plans to develop two S&I sites, with “Ready Dates” of 2031 and 2035.
- The Port of Los Angeles does not have any plans to develop an S&I site.
- No other ports have announced plans to develop S&I sites.

Thus, without an S&I site coming online in Humboldt Bay in 2028, the State of California cannot reach its goal of 5 GW of offshore wind by 2030. As a result, the West Coast floating offshore wind industry would be delayed, along with the many benefits that offshore wind will address (reversal of climate change and subsequent environmental improvements, transportation and shipping enhancements, energy resiliency, economic and employment advancements, a shift towards greater social and environmental equity, etc.).

As presented to the Board at several past meetings, the Harbor District is redeveloping the existing Redwood Marine Terminal to support the offshore wind industry in the Pacific. These improvements will create a multipurpose terminal that can support existing industry as well as serve as a primary facility for the manufacturing, import, staging, preassembly, final assembly, and loadout of large offshore wind components, including both wind turbine generation components and floating foundation components. Receiving grant funds for design, permitting, and construction is a critical step to accomplishing the envisioned project.

In March 2022 the District accepted a grant of \$10.45M from the California Energy Commission to support the project. The CEC encouraged the District to utilize that \$10.45M as matching funds for Federal grants. A likely source of additional grant funds is the Port Infrastructure Development Program (PIDP), which is administered by the Maritime Administration of the US Department of Transportation (MARAD). Additionally, the District and its collaborators have identified a highly competitive and potentially large source of grant funds in the MPDG opportunity.

In mid-2021, the District applied for a \$56M PIDP grant. The District was not awarded the grant. In mid-2022, the District re-applied to the same PIDP program for a substantially scaled-down version of the project. The District was also not awarded that grant. In early 2023, District staff participated in a debrief with MARAD staff to review the District’s previous PIDP grant applications. Based on feedback from MARAD, the District has been working to reformulate a new strategy. Thereafter, the District prepared and applied for an approximately \$10M grant for the 2023 round of the PIDP

---

<sup>1</sup> <https://www.boem.gov/BOEM-2023-010>: California Floating Offshore Wind Regional Ports Assessment; U.S. Department of the Interior, BOEM; January 2023; page 22.

<sup>2</sup> <https://www.slc.ca.gov/content-types/port-readiness-plan/>: AB 525 Port Readiness Plan; California State Lands Commission; July 7, 2023; page 5.

which is currently under review and consideration by MARAD. In furtherance of these efforts, the District is working with project partners to prepare a grant application for the FY 2023-2024 round of the MPDG's Mega and INFRA grant programs. Attachment A to this staff report is a Resolution authorizing submittal of that grant application no later than August 21, 2023, at 11:59:59 p.m. EDT.

The 2023-2024 MPDG grant application requests Mega or INFRA funding to:

- Soft costs: Finalize all of the required studies and permitting for the entire proposed project.
- Environmental mitigation costs: Construction of the environmental mitigation for the entire project
- Construction costs: Phase 0 and Phase 1 construction activities, thereby enabling Phase 1 of the facility to begin initial operations by 2027. See Attachment B for a rough overview of the proposed Phase 0 and Phase 1 construction activities.
- A "Community Benefit Program."

The District intends to match the grant request with a 40% match, including a portion of District funds to be drawn from the \$10.45M grant issued to the District by the CEC. The District will rely on Crowley and its partners to provide a contingent Letter of Commitment for the remaining balance of the match share, which could be offset in the future by other grant opportunities, incentives, and/or private investments. The grant application narrative includes a framework that allows for critical project reviews with DOT at which time the project team would verify match source for the next allotment from the award. If future funding is acquired by the Harbor District that can be used as match, then such funding commitments will come before the District Board of Commissioners for consideration. In other words, if any future matching funds for the grant require further financial commitments by the Harbor District, those commitments would come before the Board for Board approval or denial.

The grant application is due on August 21, 2023. At the time of the drafting of this staff report (8/4/23), staff is still evaluating the exact cost estimates and anticipates that some items may slightly change prior to application submittal. A supplemental staff report will be issued prior to the 8/10/23 meeting to clarify these numbers.

Staff estimates that the results of the 2023-2024 round of the MPDG grants will be announced in November of 2023, with project award allocations issued between March and September of 2024.

Additional information about the overall project can be found here:

- Summary video: <https://www.youtube.com/@humboldtbyharbordistrict>.
- Project website: <https://humboldtby.org/humboldt-bay-offshore-wind-heavy-lift-marine-terminal-project-3>
- "Public Engagement Strategy" for the project: [https://humboldtby.org/sites/humboldtby.org/files/HBHRCD\\_WindTerminalCommunityEngagementStrategy.pdf](https://humboldtby.org/sites/humboldtby.org/files/HBHRCD_WindTerminalCommunityEngagementStrategy.pdf).

Note that the above links provide information for the overall project, while this grant application is only for limited portions of the project as outlined above.

**ATTACHMENTS:**

- A** Resolution 2023-15
- B** Rough overview of proposed Phase 0 and Phase 1 construction activities

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

---

**RESOLUTION NO. 2023-15**

**A RESOLUTION AUTHORIZING THE SUBMISSION OF A US DEPARTMENT OF TRANSPORTATION  
FY 2023-2024 MULTIMODAL PROJECT DISCRETIONARY GRANT OPPORTUNITY FOR THE  
HUMBOLDT OFFSHORE WIND TERMINAL PROJECT FOR THE CONSTRUCTION OF A PHASE OF A  
NEW HEAVY LIFT MULTIPURPOSE TERMINAL TO SUPPORT THE OFFSHORE WIND INDUSTRY**

**WHEREAS**, on March 29<sup>th</sup>, 2021, the President Biden Administration announced a whole of government approach to catalyze offshore wind energy, strengthen the domestic supply chain, and create good-paying jobs, and

**WHEREAS**, the Federal US Department Of Transportation FY 2023-2024 Multimodal Project Discretionary Grant Opportunity (MPDG) Program is seeking to fund projects with significant national or regional impact that will improve and expand the surface transportation infrastructure in rural areas, and

**WHEREAS**, the grant program's objective is to "1) Invest in surface transportation infrastructure projects of national or regional significance and improve/expand infrastructure in rural areas; 2) Support projects that are consistent with the Department's strategic goals: improve safety, economic strength and global competitiveness, equity, and climate and sustainability", and

**WHEREAS**, the projects that strengthen and modernize port infrastructure and can support shore -side wind energy projects are eligible activities, and

**WHEREAS**, the Federal Government has established a goal of 30 gigawatts of offshore wind by the year 2030 and the State of California has established a goal of 25 gigawatts of offshore wind by the year 2045, and

**WHEREAS**, in December of 2022 the federal Bureau of Energy Management (BOEM) received bids totaling \$757,100,000 from five international energy companies for two offshore wind areas (five sub-areas) off the coast of Humboldt and off the coast of Morro Bay, and

**WHEREAS**, BOEM has identified future offshore wind lease areas of the coast of Oregon with up to 16 gigawatts that are to be leased in the coming months;

**WHEREAS**, studies by NREL and others have also identified future offshore wind lease areas off the Cape Mendocino and Del Norte Coast which are approximately 122 miles from

Humboldt Bay and capable of producing a combined total of approximately 12.8 gigawatts of electricity;

**WHEREAS**, a report published by BOEM in early 2023 determined that only three ports in California are capable of hosting “Staging and Integration” (S&I) sites and a more recent State Lands Commission report indicated that the proposed Humboldt Bay project is the only S&I project that could be built in time in order for the State to reach its offshore wind goals, and

**WHEREAS**, the California Energy Commission formally awarded \$10.45 million in funding to support the Port of Humboldt Bay’s project, and

**WHEREAS**, the Port has identified and prepared a master plan on approximately 180+ acres of existing coastal dependent industrial lands to develop a new heavy lift terminal, upland tarmac, and manufacturing facilities which when fully developed will make Humboldt Bay the west coast hub for offshore wind, and

**WHEREAS**, the Port has prepared a US Department of Transportation FY 2023-2024 Multimodal Project Discretionary Grant to cover remaining soft costs of the project and Phase 0 and Phase 1 construction activities,

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** Authorizes the submission of a grant application under the US Department of Transportation FY 2023-2024 Multimodal Project Discretionary Grant Program.

**SECTION 2.** Authorizes the Executive Director to sign all documents associated with the grant application.

**SECTION 3.** Authorizes the Executive Director to commit matching funds drawn from a grant issued to the District from the California Energy Commission in early 2022.

**PASSED AND ADOPTED** by the Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners at a duly called meeting held on the **10<sup>th</sup> day of August 2023** by the following polled vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

---

**Greg Dale, President  
Board of Commissioners**

---

**Aaron Newman, Secretary  
Board of Commissioners**



**CERTIFICATE OF SECRETARY**

The undersigned, duly qualified and acting Secretary of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, does hereby certify that the attached Resolution is a true and correct copy of RESOLUTION NO. **2023-015** entitled,

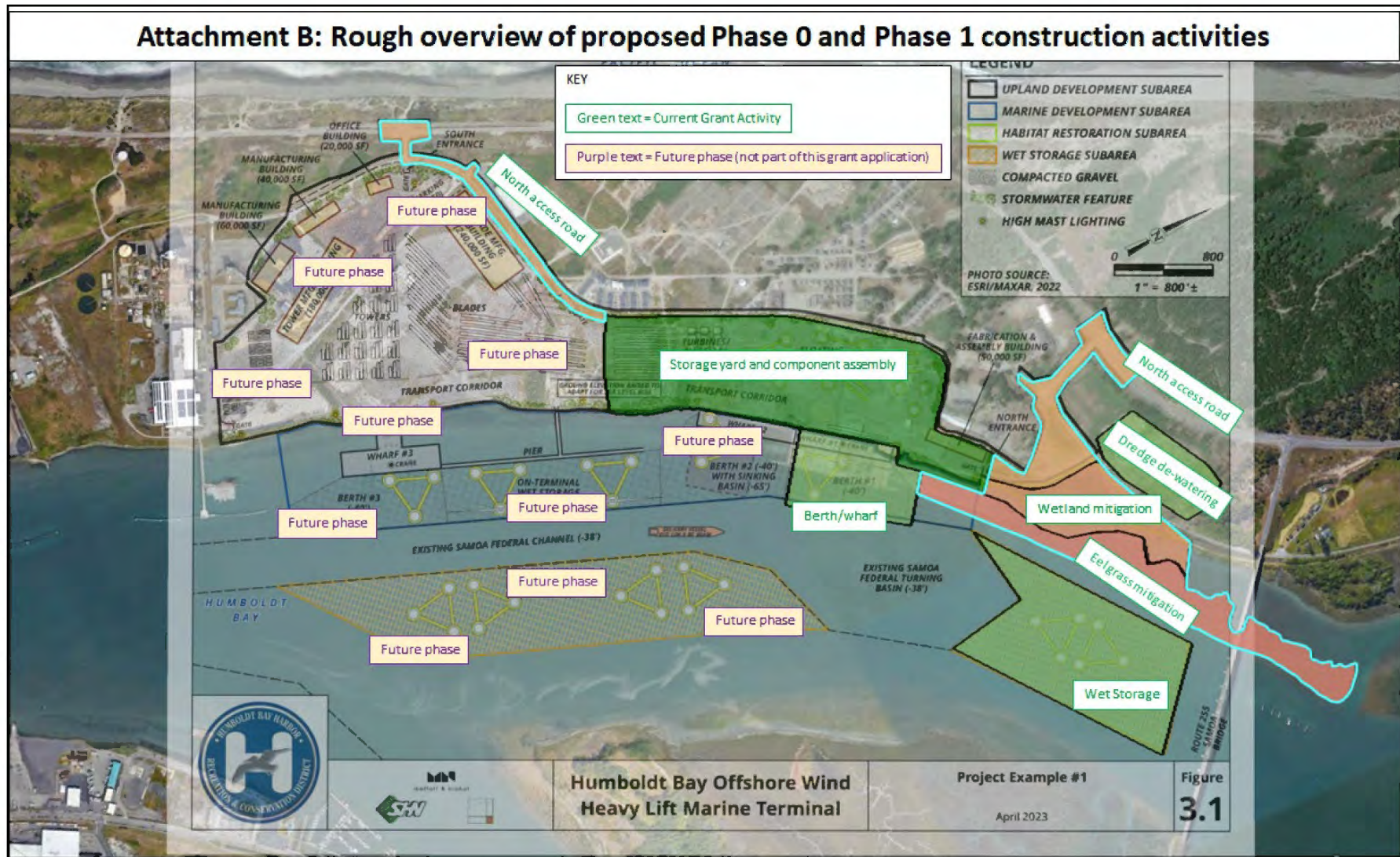
**A RESOLUTION AUTHORIZING THE SUBMISSION OF A US DEPARTMENT OF TRANSPORTATION  
FY 2023-2024 MULTIMODAL PROJECT DISCRETIONARY GRANT FOR A NEW HEAVY LIFT  
MULTIPURPOSE TERMINAL TO SUPPORT THE OFFSHORE WIND INDUSTRY**

as regularly adopted at a legally convened meeting of the Board of Commissioners of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, duly held on the **10<sup>th</sup> day of August 2023**; and further, that such Resolution has been fully recorded in the Journal of Proceedings in my office, and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this **10<sup>th</sup> day of August 2023**.

---

**Aaron Newman, Secretary  
Board of Commissioners**



COMMISSIONERS  
 1<sup>st</sup> Division  
 Aaron Newman  
 2<sup>nd</sup> Division  
 Greg Dale  
 3<sup>rd</sup> Division  
 Stephen Kullmann  
 4<sup>th</sup> Division  
 Craig Benson  
 5<sup>th</sup> Division  
 Patrick Higgins

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



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**August 10, 2023**

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

**FROM:** Larry Oetker, Executive Director

**DATE:** August 4, 2023

**TITLE: Consider Approval of a Project Labor Agreement with the State Building and Construction Trade Council of the State of California, Building and Construction Trades Council of Humboldt and Del Norte Counties, and the Signatory Craft Councils and Unions**

**STAFF RECOMMENDATION:** Staff Recommends that the Board: Approve the Project Labor Agreement.

**SUMMARY:** The District’s Offshore Wind Subcommittee and the State Building and Construction Trades Council have come to agreement on a Project Labor Agreement for the New Terminal Project (Attachment 1). The project is projected to require a significant amount of assistance from both the Federal and State Governments. On February 4, 2022, President Biden issued an Executive Order on Use of Project Labor Agreements For Federal Construction Projects which requires project labor agreements for federally funded projects of more than \$35 Million.

**DISCUSSION:** Attachment 2 includes the Executive Order. As a separate agenda item, the District is applying for a multi-million-dollar Federal Multimodal Project Discretionary Grant (MPDG). Staff will provide an overview of the project phasing, progress to date and schedule for developing the new heavy lift marine terminal.

Under this agenda item, Staff will also provide an overview of potential Community Benefits that may be achieved through a project labor agreement such as tribal, Samoa Peninsula geographical, and other equity-based hiring/apprenticeship preferences; living wage requirements; local workforce training programs; and other opportunities for community benefits associated with the construction of a new heavy lift marine terminal.

Staff will be releasing a supplemental staff report by 5:00 pm on Tuesday, August 8, 2023. Any comments received prior to Tuesday, August 8<sup>th</sup> at 3:00 pm will be included in the supplemental Staff Report.

Staff would like to specifically thank the County of Humboldt, Humboldt Builders Exchange, and Chris Hannan, President of the State Building and Construction Trades Council for their assistance with negotiating this agreement.

Although there are many extremely important sections of the agreement, Staff would draw your attention to the following sections:

- 2.9 Disadvantage Worker
- 2.11 Local Business Area
- 2.12 Local Small Business
- 2.13 Local Hiring Requirement
- 2.14 Local Resident
- 2.15 Targeted Worker
- 3.49 Local Business Utilization
- 4.7 Skilled and Trained Workforce
- 8.61 Core Employees
- 8.8 Craft Request Form (See Attachment C for the form)
- 15.21 Apprentices

**ATTACHMENTS:**

1. Project Labor Agreement by and Between the Humboldt Bay Harbor, Recreation and Conservation District and State Building and Construction Trades Council of Humboldt and Del Norte Counties and the Signatory Craft Councils and Unions
2. Executive Order on Use of Project Labor Agreements For Federal Construction Projects

PROJECT LABOR AGREEMENT  
BY AND BETWEEN  
THE HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT  
AND  
STATE BUILDING AND CONSTRUCTION TRADES COUNCIL OF CALIFORNIA,  
BUILDING AND CONSTRUCTION TRADES COUNCIL  
OF HUMBOLDT AND DEL NORTE COUNTIES  
AND THE SIGNATORY CRAFT COUNCILS AND UNIONS

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- Attachment "A" - Letter of Assent
- Attachment "B" - Approved Drug and Alcohol Testing Policy
- Attachment "C" - Craft Request Form
- Attachment "D" - U.S. Postal Service Zip Codes

## **PROJECT LABOR AGREEMENT**

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

#### **INTRODUCTION AND FINDINGS**

WHEREAS, the successful timely completion of the Humboldt Bay Offshore Wind and Heavy Lift Terminal, herein referred to as the “Project,” is of the utmost importance to the District; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the Unions affiliated with the Building and Construction Trades Council of Humboldt and Del Norte Counties and any other craft labor organization which is signatory to this Agreement, employed by contractors and subcontractors who are signatory to agreements with said labor organizations; and

WHEREAS, this agreement also covers all contractors and subcontractors of all tiers who shall become signatory to this Agreement by signing the Letter of Assent (attached as Attachment A); and

WHEREAS, it is recognized that on projects of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the District, the Unions and Contractors would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Parties to this Agreement acknowledge that the construction of the Project is important to the development of the County of Humboldt, its residents, and the region as a whole; and

WHEREAS, the Parties place a high priority on the recruitment, training, and employment of residents and to create business opportunities for small and disadvantaged companies of historically disadvantaged communities of the Port’s Local Impact Area as defined by this Agreement. The District places the highest priority on opportunities for the Humboldt Bay and Del Norte County area Tribes (including but not limited to the Wiyot Tribe, members of the Bear River Band of the Rohnerville Rancheria, members of the Blue Lake Rancheria); residents within communities along the Samoa Peninsula from Mad River Slough to the North Jetty; Veterans; commercial fisherman; and

WHEREAS, the District is committed to serving and creating economic opportunity in the communities that will be impacted by the construction activities by supporting the development and employment of increased numbers of construction workers from among the residents of these

communities; and

WHEREAS, the District and Humboldt County support efforts to develop offshore wind collaboratively with local stakeholders, to mitigate impacts of development, and to provide compensation and support regarding unavoidable impacts. The District and the County of Humboldt are working collaboratively to increase regional capacity, engagement and planning around offshore wind development; provide community benefits; increase local workforce and supply chain development; invest in necessary infrastructure, including housing, port infrastructure, transmission, roads, health care, child care; and ensure that offshore wind development benefits Tribal and underrepresented local communities.

WHEREAS, the Contractors and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project by the Contractors, and further, to encourage close cooperation among the Contractors, and the Unions to the end that a satisfactory, continuous and harmonious relationship will exist among the Parties to this Agreement; and

WHEREAS, the contracts for the construction of the Project will be awarded by the District or future developers in accordance with the applicable provisions of public works construction law; and

WHEREAS, the District or future developers has the absolute right to select the lowest responsible bidder for the award of construction contracts on the Project; and

WHEREAS, the Parties signatory to this Agreement pledge their full good faith and trust to work towards a mutually satisfactory completion of the Project;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

#### **ARTICLE I: PURPOSE**

The purpose of this Agreement is to provide a framework to facilitate the project delivery schedule and to address the special needs of the Humboldt Bay Harbor Recreation, and Conservation District, the Developers (if any), the Prime Contractor(s), the subcontractors, Targeted Workers, and the building and construction tradespeople performing work associated within the scope of the Project herein described.

This Agreement is intended to support the scheduling and financial commitments of the District by providing for a readily available pool of skilled craft construction workers, with the use of multiple shifts, the full utilization of apprentices and to minimize potential overtime concerns, as major construction activity occurs in this tightly confined work environment.

In recognition of the special needs of the Project, and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Agreement, this Agreement will permit the District to maximize economies of operations through the use of uniform workplace rules and procedures applicable to all employers and employees while also avoiding costly delays on Project



work due to contractor lockouts, industry-wide job stoppages, strikes, sympathy strikes, work stoppages, picketing, slowdowns, labor disputes or other interference with work.

The parties recognize that it is uncertain, at the time of the execution of this Agreement, whether the District or future users of the subject property will directly procure contracts for construction of the Project. Procurement of construction will depend, in large part, on the funding sources, procurement requirements, and any other terms of the lease agreement(s) with future developers.

This Agreement has been developed to facilitate the utmost timely, efficient and cost-effective completion of the Project, to ensure that the Project is within the designated schedule and budget, which is of vital importance to the District and the public.

## **ARTICLE II: DEFINITIONS**

2.1 "Agreement" means this Project Labor Agreement.

2.2 "Apprentice" means those employees registered and participating in Joint Labor/Management Apprenticeship Programs approved by the Division of Apprenticeship Standards, Department of Industrial Relations of the State of California.

2.3 "Board" means the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District, a California special district.

2.4 "Developer" means, as applicable, either (i) the District or (ii) a third-party entity to which the District conveys real property rights (whether by license, lease or other method) to all or a portion of the Project area for, among other things, the construction and operation of port infrastructure and which such entity procures construction contracts with one or more Contractors. For those construction contracts between the District and a Contractor, the District, for those construction contracts, shall be considered the Developer for purposes of this Agreement. For those separate construction contracts between an entity described in subdivision (ii) of this Section 2.4 and any Contractor, the District shall not be considered a Developer and, instead, that entity shall be considered the Developer for purposes of this Agreement.

2.5 "District" means The Humboldt Bay Harbor, Recreation, and Conservation District.

2.6 "Committee" means Joint Administrative Committee as described in Article XI of this Agreement.

2.7 "Construction contract" means any of the contracts for construction of the Project.

2.8 "Contractor" or "Employer" means the Prime Contractor, the Project Labor Coordinator (in the event it performs work covered by this Agreement), and all subcontractors and owner operators of any tier, with respect to the construction of any part of the Project.

2.9 "Disadvantaged Worker" shall mean a Local Resident, who, prior to the

commencing Project Work, meets at least one of the following barriers to employment: (1) is enrolled as a tribal member or a spouse of an enrolled tribal member of a federally recognized Tribe within the Local Impact Area or within Del Norte County; (2) resides on the Samoa Peninsula from the Mad River Slough to the North Jetty; (3) is a Veteran Worker; (4) is a commercial fisherman; or (5) has successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program (this includes graduates who reside in Del Norte County).

2.10 "Letter of Assent" means the document that each Contractor (of any tier) must sign and submit to the Project Labor Coordinator and the Council, before beginning any Project Work, which formally binds them to adherence to all the forms, requirements and conditions of this Agreement.

2.11 "Local Business Area" or "Local Impact Area" means all of Humboldt County.

2.12 "Local Small Business" means a Contractor that (i) has operated an office in the Local Impact Area for two consecutive years prior to executing the Letter of Assent for the Project and (ii) has had, on average, fifteen (15) or fewer full-time employees during each of the prior twelve (12) payroll periods prior to executing the Letter of Assent for the Project. For purposes of this section, a full time employee means an individual who is regularly schedule to work 40 hours per week.

2.13 "Local Hiring Requirement" means the Local Resident hiring targets as referenced in Article VIII of this Agreement.

2.14 "Local Resident" means individuals domiciled within the Local Impact Area.

2.15 "Targeted Worker" means (i) any Disadvantaged Worker; (ii) any worker domiciled in the Local Business Area; (iii) graduates of Humboldt County local High Schools, College of the Redwoods, and Cal Poly Humboldt; or (iv) any workers needed to meet targeted employment requirements pursuant to the Project's funding sources.

2.16 "Master Labor Agreement" or "MLA" means the local collective bargaining agreements of the signatory Unions having jurisdiction over the Project Work and which have signed this Agreement.

2.17 "Plan" means the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry as described in Article XIII of this Agreement.

2.18 "Prime Contractor" means the individual firm, partnership, owner operator, or corporation, or combination thereof, including joint ventures, which is an independent business enterprise that has entered into a contract with the Developer to construct the Project.

2.19 "Project" means the District's Offshore Wind and Heavy Lift Terminal, at the Port of Humboldt Bay in Eureka, California, as is more particularly described in Section 3.2 of this Agreement.

2.20 "Project Labor Coordinator" means an independent third-party individual or entity, with whom the Developer enters into a contract, or a Developer staff member, which helps in facilitating implementation of this Agreement.

2.21 "Council" means the Building and Construction Trades Council of Humboldt and Del Norte Counties ("Council").

2.22 "Union(s)" or "Signatory Unions" means the State Building and Construction Trades Council of California ("State Council"), the Building and Construction Trades Council of Humboldt and Del Norte Counties ("Council"), the signatory Craft Councils and Local Unions signing this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

2.23 "Veteran Worker" means any person who has served in the armed forces of the United States as demonstrated by a valid Form DD214.

### **ARTICLE III: SCOPE OF AGREEMENT**

3.1 Parties: This Agreement shall apply and is limited to all Contractors performing construction on the Project, the District and the Unions. Notwithstanding anything in this Agreement to the contrary, where, in this Agreement, rights, duties, or obligations are given to or imposed upon the "Developer", such rights, duties, or obligations shall pass solely to the Developer, as applicable, pursuant to Section 2.4, above. For those construction contracts in which the District is not deemed the Developer pursuant to Section 2.4, above, the District shall not be liable to the Unions, whether jointly, severally, vicariously, or otherwise, under this Agreement to perform any duties or obligations that are imposed upon the Developer under this Agreement.

3.2 Project Defined: This Agreement shall apply and is limited to the demolition, abatement, grading, construction, reconstruction, redevelopment, alteration, installation, and expansion work for the Humboldt Bay Offshore Wind and Heavy Lift Terminal project, consisting of the construction of a new multipurpose terminal, including cut and fill to a phased base elevation of approximately 15.5 feet; shoreline structure development associated with the proposed sea level rise fill; infrastructure to support upland tarmac such as lighting, paving, drainage improvements, alternative maritime power vaults, and associated utility lines, poles, conduit, and wires throughout the wharf and tarmac area; reconstruction of inbound and outbound truck access roads, including internal traffic circulation realignment, pavement improvements, street widening, striping, drainage, security fencing, gates, and other truck access and perimeter security improvements; retention of the existing marine railway within the project area; the addition of the new cranes would require infrastructure improvements, such as cable and electrical upgrades for new crane rails (collectively, the "Project Work").

3.2.1 The Developer has the absolute right to combine, consolidate or cancel contracts or portions of contracts identified as part of the Project. It is further understood by the parties that the Developer may at any time, and at its sole discretion, terminate, delay, suspend, remove, modify, or add to any and all portions or segments of the Project, at any time. Should any

portion of the Project be terminated, delayed, suspended or removed, and subsequently built, such portions of the Project shall remain covered under the terms and conditions of this Agreement.

### 3.3 Master Labor Agreements:

3.3.1 The provisions of this Agreement, including the MLAs (which are the local collective bargaining agreements of the signatory Unions having jurisdiction over the work on the Project, as such may be changed from time-to-time and which are incorporated herein by reference and are available for review at the District's office), shall apply to the work covered by this Agreement. It is understood that this is a self-contained, stand alone, Agreement and that by virtue of having become bound to this Project Labor Agreement, neither the Prime Contractor nor the Contractor will be obligated to sign any other local, area, or national agreement- (provided, however, that the Contractor may be required to sign an uniformly applied, non-discriminatory Participation Agreement at the request of the trustees or administrator of a trust fund established pursuant to Section 302 of the Labor Management Relations Act, and to which such Contractor is bound to make contributions under this Agreement, provided that such Participation Agreement does not purport to bind the Contractor beyond the terms and conditions of this Agreement and/or expand its obligation to make contributions pursuant thereto). It shall be the responsibility of the Prime Contractor to have each of its Contractors sign the Participation Agreement with the appropriate Craft Union prior to the Contractor beginning Project Work.

The Project Labor Coordinator and the Council shall, prior to the commencement of work on the Project, agree upon the MLAs to be applicable for work covered by this Agreement.

3.3.2 Where a subject covered by the provisions of this Agreement is also covered by a MLA, the provisions of this Agreement shall prevail except for all work performed under the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and control systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article V (Work Stoppages, Strikes, Sympathy Strikes and Lockouts), Article XII (Grievance and Arbitration Procedure) and Article XIII (Jurisdictional Disputes) of this Agreement, which shall apply to such work. All disputes relating to the interpretation or application of this Agreement shall be subject to resolution by the grievance arbitration procedure set forth in Article XII of this Agreement. Where a subject is covered by the provisions of a MLA and is not covered by this Agreement, the provisions of the MLA shall prevail. Any dispute as to the applicable source between this Agreement and any MLA for determining the wages, hours of working conditions of employees on this Project shall be resolved under the grievance procedures established in this Agreement.

### 3.4 Exclusions:

3.4.1 The Agreement shall be limited to construction work on the Project, and is not intended to, and shall not apply to any construction work performed at any time prior to the effective date, or after the expiration or termination of the Agreement, or on other District or Developer projects. All work from the award of construction contract(s) to the notice of completion

of the contract(s) shall be covered by this Agreement. Work before the award of contract and after notice of completion shall not be subject to this Agreement.

3.4.2 The Agreement is not intended to, and shall not, affect or govern the award of contracts by the District or Developer, which are outside the approved scope of the Project.

3.4.3 The Agreement is not intended to, and shall not, affect the operation or maintenance of any facilities whether related to the Project or not.

3.4.4 Items specifically excluded from the scope of this Agreement include the following:

(a) Work performed by non-manual employees of Contractors, including but not limited to: superintendents; supervisors (meaning those individuals that are employed above the level of general foreman); assistant supervisors; staff engineers; time keepers, mail carriers, clerks, office workers, messengers; guards, safety personnel, emergency medical and first aid technicians; and other professional, engineering, administrative, information technology, community relations, public affairs, environmental compliance, supervisory, and management employees.

(b) Work on equipment and machinery owned or controlled and operated by the Developer for work that is not covered by the scope of this Agreement.

(c) All off-site manufacture and handling of materials, equipment or machinery; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project or Project Work, and the movement of materials or goods between locations on a Project site are within the scope of this Agreement. Additionally, off-site work, including fabrication, that is traditionally performed by any of the Unions that is directly or indirectly part of the Project, shall be considered within the scope of this Agreement provided such work is covered by a provision of a local Master Labor Agreement or local addendum to a National agreement of the applicable Union(s);

(d) Any work performed on or near or leading to or onto the Project and undertaken by state, county, city or other governmental bodies, or their contractors; or by public or private utilities or their contractors; and/or by the Developer or its contractors (for work which is not part of the Project).

(e) It is recognized that certain equipment and systems of a highly technical and specialized nature will have to be installed at the Project. The nature of the equipment and systems, together with requirements of manufacturer's warranty, may dictate that it be prefabricated, pre-piped, and/or pre-wired and that it be installed under the supervision and direction of the Owner's and/or manufacturer's personnel. The Unions agree to install such material, equipment and systems without incident, or allow such installation to be performed by the manufacturer's employees or a contractor certified by the manufacturer where the Unions are unable to perform such work or the warranty requires the work to be performed by the employees of the manufacturer or a contractor certified by the manufacturer. If a warranty on the manufacturer's specialty or

technical equipment or systems purchased by the Developer or Prime Contractor requires that the installation of such specialty or technical equipment or system be performed by the manufacturer's own personnel, then such installation may be performed by the manufacturer's own personnel. If a warranty on the manufacturer's specialty or technical equipment or systems purchased by the Developer or Prime Contractor requires that the installation of such specialty or technical equipment or system be performed by a contractor certified by the manufacturer, and there are no Union signatory contractors certified by the manufacturer to install and/or perform such work, then such installation may be performed by such certified contractor. The Prime Contractor shall notify the Unions at the pre-job conference of the use of this provision and shall provide copies of the written warranty that require that the work be performed by the manufacturer's own personnel, or a contractor certified by the manufacturer, to the affected Union. When the warranty does not require installation by the manufacturer's own personnel or a contractor certified by the manufacturer, the Unions agree to perform and install such work under the supervision and direction of the manufacturer's representative.

(f) Off-site laboratory work for testing.

(g) Non-construction support services contracted by the Developer or Contractor in connection with this Project.

(h) For purposes of this Agreement the Project includes the dredging and site contouring work associated with the eel grass; coastal wetland, and other required environmentally sensitive habitat restoration/mitigation associated with the project but does not include the underwater planting work performed by or under the supervision of biologists.

(i) The project does not include the loading and unloading of any commercial cargo from barges or other commercial vessels over the newly constructed terminal between the vessel and the landward terminus of the dock that are customarily completed by members of the International Longshore and Warehouse Union, except for the delivery of construction materials and equipment for the Project.

(j) Notwithstanding anything in this Agreement to the contrary, the Contractor shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable without such person being referred by the Union(s). The selection of the foreman and/or general foremen, and the number of foremen required shall be entirely the responsibility of the Contractor.

3.4.5 This Agreement shall not apply to Developer employees or professional consultants working directly for the Developer or to such consultants retained or contracted whose employees do not perform the work of craft employees covered by this Agreement. Notwithstanding the foregoing, it is understood and agreed that Surveyors and Building/Construction Inspectors and Field Soils and Material Testers (Inspectors) are a covered craft under this Agreement. This inclusion applies to the scope of work defined in the State of California Wage Determination for that Craft. This shall also specifically include such work where it is referred to by utilization of such terms as "quality control" or "quality assurance." Every Surveyor and Inspector performing under these classifications pursuant to a professional services agreement or a construction contract shall be bound to all applicable requirements of this

Agreement. Covered work as defined by this Agreement shall be performed pursuant to the terms and conditions of this Agreement regardless of the manner in which the work was awarded.

3.4.6 The Agreement shall not apply to employees of the Developer, Project Labor Coordinator, design teams (including, but not limited to architects, engineers and master planners), or any other consultants for the Developer (including, but not limited to, project managers and construction managers and their employees not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations, not performing manual labor within the scope of this Agreement.

3.4.7 This Agreement shall not apply to off-site maintenance of equipment or to on-site supervision of such work.

3.4.8 This Agreement shall not apply to work that is immediately necessary to repair a unit or piece of equipment as the result of an emergency, Act of God, or other sudden unexpected events outside of the Developer's or Contractor's control.

3.4.9 Local Business Utilization: Terms of this Agreement shall not apply to contracts for Project Work that have an de minimis estimated value before bidding below two hundred and fifty thousand dollars (\$250,000), and that are awarded to Contractors based in the Local Business Area. The aggregate dollar value of all contracts falling under this provision shall not exceed one percent (1%) of the total dollar value of Project Work. The Parties agree any contracts cannot be subdivided for the purpose or effect of coming under the threshold.

#### **ARTICLE IV: EFFECT OF AGREEMENT**

4.1 By executing the Agreement, the Unions, Contractors and the Developer agree to be bound by each and all of the provisions of the Agreement.

4.2 The Developer, the Prime Contractor, and Contractors shall have the absolute right to award contracts or subcontracts for Project Work to any contractor notwithstanding the existence or non-existence of any agreements between such contractor and any Union parties hereto, provided only that such contractor is willing, ready and able to execute and comply with this Project Labor Agreement should such contractor be awarded work covered by this Agreement.

4.3 All Contractors of whatever tier, who have been awarded contracts for work covered by this Agreement, shall be required to accept and be bound to the terms and conditions of this Project Labor Agreement, and shall evidence their acceptance by the execution of the Letter of Assent as set forth in Attachment "A" hereto, prior to the commencement of work. At the time that any Contractor enters into a subcontract with any subcontractor of any tier providing for the performance on the construction contract, the Contractor shall provide a copy of this Agreement to the subcontractor and shall require the subcontractor, as a part of accepting the award of a construction subcontract, to agree in writing in the form of a Letter of Assent to be bound by each and every provision of this Agreement prior to the commencement of work on the Project. No Contractor or subcontractor shall commence Project Work without having first provided a copy of the Letter of Assent as executed by it to the Project Labor Coordinator and to the Council forty-eight (48) hours before the commencement of Project Work, or within forty-eight (48) hours after

the award of Project Work to that Contractor (or subcontractor), whichever occurs later.

4.4 This Agreement shall only be binding on the signatory Contractors hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any signatory to this Agreement or the Letter of Assent, unless signed by such parent, affiliate, subsidiary, division or venture of such company.

4.5 Nothing contained herein shall be construed to prohibit, restrict, or interfere with the performance of any other operation, work or function awarded to any Contractor before the effective date of this Agreement or which may be performed by the Developer for its own account on the property or in and around the construction site.

4.6 It is understood that the liability of the Developer, the Contractor, the Project Labor Coordinator, and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the Developer, Prime Contractor, Project Labor Coordinator, and any Contractor.

4.7 If terms of state law or funding requirements apply a “skilled and trained workforce” requirements (Public Contract Code sections 2600 et seq.) to the Project, then all Contractors shall comply with such requirements in the performance of all covered work on the Project. The Unions and all Contractors shall utilize the grievance procedures set forth in Article XII of this Agreement to resolve any disputes regarding skilled and trained workforce requirements. To the maximum extent permissible under state law and terms of funding agreements, Contractors’ requirement to utilize a skilled and trained workforce shall be monitored and enforced by Unions and Contractors through provisions of this Agreement, rather than through provisions of Public Contract Code sections 2602 and 2603.

#### **ARTICLE V: WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS**

5.1 No Work Stoppages or Disruptive Activity The Council and the Unions signatory hereto agree that neither the Council nor the Unions, nor their respective officers or agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slow-down, picketing, observing picket lines or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever with respect to or any way related to Project Work, or which interferes with or otherwise disrupts, Project Work, or with respect to or related to the Developer or Contractors or subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes whether or not the underlying dispute is arbitrable. Any such actions by the Council, or Unions, or their members, agents, representatives or the employees they represent shall constitute a violation of this Agreement. If the Council or Unions are notified of offsite work stoppage, strike, picketing or other disruptive activity by the Union that will economically and/or materially affect the completion of the Project, the Union will promptly make good to cease such Project work disruption.



5.2 No Union shall sanction, aid or abet, encourage or continue any activity in violation of Section 5.1 of this Article and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which violate this Article will be subject to discharge and will not be eligible for rehire under this Agreement for a period of 180 calendar days. The Union shall use its best efforts to obtain immediate compliance with this Article by employees it represents but shall not be held liable for conduct by employees for which it is not responsible.

5.3 Notwithstanding any provision of this Agreement to the contrary, it shall not be a violation of this Agreement for any Union to withhold the services of its members (but not the right to picket) from a particular Contractor who:

(a) fails to timely pay its weekly payroll; or

(b) fails to make timely payments to the Union's Labor/Management Trust Funds in accordance with the provisions of the applicable MLAs.

Prior to withholding its members' services for the Contractor's failure to meet its weekly payroll, the Union shall give at least five (5) days (unless a lesser period of time is provided in the Union's MLA, but in no event less than forty-eight (48) hours) written notice of such failure to pay by registered or certified mail, return receipt requested, and by facsimile or email transmission to the involved Contractor, Prime Contractor and Project Labor Coordinator. The Union will meet within a five-day period, after the written notice of such failure to pay was sent, to attempt to resolve the dispute with the applicable Contractor, Prime Contractor and/or the Project Labor Coordinator. Upon the payment of the delinquent Contractor of all monies due and then owing for wages, the Union shall direct its members to return to work and the Contractor shall return all such members back to work.

Prior to withholding its members' services for the Contractor's failure to make timely payments to the Union's Labor/Management Trust Funds, the Union shall give at least thirty (30) days written notice of such failure to pay by registered or certified mail, return receipt requested, and by facsimile or email transmission to the involved Contractor, the Prime Contractor and Project Labor Coordinator. The Union, Contractor, Prime Contractor and Project Labor Coordinator will meet within ten (10) days following receipt of the written notice to attempt to resolve the dispute. Upon payment by the delinquent Contractor of all monies due and then owing for wages and/or fringe benefit contributions, the Union shall direct its members to return to work and the Contractor shall return all such members back to work. Nothing in this section should be construed to prevent the union having jurisdiction over the involved work from submitting a grievance under the procedures of Article XIII for any alleged or actual violations of Article IX or referring the alleged or actual prevailing wage violation to the Project Labor Coordinator and/or State Labor Commissioner for review and enforcement, in accordance with Section 9.3.4 of this Agreement.

5.4 Expiration of MLAs: If the MLA, or any local, regional, and other applicable collective bargaining agreements expire during the term of the Project, the Union(s) agree that there shall be no work disruption of any kind as described in Section 5.1 above as a result of the

expiration of any such agreement(s) having application on the Project and/or failure of the involved Parties to that agreement to reach a new contract. Terms and conditions of employment established and set for purposes of prevailing wage requirements under this Agreement at the time of bid shall remain established and set. Otherwise to the extent that such agreement does expire and the Parties to that agreement have failed to reach concurrence on a new contract, work will continue on the Project on one of the following two (2) options, both of which will be offered by the Unions involved to the Contractors affected:

5.4.1 Each of the Unions with a contract expiring must offer to continue working on the Project under interim agreements that retain all the terms of the expiring contract, except that the Unions involved in such expiring contract may each propose wage rates and employer contribution rates to employee benefit funds under the prior contract different from what those wage rates and employer contributions rates were under the expiring contracts. The terms of the Union's interim agreement offered to Contractors will be no less favorable than the terms offered by the Union to any other employer or group of employers covering the same type of construction work in the Local Impact Area.

5.4.2. Each of the Unions with a contract expiring must offer to continue working on the Project under all the terms of the expiring contract, including the wage rates and employer contribution rates to the employee benefit funds, if the Contractor affected by that expiring contract agrees to the following retroactivity provisions: if a new MLA, local, regional or other applicable labor agreement for the industry having application at the Project is ratified and signed within six months of the MLA expiration date and if such new labor agreement provides for retroactive wage increases, then each affected Contractor shall pay to its employees who performed work covered by this Agreement at the Project during the hiatus between the effective dates of such expired and new labor agreements, an amount equal to any such retroactive wage increase established by such new labor agreement, retroactive to whatever date is provided by the new labor agreement for such increase to go into effect, for each employee's hours worked on the Project during the retroactive period. All Parties agree that such affected Contractors shall be solely responsible for any retroactive payment to its employees and that neither the Project, nor the Developer, nor the Board's designee, nor any other Contractor has any obligation, responsibility or liability whatsoever for any such retroactive payments or collection of any such retroactive payments, from any such Contractor.

5.4.3 Some Contractors may elect to continue to work on the Project under the terms of the interim agreement option offered under paragraph 5.4.1 and other Contractors may elect to continue to work on the Project under the retroactivity option offered under paragraph 5.4.2. To decide between the two options, Contractors will be given one week after the applicable MLA has expired or one week after the Union has personally delivered to the Contractors in writing its specific offer of terms of the interim agreement pursuant to paragraph 5.4.1 whichever is the later date. If the Contractor fails to timely select one of the two options, the Contractor shall be deemed to have selected the retroactivity option offered under paragraph 5.4.2.

5.5 Expedited Arbitration will be utilized for all work stoppages and lockouts. Any party, including the Developer, Prime Contractor and Project Labor Coordinator, whom the parties agree are parties in interest for purposes of this Article, may institute the following procedure, in

lieu of or in addition to any other contractual procedure or any action at law or equity, when a breach or violation of this Article V is alleged to have occurred:

5.5.1 If the Contractor contends that any Union has violated this Article, it will serve written notification upon the Business Manager of the Union(s) involved, advising him of the fact, with copies of such notice to the Prime Contractor, the Project Labor Coordinator and the Council. The Business Manager will immediately instruct, order and use the best efforts of his office to cause any violation of this Article to cease.

5.5.2 If the Union contends that any Contractor has violated this Article, it will notify the Contractor, Prime Contractor, and Project Labor Coordinator, setting forth the facts which the Union contends violates this Article, at least twenty-four (24) hours prior to invoking the procedures set forth in Section 5.5. It is agreed by the parties that the term “lockout” for purposes of this Agreement does not include discharge, termination or layoff of employees by the Contractor in the normal course of its business, nor does it include the Contractor’s decision to terminate or suspend work on the Project or any portion thereof for operational or special circumstances.

5.5.3 The party invoking this procedure shall notify the permanent arbitrator next in sequence from the following list:

1. John Kagel
2. Catherine Harris
3. Andrea Dooley
4. Thomas Pagan
5. Carol Vendrillo

The Parties agree these shall be the five permanent Arbitrators under this procedure. In the event that none of the five permanent Arbitrators are available for a hearing within 24 hours, the party invoking the procedure shall have the option of delaying until one of the five permanent Arbitrators is available or of asking the permanent Arbitrator that would normally hear the matter to designate an arbitrator to sit as a substitute Arbitrator for this dispute. If any of the permanent Arbitrators ask to be relieved from their status as a permanent Arbitrator, the Parties shall mutually select a new permanent Arbitrator from the following list of arbitrators:

1. Sara Adler
2. Chris David Ruiz Cameron
3. Najeeb Khoury

Selection shall be made by each party alternately striking from the foregoing list until one name remains who shall be the replacement permanent Arbitrator. Expenses incurred in arbitration shall be borne equally by the Union and the Contractor involved and the decision of the Arbitrator shall be final and binding on both Parties, provided, however, that the Arbitrator shall not have the authority to alter or amend or add to or delete from the provisions of this Agreement in any way. Notice to the Arbitrator shall be by the most expeditious means available, including by hand delivery, overnight mail, facsimile, or email to the party alleged to be in violation and to the

Council and involved Union if a Union is alleged to be in violation and will be deemed effective upon receipt.

5.5.4 Upon receipt of notice, the Arbitrator shall convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

5.5.5 The Arbitrator, with the assistance of the Project Labor Coordinator, if necessary, shall notify the Parties by telephone and by facsimile or email of the place and time for the hearing. Notice shall be given to the individual Contractors and Unions alleged to be involved; however, notice to the Council shall be sufficient to constitute notice to the Unions for purposes of the arbitration being heard by the Arbitrator. The hearing shall be completed in one session, which, with appropriate recesses at the Arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all Parties. A failure of any party to attend a hearing shall not delay the hearing of evidence or the issuance of any decision by the Arbitrator.

5.5.6 The sole issue at the hearing shall be whether or not a violation of Section 5.1 or 5.2 has in fact occurred. The Arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation. The decision shall be issued within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The Arbitrator may order cessation of the violation of this Article and other appropriate relief and such decision shall be served on all Parties by hand or registered mail upon issuance. If the arbitrator determines that a work stoppage has occurred, the respondent Unions(s) shall, within eight (8) hours of receipt of the award, direct all the employees they represent on the project to immediately return to work. If the craft(s) involved does not return to work by the beginning of the next regularly scheduled shift following such eight (8) hour period after receipt of the arbitrator's award, and the respondent Union(s) have not complied with their obligation to immediately instruct, order, and use their best efforts to cause a cessation of the violation and return of the employees they represent to work, then the respondent Union(s) shall each pay a sum as liquidated damages to the Developer, and each shall pay an additional sum per shift for each shift thereafter on which the craft(s) has not returned to work. Similarly, if the arbitrator determines that a lock-out has occurred, the respondent Contractor(s) shall, within eight (8) hours of receipt of the award, return all the affected employees to work on the Project, or otherwise correct the violation as found by the arbitrator. If the respondent Contractor(s) do not take such action by the beginning of the next regularly scheduled shift following the eight (8) hour period, each respondent Contractor shall pay a sum as liquidated damages to the affected Union(s) (to be apportioned among the affected employees and the benefit funds to which contributions are made on their behalf, as appropriate and designated by the Arbitrator) and each shall pay an additional sum per shift for each shift thereafter in which compliance by the respondent Contractor(s) has not been completed. The Arbitrator shall retain jurisdiction to determine compliance with this Section and to establish the appropriate sum of liquidated damages, which shall not be less than five thousand dollars (\$5,000) per shift, nor more than twenty thousand dollars (\$20,000) per shift.

5.5.7 Such decision shall be final and binding on the parties to the dispute and may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all

other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's decision as issued under Section 5.5.6, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the Arbitrator's award shall be served on all parties by hand or delivered by registered mail.

5.5.8 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by the Parties to whom they accrue.

5.5.9 The fees and expenses incurred in arbitration shall be divided equally by the arbitration's initiating and responding parties.

5.5.10 The procedures contained in Section 5.5 shall be applicable to alleged violations of Article V to the extent any conduct described in Section 5.1 or 5.2 occurs on the Project. Procedures contained in Article XII shall not be applicable to any alleged violation of this Article, with the single exception that any employee discharged for violation of Section 5.1 or 5.2 may resort to the grievance procedures of Article XII to determine only whether or not the employee was, in fact, engaged in that violation. Disputes alleging violation of any other provision of this Agreement, including any underlying disputes alleged to be in justification, explanation, or mitigation of any violation of Article V, shall be resolved under the applicable grievance adjudication procedures.

## **ARTICLE VI: NO DISCRIMINATION**

6.1 The Contractors and Unions agree not to engage in any form of unlawful discrimination on the ground of, or because of, race, religion, national origin, sex, sexual orientation, age, physical handicap, marital status, medical condition, political affiliation, or membership in a labor organization in hiring and dispatching workers for the Project.

6.2 Any employee covered by this Agreement who believes they have been unlawfully discriminated against, in violation of section 6.1 above, shall be referred to the appropriate state and/or federal agency for the resolution of such dispute.

## **ARTICLE VII: UNION SECURITY**

7.1 The Contractors recognize the Unions as the sole and exclusive collective bargaining representative for all employees covered by this Agreement that are engaged in Project Work. The Parties acknowledge that the collective bargaining relationship established between any Contractor and Union is a "pre-hire" relationship permitted by Section 8(f) of the National Labor Relations Act, except that this provision does not change any pre-existing Section 9(a) collective bargaining relationship that exists between any Contractor and Union parties to this Agreement.

7.2 Employees are not required to become or remain union members or pay dues or fees as a condition of performing Project Work under this Agreement. Employers shall make and transmit all deductions for union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable MLA. Nothing in this Section 7.2 is intended to supersede independent requirements of applicable MLA as to those Employers otherwise signatory to such MLA and as to the employees of those Employers who are performing Project Work.

## **ARTICLE VIII: REFERRAL**

8.1 The Union(s) shall be the primary source of all craft labor working within their respective jurisdictions on the Project.

8.2 The Contractor shall have the right to determine the competency of all employees, the number of employees required and shall have the sole responsibility for selecting employees to be laid off, which shall not be in conflict with this Agreement or the applicable Master Labor Agreements.

8.3 For Unions now having a job referral system in their Master Labor Agreement, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as it may be modified by this Article. Such job referral systems will be operated in a non-discriminatory manner and in full compliance with federal, state, and local laws and regulations, which require equal employment opportunities and non-discrimination, and referrals shall not be affected by obligations of union membership or the lack thereof.

8.3.1 The Contractor may reject any referral for any lawful nondiscriminatory reason, provided the Contractor complies with any reporting pay requirements under the California prevailing wage law; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this Agreement.

8.4 In the event that Unions are unable to fill any request for employees within forty-eight (48) hours after such written request is made by the Contractor (Saturdays, Sundays, and holidays excepted), the Contractor may employ applicants from any other available source. The Contractor shall refer the applicant to the Union for registration and dispatch to the Project prior to the commencement of work on the Project by such applicant.

8.5 Except as required by law, the Unions shall not knowingly refer an employee currently employed by any Contractor working under this Agreement to any other Contractor.

8.6 The parties recognize the Developer's interest in promoting competition by allowing Contractors that may not have previously had a relationship with the Unions signatory to this Agreement to participate in this Project. To ensure that such Contractors will have an opportunity to employ their "core" employees on this Project, the parties agree that the core work force is comprised of those employees: whose names appeared on the Contractor's active payroll for sixty (60) of the one hundred (100) working days immediately before award of Project Work

to the Contractor; who possess any license required by state or federal law for the Project Work to be performed; have worked at least two thousand (2,000) hours in the specific construction craft classification during the immediate two (2) years prior to the award of Project Work to the Contractor; and, who have the ability to safely perform the basic functions of the applicable trade.

8.6.1 The Union will refer to such Contractor first a core employee, as described above, then an employee through a referral from the appropriate Union hiring hall out-of-work list for the affected trade or craft, then a second core employee, then a second employee through the referral system, and so on until such Contractor's crew requirements are met or until such Contractor has hired a maximum of five (5) core employees in its workforce or, for Contractors, which qualify as a Local Small Business, has hired a maximum of seven (7) core employees in its workforce. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work the ratio shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall as was applied in the initial hiring. Any supervisors authorized under Section 3.4.4(k) shall not count towards the number of core employees. This provision does not apply to contractors which are directly signatory to one or more of the Master Labor Agreements and is not intended to limit the transfer provisions of the Master Labor Agreement of any trade. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate fringe benefit fund coverage, all Contractors shall require their core employees and any other persons employed other than through the referral process, to register with the appropriate Union hiring hall, if any, prior to their first day of employment at a project site.

8.6.2 Prior to each Contractor performing any work on the Project, each Contractor shall provide a list of its core employees to the Project Labor Coordinator and the Council. Failure to do so will prohibit the Contractor from using any core employees. Upon request by any Party to this Agreement, the Contractor hiring any core employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, and such other documentation) evidencing the core employee's qualification as a core employee to the Project Labor Coordinator and the Council.

8.7 In recognition of the fact that the communities surrounding the Project will be impacted by the construction of the Project Work, and to ensure the project creates a positive economic impact in the surrounding area and to disadvantaged communities, the parties agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, the Unions will exert their best efforts to refer and/or recruit sufficient numbers of skilled craft Targeted Workers, to fulfill the requirements of the Employers. Each Contractor will exert their best efforts to ensure that, in each construction craft for which it employs workers, at least 20% of Project Work hours shall be performed by Targeted Workers. To that end, the Unions agree to conduct, in good faith, ongoing outreach to Targeted Workers and the communities within which Targeted Workers reside to maximize the number of Targeted Works on the Unions referral lists.

8.8 To facilitate the dispatch of Targeted Workers, all Contractors will be required to utilize the Craft Request Form whenever they are requesting the referral of any employee from a Union referral list for the Project, a sample of which is attached as Attachment "C." When Targeted

Workers are requested by the Contractors, the Unions will refer such workers regardless of their place in the Unions' hiring halls' list and normal referral procedures. The Project Labor Coordinator shall be copied on all Craft Request Forms at the time of the request for dispatch and will monitor compliance with the referral process.

8.9 The Contractors and the Unions wish to facilitate the entry into the building and construction trades of Veterans who are interested in careers in the building and construction industry. The Parties will use best efforts to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as resources for preliminary orientation, assessment of construction aptitude, referral to joint labor-management apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the Parties.

8.10 The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of Veterans interested in working on the Project and of joint labor-management apprenticeship and employment opportunities for the Project and to conduct reasonable outreach, in good faith, to ensure Veterans know about Project employment opportunities. To the extent permitted by law, the Unions will give credit to such Veterans for bona fide, provable past experience. Contractors shall track the hiring and retention of Veteran Workers hired for the Project. Contractors shall collect the tracking information from all sources and shall submit bi-annual reports to the Developer and the Council.

## **ARTICLE IX: WAGES AND BENEFITS**

9.1 Wages. All employees covered by this Agreement (including foremen and general foremen if they are covered by the Master Labor Agreements) shall be classified in accordance with work performed and paid by the Contractors the hourly wage rates for those classifications in compliance with the applicable prevailing wage rate determination established pursuant to applicable law. If a prevailing rate increases under law, the Contractor shall pay that rate as of its effective date under the law. Notwithstanding any other provision in this Agreement, Contractors directly signatory to one or more of the MLAs are required to pay all of the wages set forth in those MLAs without reference to the forgoing.

9.3 Benefits.

9.3.1 Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate MLA and make all employee-authorized deductions in the amounts designated in the appropriate MLA; however, such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination. Notwithstanding any other provision in this Agreement, Contractors directly signatory to one or more of the MLA are required to make all contributions set forth in those MLA without reference to the foregoing. Bona fide jointly trustee benefit plans or authorized employee deduction programs established or negotiated under the applicable MLA or by the Parties to this Agreement during the life of this Agreement may be added.

9.3.2 The Contractor adopts and agrees to be bound by the written terms of the



applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the Parties to such trust funds to appoint trustees and successors' trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

9.3.3 Contractors of whatever tier shall make regular and timely contributions required by Section 9.3.1 of this Article in amounts and on the time schedule set forth in the appropriate MLA. Delinquency in the payment of contributions is a breach of this Agreement. If a Contractor is delinquent with paying contributions in violation of the MLA, the Union or the Trust Fund shall provide notification to Project Labor Coordinator after efforts by the Union or the Fund to resolve the delinquency have been exhausted with the delinquent Contractor, and provide documentary evidence of the delinquency endorsed by the Fund. Upon such notification, the Project Labor Coordinator will attempt to resolve the delinquency among the Contractor, the Union and the Fund. If the delinquency is not resolved within ten (10) days thereafter, the Prime Contractor, in the case of a delinquent subcontractor, shall withhold an amount to cover the delinquency from any retained funds otherwise due and owing to the subcontractor and shall not release such withholding until the subcontractor is in compliance, provided, however, that if the delinquent amount is undisputed in whole or in part between the Fund and the delinquent subcontractor, the Prime Contractor shall issue a joint check payable to the Fund and the subcontractor in the amount of the undisputed delinquency. In the case of a delinquent Prime Contractor or any Contractor, the Project Labor Coordinator shall notify the Developer of the delinquency and request the Developer to withhold, in an appropriate amount, any funds due and owing to the Prime Contractor. Pursuant to the announced commitment of the Developer, the Prime Contractor shall be subject to withholding of retained amounts which may only be released upon the Contractor's resolution of the delinquency as evidenced by a written statement endorsed by the Fund. Where there is no dispute as to the amount of the delinquency, retained amounts may be released by a joint check payable to the Prime Contractor and the Fund in the amount of any undisputed delinquency. All Contractors must certify to the Project Labor Coordinator that all benefit contributions due as required by this Agreement have been paid prior to the release of payment from the Developer.

9.3.4 The Project Labor Coordinator shall monitor the compliance of all Contractors with all Federal and state prevailing wage laws and regulations. All complaints regarding potential prevailing wage violations may be referred to the Project Labor Coordinator for processing, investigation and resolution, and if not resolved within 30 days of taking cognizance of the potential violation or complaint, the matter may be referred to the State Labor Commissioner by any party.

## **ARTICLE X: COMPLIANCE**

10.1 All Contractors, Unions, and employees shall comply with all applicable federal and state laws, ordinances, and regulations, including, but not limited to, those relating to safety and health, employment, and applications for employment. All employees shall comply with the safety regulations established by the Developer or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

## **ARTICLE XI: LABOR MANAGEMENT COOPERATION**

11.1 The parties to this Agreement may establish a Joint Administrative Committee ("JAC") to monitor compliance with the terms and conditions of the Project and the Agreement. This Committee shall be comprised of the Project Labor Coordinator, and one (1) representatives selected by the District, one (1) representative selected by Developer, and three (3) representatives of the signatory Unions, to be selected by the Council. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement.

11.2 The JAC shall meet as required to review the implementation of the Agreement and the progress of the Project and to attempt to reach solutions to problems and differences. Decisions of the JAC must be unanimously adopted in writing to become effective.

11.3 The JAC shall not review or discuss substantive grievances or disputes arising under Article V (Work Stoppages, Strikes, Sympathy Strikes and Lockouts), Article XIII (Jurisdictional Disputes) or Article XII (Grievance Arbitration Procedure). Such grievances shall be processed pursuant to the provisions of those respective Articles.

## **ARTICLE XII: GRIEVANCE ARBITRATION PROCEDURE**

12.1 The Parties hereby agree that all grievances and disputes that may arise concerning the application or the interpretation of the terms of this Agreement, other than disputes arising from conduct described in Article V (Work Stoppages, Strikes, Sympathy Strikes and Lockouts), and Article XIII (Jurisdictional Disputes), shall be handled in accordance with the following procedures.

12.2 Grievances and disputes shall be settled according to the following procedures:

Step 1: The business representative of the Union involved shall first attempt to settle the matter by oral discussion with the particular Contractor's project superintendent no later than five (5) working days after the Union submitting the grievance first became aware of, or by the use of reasonable diligence should have been aware of, the occurrence first giving rise to the dispute or grievance. If the matter is not resolved with the superintendent within five (5) working days after the oral discussion with the superintendent, the dispute or grievance shall be reduced to writing by the grieving Union.

Step 2: If the matter is not resolved in Step 1, above, within five (5) working days after the oral discussion with the superintendent and the business representative of the Union involved, the written grievance shall be given to the Contractor involved and submitted to the Project Labor Coordinator for processing. The business manager of the involved Union or his designee shall meet with the involved Contractor and the Project Labor Coordinator within ten (10) working days after the written grievance was submitted to the Project Labor Coordinator. If the grievance remains unresolved, then the Union may, within ten (10) calendar days after meeting with the Contractor, by written notice to the Contractor and Project Labor Coordinator, submit the grievance to arbitration in accordance with the provisions as set forth below.

Step 3: After notice by any party of intent to submit a grievance to arbitration, the Project

Labor Coordinator, in order, will select an Arbitrator listed under the Expedited Arbitration provisions of Article V, Section 5.5.3 of this Agreement. The decision of the Arbitrator shall be binding on the parties, provided, however, that the Arbitrator shall not have the authority to alter, amend, add to or delete from the provisions of this Agreement in any way. A failure of any party to attend said hearing shall not delay the hearing of evidence or the issuance of any decision by the Arbitrator. Should any party seek judicial enforcement of the Award made by the Arbitrator, the prevailing party shall be entitled to receive its attorney's fees and costs.

12.3 Failure by either party to adhere to the time limits herein for meeting, discussing, or responding shall constitute a negative response and advance the grievance to the next step in the grievance procedure. Failure of the grieving party to raise, file, or appeal a grievance within the time provided shall render the grievance null and void.

12.4 Grievances, which are settled directly by the Parties to such grievance, shall not be precedent setting. The costs of the arbitrator shall be borne equally between the grieving Union and the affected Contractor.

12.5 Project Labor Coordinator shall be notified by the grieving party of all actions at Steps 2 and 3 and shall, upon its request, be permitted to participate fully in all proceedings at these steps. The Project Labor Coordinator shall be responsible for assisting the parties to the grievance with scheduling, meeting locations and facilitating resolution to the grievance. However, the Project Labor Coordinator is not responsible for ensuring the grievance time limits set forth above are adhered to.

### **ARTICLE XIII: JURISDICTIONAL DISPUTES / PRE-JOB CONFERENCE**

13.1 The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor plan.

13.2 All Jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and employers shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions.

13.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Robert Hirsch and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

13.4 No Work Disruption Over Jurisdiction. All Jurisdictional disputes shall be resolved

without the occurrence of any strike, work stoppage, disruption, or slowdown of any nature and the Contractor's assignments shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

13.5 Pre-Job Conference. Each Contractor will conduct a pre-job conference with the Unions not later than fourteen (14) calendar days prior to commencing work. The purpose of the conference will be to, among other things, determine craft manpower needs, schedule of work for the contract and project work rules/owner rules. The Council, the Project Labor Coordinator, and the Developer shall be advised in advance of all such conferences and may participate if they wish. All work assignments shall be disclosed by the Prime Contractor and all Contractors at a pre-job conference. Should there be Project Work that was not previously discussed at the pre-job conference, or additional project work be added, the contractors performing such work will conduct a separate pre-job conference for such newly included work. Any Union in disagreement with the proposed assignment shall notify the Contractor of its position in writing, with a copy to Project Labor Coordinator, within seven (7) calendar days thereafter. Within seven (7) calendar days after the period allowed for Union notices of disagreement with the Contractor's proposed assignments, but prior to the commencement of any work, the Contractor shall make final assignments in writing with copies to the Council and to the Project Labor Coordinator.

#### **ARTICLE XIV: MANAGEMENT RIGHTS**

14.1 The Contractor retains the full and exclusive authority for the management of its operations, as set forth in this Article, which shall not be in conflict with this Agreement or the MLAs. The Contractor shall direct the workforce at its sole prerogative, including but not limited to the hiring, promotion, transfer, layoff, discipline or discharge for just cause of its employees; the selection of foremen and general foremen; the assignment and schedule of work; the promulgation of reasonable work rules; and, the requirement of overtime work, the determination of when it will be worked and the number and identity of employees engaged in such work. No rules, customs, or practices which limit or restrict productivity, efficiency or the individual and/or joint working efforts of employees shall be permitted or observed. The Contractor may utilize any methods or techniques of construction.

14.1.1 The foregoing enumeration of management rights shall not be deemed to exclude other functions not specifically set forth. The Contractor, therefore, retains all legal rights not specifically covered by this Agreement or the MLAs.

14.2 There shall be no limitation or restriction by a signatory Union upon a Contractor's choice of materials or design, nor, upon the full use and utilization of equipment, machinery, packaging, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor saving devices. The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work.

14.3 The use of new technology, equipment, machinery, tools and/or labor-saving devices and methods of performing work may be initiated by the Contractor from time-to-time during the Project. The Union agrees that it will not in any way restrict the implementation of such new devices or work methods. If there is any disagreement between the Contractor and the Union concerning the manner or implementation of such device or method of work, the

implementation shall proceed as directed by the Contractor, and the Union shall have the right to grieve and/or arbitrate the dispute as set forth in Article XII of this Agreement.

14.4 The Contractor shall determine the number of employees required to perform the specific work activity, including the manning requirements and operation of equipment and vehicles in accordance with the prevailing wage laws. The Contractor may also require operators and drivers to be moved from one piece of equipment or vehicle to another, as job conditions require. The Contractor will in turn recognize the appropriate rate of pay for employees who are required to operate multiple equipment pieces or vehicles during the same workday.

14.5 The Contractor shall assign work in accordance with Article XIII. It is understood that the Contractor may use composite crews for certain work activities to achieve efficient production. The make-up of these composite crews shall reflect the percent of work traditionally done by each craft. When such circumstances exist, the Contractor shall, at a pre-job conference prior to implementation, discuss the work involved and the make-up of the crews. In the performance of the work, all employees will perform the work they are assigned.

14.6 In addition to the Developer's following rights, and other rights set forth in this Agreement, the Developer expressly reserves its management rights and all the rights conferred on it by law. The Developer's rights include, but are not limited to:

14.6.1 Inspect the Project to ensure that the Contractor follows applicable safety and other work requirements.

14.6.2 Require contractors to establish a different work week or shift schedule for particular employees as needed, to meet the operational needs of the Project.

## **ARTICLE XV: APPRENTICES**

15.1 Importance of Training. The Parties recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by the District, and the opportunities to provide continuing work under the construction program. To these ends, the Parties will facilitate, encourage, and assist Local Residents within the Local Impact Area with priority outreach to Targeted Workers to commence and progress in Labor/Management Apprenticeship and/or training Programs in the construction industry leading to participation in such apprenticeship programs. The District, Developer, Contractors, the Project Labor Coordinator, other District consultants, and the Council, will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the formal joint labor/management apprenticeship programs maintained by the Unions. The Project Labor Agreement Coordinator will work with the Unions and Contractors to partner and cooperate with apprenticeship readiness programs utilizing the Council's Multi-Craft Core Curriculum (MC3). The unions agree to give preferential entry to their affiliated State-approved joint labor-management apprenticeship programs for successful graduates of MC3 apprenticeship readiness programs approved by the Council.

## 15.2 Use of Apprentices

15.2.1 Apprentices used on Projects under this Agreement shall, to the extent permitted by law, be registered in Joint Labor Management Apprenticeship Programs approved by the State of California. The Apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices, unless an exemption has been approved by the Division of Apprenticeship Standards. The Parties agree to a goal that apprentices will perform a minimum of twenty (20%) of total craft work hours consistent with Labor Code section 1777.5, as amended.

The Parties agree that available, capable, qualified, and willing Targeted Workers are prioritized for placement as New Hire Apprentices. The Parties Agree that twenty-five percent (25%) of all apprentice hours shall be performed by Targeted Workers, if available.

15.2.2 The Unions agree to cooperate with the Contractor in furnishing apprentices as requested up to the maximum percentage. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices, unless an exemption has been approved by the Division of Apprenticeship Standards. The Developer shall encourage such utilization, and, both as to apprentices and the overall supply of experienced workers, the Project Labor Coordinator will work with the Council to assure appropriate and maximum utilization of apprentices and the continuing availability of both apprentices and journey persons.

15.2.3 The Parties agree that apprentices will not be dispatched to Contractors working under this Agreement unless there is a journeyman working on the project where the apprentice is to be employed who is qualified to assist and oversee the apprentice's progress through the program in which he is participating.

15.2.4 All apprentices shall work under the direct supervision of a journeyman from the trade in which the apprentice is indentured. A journeyman shall be defined as set forth in the California Code of Regulations, Title 8 [apprenticeship] section 205, which defines a journeyman as a person who has either completed an accredited apprenticeship in his or her craft, or has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft which has workers classified as journeyman in the apprenticeable occupation. Should a question arise as to a journeyman's qualification under this subsection, the Contractor shall provide adequate proof evidencing the worker's qualification as a journeyman to the Project Labor Coordinator and the Council.

## **ARTICLE XVI: SAFETY, PROTECTION OF PERSON AND PROPERTY**

16.1 It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the Developer, the state and the Contractor. It is understood that the employees have an individual obligation to use diligent care to perform their work in safe manner and to protect themselves and the property of the Contractor and the Developer.

16.2 Employees shall be bound by the safety, security and visitor rules established by

the Contractor and the Developer. These rules will be published and posted in conspicuous places throughout the work site. An employee's failure to satisfy his obligations under this Section will subject him to discipline, including discharge.

16.3 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms while performing work on the Project site are prohibited. Accordingly, the parties agree that all Employers will utilize the Humboldt Bay Harbor and Conservation District Approved Drug and Alcohol Testing Policy, a copy of which is attached hereto as Attachment "B" for all employees on the Project for all Employers. All Unions agree to comply with the requirements of the program subject to the grievance procedure contained in this Agreement.

## **ARTICLE XVII: SAVINGS CLAUSE**

17.1 The Parties agree that in the event any article, provision, clause, sentence or work of the Agreement is determined to be illegal or void as being in contravention of any applicable law by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The Parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void by a court of competent jurisdiction, the Parties shall substitute, by mutual agreement, in its place and stead, an article, provision, sentence or work which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.

17.2 The Parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the Parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the Developer from complying with all or part of its provisions and the Developer accordingly determines that the Agreement will not be required as part of an award to a Contractor, the Unions will no longer be bound by the provisions of Article V to the extent that such Contractor is no longer bound. The Unions and their members shall remain bound to Article V with respect to all other Contractors who remain bound to this Agreement, and no action taken by the Unions or their members shall disrupt the work of such Contractors.

## **ARTICLE XVIII: UNION ACCESS AND STEWARDS**

18.1 Access to Project Sites. Authorized representatives of the Unions shall have access to Project Work, provided that they do not interfere with the work of employees and further provided that such representatives fully comply with visitor, security, environmental, and safety rules. It is understood that because of heightened safety and security aspects of the Project, visitors may be limited to certain times, or areas, or to being accompanied at all times while on the Project site.

18.2 Stewards.

18.2.1. Each Union shall have the right to dispatch a working journeyman as a steward for each shift, and shall notify the Contractor in the writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.

18.2.2 In addition to his/her work as an employee, the steward should have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward should be concerned only with the employees of the steward's Contractor and not with the employees of any other Contractor. A Contractor will not discriminate against the steward in the proper performance of his/her Union duties.

18.2.3 When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request, and the Union shall appoint such additional working stewards as the Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

18.2.4 The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

18.3 Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable MLA, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor.

## ARTICLE XIX: TERM

This Agreement shall be effective on \_\_\_\_\_ and shall terminate upon the Developer's acceptance of all Project work performed under this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year written below.

THE UNION OFFICIALS signing this Agreement warrant and represent that they are authorized to collectively bargain on behalf of the organizations whom they represent and the members of such organizations.

Dated: \_\_\_\_\_, 20\_\_

Dated: \_\_\_\_\_, 20\_\_

**Humboldt Bay Harbor and  
Conservation District**

**State Building and Construction Trades  
Council of California**



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

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

**Building and Construction Trades Council  
of Humboldt and Del Norte Counties**

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

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

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

Print Name: Chris Hannan

Print Title: President



**ATTACHMENT A**  
**COMPANY LETTERHEAD**

\_\_\_\_\_  
\_\_\_\_\_

**SUBJECT: LETTER OF ASSENT**  
Humboldt Bay Harbor, Recreation, and Conservation District

Dear Mr./Ms. \_\_\_\_\_:

This is to certify that the undersigned Contractor/Employer has examined a copy of the Project Labor Agreement for the Humboldt Bay Harbor, Recreation, and Conservation District entered into by and between the District and the signatory Unions dated \_\_\_\_\_. The undersigned Contractor/Employer hereby agrees to be a party to and to comply with all of the terms and conditions of the aforementioned Project Labor Agreement as such Agreement may, from time to time, be amended by the negotiating parties or interpreted pursuant to its terms.

Such obligation to be a party to and bound by this Agreement shall extend to all work covered by the Agreement undertaken by this Company on the Project, and this Contractor/Employer shall require all its subcontractors, of whatever tier, to become similarly bound for all work within the scope of this Agreement by signing an identical Letter of Assent.

This Letter of Assent shall become effective and binding upon the undersigned Contractor/Employer the \_\_\_\_\_ day of \_\_\_\_\_ and shall remain in full force and effect until this company has completed all of its work to be performed on the Project.

Sincerely,

(Name of Construction Company)

By: \_\_\_\_\_  
(Name and Title of Authorized Executive)

\_\_\_\_\_  
(Contractor's State License No.: \_\_\_\_\_)

Project Name: \_\_\_\_\_

cc: Building and Construction Trades Council  
of Humboldt and Del Norte Counties

**ATTACHMENT B**  
**HUMBOLDT BAY HARBOR AND CONSERVATION DISTRICT**  
**APPROVED**  
**DRUG AND ALCOHOL TESTING POLICY**

(rev. December 2019)

The Parties recognize the problems which drug and alcohol abuse have created in the construction industry and the need to develop drug and alcohol abuse prevention programs. Accordingly, the Parties agree that in order to enhance the safety of the workplace and to maintain a drug and alcohol-free work environment, individual Employers may require applicants or employees to undergo drug and alcohol testing.

1. It is understood that the use, possession, transfer or sale of illegal drugs, narcotics, or other unlawful substances, as well as being under the influence of alcohol and the possession or consuming alcohol is absolutely prohibited while employees are on the Employer's job premises or while working on any jobsite in connection with work performed under the Project Labor Agreement ("PLA").

2. No Employer may implement a drug testing program which does not conform in all respects to the provisions of this Policy.

3. No Employer may implement drug testing at any jobsite unless written notice is given to the Union setting forth the location of the jobsite, a description of the project under construction, and the name and telephone number of the Project Supervisor. Said notice shall be addressed to the office of each Union signing the PLA. Said notice shall be sent by email or by registered mail before the implementation of drug testing. Failure to give such notice shall make any drug testing engaged in by the Employer a violation of the PLA, and the Employer may not implement any form of drug testing at such jobsite for the following six months.

4. An Employer who elects to implement drug testing pursuant to this Agreement shall require all employees on the Project to be tested. With respect to individuals who become employed on the Project subsequent to the proper implementation of a valid drug testing program, such test shall be administered upon the commencement of employment on the project, whether by referral from a Union Dispatch Office, transfer from another project, or another method. Individuals who were employed on the project prior to the proper implementation of a valid drug testing program may only be subjected to testing for the reasons set forth in paragraphs 5(g)(1) through 5(g)(3) and paragraphs 6(a) through 6(e) of this Policy. Refusal to undergo such testing shall be considered sufficient grounds to deny employment on the project.

5. The following procedure shall apply to all drug testing:

a. The Employer may request urine samples only. The applicant or employee shall not be observed when the urine specimen is given. An applicant or employee, at his or her sole option, shall, upon request, receive a blood test in lieu of a urine test. No employee of the

Employer shall draw blood from a bargaining unit employee, touch or handle urine specimens, or in any way become involved in the chain of custody of urine or blood specimens. A Union Business Representative, subject to the approval of the individual applicant or employee, shall be permitted to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.

b. An employer may request an applicant to perform an alcohol breathalyzer test, at a certified laboratory only and cutoff levels shall be those mandated by applicable state or federal law.

c. The testing shall be done by a laboratory approved by the Substance Abuse & Mental Health Services Administration (SAMHSA), which is chosen by the Employer and the Union.

d. An initial test shall be performed using the Enzyme Multiplied Immunoassay Technique (EMIT). In the event a question or positive result arises from the initial test, a confirmation test must be utilized before action can be taken against the applicant or employee. The confirmation test will be by Gas Chromatography/Mass Spectrometry (GC/MS). Cutoff levels for both the initial test and confirmation test will be those established by SAMHSA. Should these SAMHSA levels be changed during the course of this Agreement or new testing procedures are approved, then these new regulations will be deemed as part of this existing Agreement. Confirmed positive samples will be retained by the testing laboratory in secured long-term frozen storage for a minimum of one year. Handling and transportation of each sample must be documented through strict chain of custody procedures.

e. In the event of a confirmed positive test result the applicant or employee may request, within forty-eight (48) hours, a sample of his/her specimen from the testing laboratory for purposes of a second test to be performed at a second laboratory, designated by the Union and approved by SAMHSA. The retest must be performed within ten (10) days of the request. Chain of custody for this sample shall be maintained by the Employer between the original testing laboratory and the Union's designated laboratory. Retesting shall be performed at the applicant's or employee's expense. In the event of conflicting test results the Employer may require a third test.

f. If, as a result of the above testing procedure, it is determined that an applicant or employee has tested positive, this shall be considered sufficient grounds to deny the applicant or employee his/her employment on the project.

g. No individual who tests negative for drugs pursuant to the above procedure and becomes employed on the project shall again be subjected to drug testing with the following exceptions:

1. Employees who are involved in industrial accidents resulting in damage to plant, property or equipment or injury to him/her or others may be tested for drug or alcohol pursuant to the procedures stated hereinabove.

2. The Employer may test employees following thirty (30) days advance written notice to the employee(s) to be tested and to the applicable Union. Notice to the applicable Union shall be as set forth in paragraph 3 above and such testing shall be pursuant to the procedures stated hereinabove.

3. The Employer may test an employee where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Reasonable cause shall be defined as being aberrant or unusual behavior, the type of which is a recognized and accepted symptom of impairment (i.e., slurred speech, unusual lack of muscular coordination, etc.). Such behavior must be actually observed by at least two persons, one of whom shall be a supervisor who has been trained to recognize the symptoms of drug abuse or impairment and the other of whom shall be the Job Steward. If the Job Steward is unavailable or there is no Job Steward on the project the other person shall be a member of the applicable Union's bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be removed from the Employer's payroll.

h. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug testing. Payment shall be at the applicable wage and benefit rates set forth in the applicable Union's Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.

6. The Employers will be allowed to conduct periodic jobsite drug testing on the Project under the following conditions:

a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;

b. Jobsite testing cannot commence sooner than fifteen (15) days after start of the work on the project;

c. Prior to start of periodic testing, a Business Representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;

d. Testing shall be conducted by a SAMHSA certified laboratory, pursuant to the provisions set forth in paragraph 5 hereinabove.

e. Only two (2) periodic tests may be performed in a twelve (12) month period.

1.

7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Employer to remove the employee from the jobsite.

8. Any grievance or dispute which may arise out of the application of this Agreement shall be subject to the grievance and arbitration procedures set forth in the PLA.

9. The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule or regulation. Should any part of this Agreement be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the parties, the remaining portions of the Agreement shall be unaffected, and the parties shall enter negotiations to replace the affected provision.

10. Present employees, if tested positive, shall have the prerogative for rehabilitation program at the employee's expense. When such program has been successfully completed the Employer shall not discriminate in any way against the employee. If work for which the employee is qualified exists, he/she shall be reinstated.

11. The Employer agrees that results of urine and blood tests performed hereunder will be considered medical records held confidential to the extent permitted or required by law. Such records shall not be released to any persons or entities other than designated Employer representatives and the applicable Union. Such release to the applicable Union shall only be allowed upon the signing of a written release and the information contained therein shall not be used to discourage the employment of the individual applicant or employee on any subsequent occasion.

12. The Employer shall indemnify and hold the Union harmless against any and all claims, demands, suits, or liabilities that may arise out of the application of this Agreement and/or any program permitted hereunder.

13. Employees who seek voluntary assistance for substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs will be subject to all Employer rules, regulations and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.

14. The parties agree to develop and implement a drug abuse prevention and testing program for all apprentices entering the industry.

15. This Memorandum of Understanding shall constitute the only Agreement in effect between the parties concerning drug and alcohol abuse, prevention and testing. Any modifications thereto must be accomplished pursuant to collective bargaining negotiations between the parties.

## APPENDIX A: SPECIMEN REPORTING CRITERIA

Initial Test Analyte	Initial Test Cutoff <sup>1</sup>	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites (THCA) <sup>2</sup>	50 ng/ml <sup>3</sup>	THCA	15 ng/ml
Cocaine metabolite (Benzoyllecgonine)	150ng/ml <sup>3</sup>	Benzoyllecgonine	100 ng/ml
Codeine/ Morphine	2000 ng/ml	Codeine Morphine	2000 ng/ml 2000 ng/ml
Hydrocodone/ Hydromorphone	300 ng/ml	Hydrocodone Hydromorphone	100 ng/ml 100 ng/ml
Alcohol	0.02%	Ethanol	0.02%
Oxycodone/ Oxymorphone	100 ng/ml	Oxycodone Oxymorphone	100 ng/ml 100 ng/ml
6-Acetylmorphine	10 ng/ml	6-Acetylmorphine	10 ng/ml
Phencyclidine	25 ng/ml	Phencyclidine	25 ng/ml
Amphetamine/ Methamphetamine	500 ng/ml	Amphetamine Methamphetamine	250ng/ml 250 ng/ml

<sup>1</sup> For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

**Immunoassay:** The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

**Alternate technology:** Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

<sup>2</sup> An immunoassay must be calibrated with the target analyte, 9-tetrahydrocannabinol-9- carboxylic acid (THCA).

<sup>3</sup> **Alternate technology (THCA and benzoyllecgonine):** The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/ml for THCA, 100 ng/ ml for benzoyllecgonine).



MDMA <sup>4</sup> /MDA <sup>5</sup>	500 ng/ml	MDMA MDA	250ng/ml 250 ng/ml
Initial Test Analyte	Initial Test Cutoff	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Barbiturates	300 ng/ml	Barbiturates	200 ng/ml
Benzodiazepines	300 ng/ml	Benzodiazepines	300 ng/ml
Methadone	300 ng/ml	Methadone	100 ng/ml
Methaqualone	300 ng/ml	Methaqualone	300 ng/ml
Propoxyphene	300 ng/ml	Propoxyphene	100 ng/ml

**SIDE LETTER OF AGREEMENT  
TESTING POLICY FOR DRUG ABUSE**

It is hereby agreed between the parties hereto that an Employer who has otherwise properly implemented drug testing, as set forth in the Testing Policy for Drug Abuse, shall have the right to offer an applicant or employee a "quick" drug screening test. This "quick" screen test shall consist either of the "ICUP" urine screen or similar test or an oral screen test. The applicant or employee shall have the absolute right to select either of the two "quick" screen tests, or to reject both and request a full drug test.

An applicant or employee who selects one of the "quick" screen tests, and who passes the test, shall be put to work immediately. An applicant or employee who fails the "quick" screen test, or who rejects the "quick" screen tests, shall be tested pursuant to the procedures set forth in the Testing Policy for Drug Abuse. The sample used for the "quick" screen test shall be discarded immediately upon conclusion of the test. An applicant or employee shall not be deprived of any rights granted to them by the Testing Policy for Drug Abuse as a result of any occurrence related to the "quick" screen test.

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<sup>4</sup> Methylenedioxymethamphetamine (MDMA)

<sup>5</sup> Methylenedioxyamphetamine (MDA)

**ATTACHMENT C**

**HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT  
CRAFT REQUEST FORM**

**TO THE CONTRACTOR:** Please complete and submit this form to the applicable union to request craft workers that fulfill the hiring requirements for this project. After submitting your request, please call the Local to verify receipt and substantiate their capacity to furnish workers as specified below. Please keep copies for your records.

Humboldt Bay Harbor, Recreation, and Conservation District Project Labor Agreement (PLA) establishes a 20% goal of all of the hours worked on the Project shall be from Targeted Workers, defined as (1) a Disadvantaged Worker, as defined below; (2) residents of Humboldt County, which is comprised of the zip codes set forth on Attachment D; (3) graduates of Humboldt County local High Schools, College of the Redwoods, or Cal Poly Humboldt; or (4) any workers needed to meet targeted employment requirements pursuant to the Project’s funding sources (collectively defined as Targeted Worker). For purposes of this paragraph, “Disadvantaged Worker” mean an individual that resides in the Humboldt County **and** meets one of the following additional criteria: (1) is enrolled as a tribal member or a spouse of an enrolled tribal members of a federally recognized Tribe within Humboldt or Del Norte Counties; (2) resides on the Samoa Peninsula from the Mad River Slough to the North Jetty; (3) is a Veteran Worker (any person who has served in the armed forces of the United States as demonstrated by a valid Form DD214); (4) is a commercial Fisherman; or (5) has successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program and resides in Humboldt or Del Norte Counties.

**TO THE UNION:** Please complete the "Union Use Only" section on the next page and send this form back to the requesting Contractor. Be sure to retain a copy of this form for your records.

**CONTRACTOR USE ONLY**

**To:** Union Local # \_\_\_\_\_ **Fax#** ( ) \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Cc:** Project Labor Coordinator  
**From:** Company: \_\_\_\_\_ Issued By: \_\_\_\_\_  
 Contact Phone: ( ) \_\_\_\_\_ Contact Fax: ( ) \_\_\_\_\_

**PLEASE PROVIDE ME WITH THE FOLLOWING UNION CRAFT WORKERS.**

Craft Classification ( i.e., plumber, painter, etc.)	Journeyman or Apprentice	Targeted Worker or General Dispatch	Number of workers needed	Report Date	Report Time
<b>TOTAL WORKERS REQUESTED =</b> _____					

Please have worker(s) report to the following work address indicated below:

**Project Name:** \_\_\_\_\_ **Site:** \_\_\_\_\_ **Address:** \_\_\_\_\_  
**Report to:** \_\_\_\_\_ **On-site Tel:** \_\_\_\_\_ **On-site Fax:** \_\_\_\_\_  
**Comment or Special Instructions:** \_\_\_\_\_

**UNION USE ONLY**

Date dispatch request received:
Dispatch received by:
Classification of worker requested:
Classification of worker dispatched:

**WORKER REFERRED**

Name:		
Date worker was dispatched:		
Is the worker referred a:		(check all that apply)
JOURNEYMAN	Yes _____	No _____
APPRENTICE	Yes _____	No _____
TARGETED WORKER	Yes _____	No _____
GENERAL DISPATCH FROM OUT OF WORK LIST	Yes _____	No _____

[This form is not intended to replace a Union's Dispatch or Referral Form normally given to the employee when being dispatched to the jobsite.]

ATTACHMENT D  
U.S. POSTAL SERVICE ZIP CODES

Humboldt County Zip Codes:

95501 95502 95503

95511 95514 95518

95519 95521 95524

95525 95526 95528

95534 95536 95537

95540 95542 95545

95549 95547 95549

95550 95551 95553

95554 95555 95556

95558 95559 95560

95562 95564 95565

95569 95570 95571

95573 95589

BRIEFING ROOM

# Executive Order on Use of Project Labor Agreements For Federal Construction Projects

FEBRUARY 04, 2022 • PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, and in order to promote economy and efficiency in the administration and completion of Federal construction projects, it is hereby ordered that:

Section 1. Policy. (a) Large-scale construction projects pose special challenges to efficient and timely procurement by the Federal Government. Construction employers typically do not have a permanent workforce, which makes it difficult to predict labor costs when bidding on contracts and to ensure a steady supply of labor on contracts being performed. Challenges also arise because construction projects typically involve multiple employers at a single location, and a labor dispute involving one employer can delay the entire project. A lack of coordination among various employers, or uncertainty about the terms and conditions of employment of various groups of workers, can create friction and disputes in the absence of an agreed-upon resolution mechanism. These problems threaten the efficient and timely completion of construction projects undertaken by Federal contractors. On large-scale projects, which are generally more complex and of longer

duration, these problems tend to be more pronounced.

(b) Project labor agreements are often effective in preventing these problems from developing because they provide structure and stability to large-scale construction projects. Such agreements avoid labor-related disruptions on projects by using dispute-resolution processes to resolve worksite disputes and by prohibiting work stoppages, including strikes and lockouts. They secure the commitment of all stakeholders on a construction site that the project will proceed efficiently without unnecessary interruptions. They also advance the interests of project owners, contractors, and subcontractors, including small businesses. For these reasons, owners and contractors in both the public and private sector routinely use project labor agreements, thereby reducing uncertainties in large-scale construction projects. The use of project labor agreements is fully consistent with the promotion of small business interests.

(c) Accordingly, it is the policy of the Federal Government for agencies to use project labor agreements in connection with large-scale construction projects to promote economy and efficiency in Federal procurement.

Sec. 2. Definitions. For purposes of this order:

(a) “Labor organization” means a labor organization as defined in 29 U.S.C. 152(5) of which building and construction employees are members, as described in 29 U.S.C. 158(f).

(b) “Construction” means construction, reconstruction, rehabilitation, modernization, alteration, conversion, extension, repair, or improvement of buildings, structures, highways, or other real property.

(c) “Large-scale construction project” means a Federal construction project within the United States for which the total estimated cost of the construction contract to the Federal Government is \$35 million or more. The Federal Acquisition Regulatory Council (FAR Council), in consultation with

the Council of Economic Advisers, may adjust this threshold based on inflation using the process at 41 U.S.C. 1908.

(d) “Agency” means an executive department or agency, including an independent establishment subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A).

(e) “Project labor agreement” means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f).

Sec. 3. Project Labor Agreement Presumption. Subject to sections 5 and 6 of this order, in awarding any contract in connection with a large-scale construction project, or obligating funds pursuant to such a contract, agencies shall require every contractor or subcontractor engaged in construction on the project to agree, for that project, to negotiate or become a party to a project labor agreement with one or more appropriate labor organizations.

Sec. 4. Requirements of Project Labor Agreements. Any project labor agreement reached pursuant to this order shall:

(a) bind all contractors and subcontractors on the construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;

(b) allow all contractors and subcontractors on the construction project to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;

(c) contain guarantees against strikes, lockouts, and similar job disruptions;

(d) set forth effective, prompt, and mutually binding procedures for

resolving labor disputes arising during the term of the project labor agreement;

(e) provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

(f) fully conform to all statutes, regulations, Executive Orders, and Presidential Memoranda.

Sec. 5. Exceptions Authorized by Agencies. A senior official within an agency may grant an exception from the requirements of section 3 of this order for a particular contract by, no later than the solicitation date, providing a specific written explanation of why at least one of the following circumstances exists with respect to that contract:

(a) Requiring a project labor agreement on the project would not advance the Federal Government's interests in achieving economy and efficiency in Federal procurement. Such a finding shall be based on the following factors:

(i) The project is of short duration and lacks operational complexity;

(ii) The project will involve only one craft or trade;

(iii) The project will involve specialized construction work that is available from only a limited number of contractors or subcontractors;

(iv) The agency's need for the project is of such an unusual and compelling urgency that a project labor agreement would be impracticable;  
or

(v) The project implicates other similar factors deemed appropriate in regulations or guidance issued pursuant to section 8 of this order.

(b) Based on an inclusive market analysis, requiring a project labor agreement on the project would substantially reduce the number of potential bidders so as to frustrate full and open competition.

(c) Requiring a project labor agreement on the project would otherwise be



inconsistent with statutes, regulations, Executive Orders, or Presidential Memoranda.

Sec. 6. Reporting. (a) To the extent permitted by law and consistent with national security and executive branch confidentiality interests, agencies shall publish, on a centralized public website, data showing the use of project labor agreements on large-scale construction projects, as well as descriptions of the exceptions granted under section 5 of this order.

(b) On a quarterly basis, agencies shall report to the Office of Management and Budget (OMB) on their use of project labor agreements on large-scale construction projects and on the exceptions granted under section 5 of this order.

Sec. 7. Nothing in this order precludes an agency from requiring the use of a project labor agreement in circumstances not covered by this order, including projects where the total cost to the Federal Government is less than that for a large-scale construction project, or projects receiving any form of Federal financial assistance (including loans, loan guarantees, revolving funds, tax credits, tax credit bonds, and cooperative agreements). This order also does not require contractors or subcontractors to enter into a project labor agreement with any particular labor organization.

Sec. 8. Regulations and Implementation. (a) Within 120 days of the date of this order, the FAR Council, to the extent permitted by law, shall propose regulations implementing the provisions of this order. The FAR Council shall consider and evaluate public comments on the proposed regulations and shall promptly issue a final rule, to the extent permitted by law.

(b) The Director of OMB shall, to the extent permitted by law, issue guidance to implement the requirements of sections 5 and 6 of this order.

Sec. 9. Contracting Officer Training. Within 90 days of the date of this order, the Secretary of Defense, the Secretary of Labor, and the Director of OMB shall coordinate in designing a training strategy for agency contracting officers to enable those officers to effectively implement this order. Within 180 days of the date of the publication of proposed regulations, the Secretary of Defense, the Secretary of Labor, and the Director of OMB shall provide a report to the Assistant to the President for Economic Policy and Director of the National Economic Council on the contents of the training strategy.

Sec. 10. Revocation of Prior Orders, Rules, and Regulations. Executive Order 13502 of February 6, 2009 (Use of Project Labor Agreements for Federal Construction Projects), is revoked as of the effective date of the final regulations issued by the FAR Council under section 8(a) of this order. Upon Executive Order 13502's revocation, the heads of agencies shall consider, to the extent permitted by law, revoking any orders, rules, or regulations implementing Executive Order 13502.

Sec. 11. Severability. If any provision of this order, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

Sec. 12. Effective Date. This order shall be effective immediately and shall apply to all solicitations for contracts issued on or after the effective date of the final regulations issued by the FAR Council under section 8(a) of this order. For solicitations issued between the date of this order and the effective date of the final regulations issued by the FAR Council under section 8(a) of this order, or solicitations that have already been issued and

are outstanding as of the date of this order, agencies are strongly encouraged, to the extent permitted by law, to comply with this order.

Sec. 13. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

The White House,

February 4, 2022.



COMMISSIONERS  
1<sup>st</sup> Division  
Aaron Newman  
2<sup>nd</sup> Division  
Greg Dale  
3<sup>rd</sup> Division  
Stephen Kullmann  
4<sup>th</sup> Division  
Craig Benson  
5<sup>th</sup> Division  
Patrick Higgins

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

**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**August 10, 2023**

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

**FROM:** Larry Oetker, Executive Director

**DATE:** August 3, 2023

**TITLE: Consider Awarding an Audit Contract for the Humboldt Bay Harbor, Recreation and Conservation District to Harshwal & Company LLP**

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**STAFF RECOMMENDATION:** Staff Recommends that the Board award a contract to Harshwal & Company LLP to audit its financial statements for the fiscal years ending 6/30/2023, 6/30/2024 and 6/30/2025, with the option to extend the contract an additional two fiscal years ending 2026 and 2027.

**SUMMARY:** On May 23, 2023 the Harbor District released an RFP for Auditing Services. Harshwal & Company LLP is the only firm to respond to the request for proposals. The proposed not-to-exceed price is \$20,500 for the first year, increasing annually by 5%.

**DISCUSSION:** Assembly Bill 1345 added section 12410.6.(b) to Government Code regarding auditor rotation requirements of public accounting firms providing audit services to local agencies. Government Code section 12410.6.(b) indicates that commencing with the 2013-14 fiscal year, a local agency shall not employ a public accounting firm to provide audit services to a local agency if the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency for six consecutive fiscal years. For purposes of calculating the six consecutive fiscal years, the local agency shall not take into account any time that a public accounting firm was employed by that local agency prior to the 2013-14 fiscal year. The Controller may waive this requirement if he or she finds that another eligible public accounting firm is not available to perform the audit.

The District Treasurer recommends approving the contract with the condition that Harshwal & Company LLP rotate the principal auditor annually in order to maintain conformance with Assemble Bill 1345.

**ATTACHMENTS:**

- A.** Audit Contract
- B.** Cost Proposal to Provide Auditing Services from Harshwal & Company LLP
- C.** Technical Proposal to Provide Auditing Services from Harshwal & Company LLP



***Humboldt Bay Harbor, Recreation  
and Conservation District***

***Cost Proposal to Provide Auditing Services  
for the Fiscal Years Ending  
June 30, 2023 through June 30, 2025  
with an Option to Extend For Two (2) Additional Years***

**Submitted by:**



***11405 W. Bernardo Ct., Suite A***

***San Diego, CA 92127***

***Phone: (858) 939-0017 Fax: (858) 964-3754***

***June 15, 2023***

**Contact Person**

***Managing Partner: Sanwar Harshwal, CPA***

***Cell Phone: (858) 784-1622***

***Federal Employer ID Number: 27-0741376***

***Email: [sanwar@harshwal.com](mailto:sanwar@harshwal.com) Website: [www.harshwal.com](http://www.harshwal.com)***

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*June 15, 2023*

Humboldt Bay Harbor, Recreation and Conservation District  
ATTN: Larry Oetker, Executive Director  
601 Startare Drive  
Eureka, CA 95501

**Dear Larry Oetker & Evaluation Committee Members,**

The partners and staff at Harshwal & Company, LLP are pleased to present our proposal to provide professional audit services. Our firm has experienced continuous growth and success as we meet and exceed client expectations. Our overall goal is to provide responsive and innovative services of the highest quality to our clients.

We understand that Humboldt Bay Harbor, Recreation and Conservation District (referred to later in this proposal as the "District") requires a timely audit service; we are committed to meeting all terms, conditions and requirements as addressed in this request for proposal. With our experience and knowledge, we fully understand the requirements and your expectations for the services to be provided.

We strive to provide exceptional staff, quality, and value at the lowest possible fees consistent with the expectations of the District. Our rates are competitive, even with our depth of experience and commitment to quality. *The all-inclusive fee for the entire scope of services will be \$20,500.00. The fee bifurcation has been provided on the "proposed price" section.*

*Our Managing Partner, Mr. Sanwar Harshwal, is authorized to represent the firm and he is the authorized person to contractually obligate the firm, to negotiate the contract on behalf of the firm and to be contacted for clarification questions regarding our services. He can be reached at 11405 W. Bernardo Ct, Suite A, San Diego, CA 92127; Phone: (858) 784-1622, Fax No. (858) 964-3754 or via an email at [sanwar@harshwal.com](mailto:sanwar@harshwal.com).*

*Harshwal & Company, LLP is a small business enterprise that is SBA 8(a) certified, a GSA vendor and a 100% minority owned CPA firm.*

*We thank you for your consideration and hope that you will provide us with the opportunity to serve your esteemed organization with our services.*

Sincerely,

**Harshwal & Company, LLP**  
Certified Public Accountants



**Sanwar Harshwal, CPA, CIA, CISA, CFE**  
Managing Partner





**Cost Proposal to Provide Auditing Services**

**PROPOSED PRICE**

**Total All-Inclusive Not-To-Exceed Price**

Our fees are generally lower than other competing firms since we keep our overhead low; we follow a scientific audit approach and make extensive use of emerging technologies that allow us to conduct audits efficiently. Our policy is to provide you with exceptional service that meets and exceeds professional auditing standards at a competitive cost.

*Summarized below are the professional fees for the District's professional audit services.*

Audit Area - Description	FY 2023	FY 2024	FY 2025	FY 2026 (Optional)	FY 2027 (Optional)
Financial Statement Audit.....	\$ 19,975.00	\$20,975.00	\$22,025.00	\$23,125.00	\$24,280.00
<i>Out-of-pocket expenses</i>	525.00	550.00	575.00	600.00	630.00
<i>Total fees</i>	<b>\$ 20,500.00</b>	<b>\$21,525.00</b>	<b>\$22,600.00</b>	<b>\$23,725.00</b>	<b>\$24,910.00</b>

**Rates by Partner, Manager and Staff:**

<b>Our estimated hours for FY 2023:</b>			
Description - Team Composition	Est. Hours	Hourly Rates	Fees
Partner	5	\$400	\$ 2,000.00
Independent Reviewer	6	275	1,650.00
Managers	15	275	4,125.00
Senior Auditors	26	175	4,550.00
Staff Auditors	60	120	7,200.00
Clerical Staff	5	90	450.00
<i>Total</i>	117		\$ 19,975.00

➤ Fees for subsequent years will include an annual inflationary adjustment of 5%.

**Rates for Additional Professional Services**

We will perform additional work only if set forth in an addendum to the contract between the District and our firm. Our fees for the additional services, if required, will be based on the actual time spent by professional or administrative personnel at quoted hourly rates, specified above. Our standard hourly rates vary according to the degree of responsibility involved, and the experience level of the personnel assigned.







## Cost Proposal to Provide Auditing Services

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### Manner of Payment

Progress billings will be sent on the basis of actual audit work completed during the course of the engagement. Interim billings do not cover a period of less than a calendar month. We view this work as being every bit as important and valuable as the work we perform for other clients and we put our best people on it. Any consulting work you request will be performed at the same rates as our audit work.

We have provided you a fee estimate based on the following assumptions:

- The accounting records will be in balance and supported by appropriate documentation;
- The District's staff will provide the supporting schedules for all asset and liability accounts;
- The District's staff will provide general assistance, such as locating documents, typing confirmation requests, and coordinating meetings.





## Cost Proposal to Provide Auditing Services

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### Benefits of Choosing Harshwal & Company, LLP

Harshwal & Company, LLP is recognized for its professionalism, integrity, and for providing clients with effective resolutions for their unique circumstances and issues. Our firm prides itself on being able to provide personalized client services, and with that sentiment in mind, we have carefully chosen our engagement teams.

Harshwal & Company, LLP's main objective is always to provide Humboldt Bay Harbor, Recreation and Conservation District with solutions and directions, led by highly experienced and capable partners who can successfully implement the work and produce the results you expect. This philosophy and mindset allows us to provide a superior level of service.

We trust that this proposal has given you the information you need about the Firm, the engagement team members, the overall audit approach, cost-saving measures, and audit fees. We are committed to exceeding your expectations, and we look forward to bringing our experience and expertise to Humboldt Bay Harbor, Recreation and Conservation District and providing you with the excellent level of service that you expect and deserve.

Inherent in our service is the on-going support, education, and advice to our clients. The comprehensive service includes:

- Email updates on all new and pertinent developments.
- A careful review of the effects of these new developments (if any), on your particular circumstances. If necessary, we will advise you on any changes needed in accounting procedures.
- We will meet with the Finance Department head at the beginning of the audit to advise on matters of particular interest. We will provide "best practices" for effective daily operations that will also provide information necessary for the financial statements.
- Throughout the audit, we will advise your accounting personnel on best practices for maximum efficiency in each major operational area.

Harshwal & Company, LLP and its employees has an impressive history and has never been disciplined, penalized, fined, sanctioned, or otherwise punished for any act or omission related, in any way, to grant writing services or financial improprieties.

**"Keeping in touch with" is the hallmark of our service. You will receive phone calls, emails, and information through the Harshwal & Company, LLP portal on a consistent and regular basis.**





***Humboldt Bay Harbor, Recreation  
and Conservation District***

***Technical Proposal to Provide Auditing Services  
for the Fiscal Years ending***

***June 30, 2023 through June 30, 2025***

***with an Option to Extend for Two (2) Additional Years***

**Submitted by:**



***11405 W. Bernardo Ct., Suite A***

***San Diego, CA 92127***

***Phone: (858) 939-0017 Fax: (858) 964-3754***

***June 15, 2023***

**Contact Person**

***Managing Partner: Sanwar Harshwal, CPA***

***Cell Phone: (858) 784-1622***

***Federal Employer ID Number: 27-0741376***

***Email: [sanwar@harshwal.com](mailto:sanwar@harshwal.com) Website: [www.harshwal.com](http://www.harshwal.com)***

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*June 15, 2023*

Humboldt Bay Harbor, Recreation and Conservation District  
ATTN: Larry Oetker, Executive Director  
601 Startare Drive  
Eureka, CA 95501

**Dear Larry Oetker and Evaluation Committee Members,**

The partners and staff at Harshwal & Company, LLP are pleased to present our proposal to provide audit services. Our firm has experienced continuous growth and success as we meet and exceed client expectations. Our overall goal is to provide responsive, innovative services of the highest quality to our clients.

We understand that Humboldt Bay Harbor, Recreation and Conservation District (referred to later in this proposal as the "District") requires a timely audit service; we are committed to meeting all terms, conditions and requirements addressed in this request for proposal. With our experience and knowledge, we fully understand the requirements and your expectations for the services to be provided.

We believe our firm is the best qualified to perform this engagement because our audit services are best performed by utilizing specialized resources and technical proficiency. Our expertise in governmental auditing and accounting combined with our vast access to resources empowers us to solve challenges encountered during the audit. Our highly trained engagement team will maintain a knowledgeable, yet, non-intrusive, approach to the audit to deliver an audit that is of exceptional quality that requires minimal disruptions of the District's on-going operations.

**Understanding of the Work to be Done:**

We understand that you require us to conduct the audit of the financial statements of the District for the fiscal years ending June 30, 2023, through June 30, 2025, with an option to extend for two (2) subsequent years, in accordance with generally accepted governmental auditing standards set forth by the American Institute of Certified Public Accountants, Government Auditing Standards Issued by the Comptroller General of the United States; and the State Controller's minimum requirements for California Special Districts.

**Ability to Perform the Work within Provided Time Frame:**

Harshwal & Company, LLP is benchmarked for providing the work within the time frame requested. Our team is committed to completing the audit on time, as they are fully equipped with contemporary technology, which will add value to the successful and timely delivery of the audit. We are responsive and solution oriented, providing quick responses on matters that require immediate attention, hence enhancing the quality of our audit. We focus on staff continuity, which enables us to develop and maintain an in-depth understanding of your operations, management style, and operating practices, which ultimately allows us to offer you experienced resources, value-added services, specialization, and overall better personal service, which again unequivocally results in a timely submission of the audit report.



**Why Harshwal & Company, LLP:**

- Extensive partner involvement on each engagement
- Presence of a manager and/or CPA always on site during fieldwork
- Consistent and experienced staff
- Timeliness of communications
- Proactive approach in addressing complex issues early in the engagement
- Availability to clients as a specialized resource
- Professionalism with understanding

**Client Confidentiality and Security:**

- At Harshwal & Company, LLP, we are committed to safeguarding client information. Maintaining trust is one of the core values of our firm. Since your privacy is a priority to us, we will not share nonpublic information about you with third parties without your consent.
- In order to facilitate a highly secure method for exchanging electronic files between our firm and our clients, we have implemented a secure, trackable method for sharing large files via a hosted website called **Suralink**.
- All laptops of our audit and tax professionals are encrypted to protect our clients' information.

*Our Managing Partner, Mr. Sanwar Harshwal, is authorized to represent the firm and he is the authorized person to contractually obligate the firm, to negotiate the contract on behalf of the firm and to be contacted for clarifications. He can be reached at 11405 W. Bernardo Ct., Suite A, San Diego CA 92127; Phone No. (858) 784-1622, Fax No. (858) 964-3754 or via an email at [sanwar@harshwal.com](mailto:sanwar@harshwal.com).*

*Harshwal & Company, LLP is a small business enterprise that is SBA 8(a) certified, a GSA vendor and a 100% minority owned CPA firm.*

*We thank you for your consideration and hope that you will provide us with the opportunity to serve your esteemed organization with our services.*

Sincerely,

**Harshwal & Company, LLP**  
**Certified Public Accountants**



**Sanwar Harshwal, CPA, CIA, CISA, CFE**  
**Managing Partner**



**FIRM'S QUALIFICATIONS AND EXPERIENCE**

Harshwal & Company, LLP was founded thirteen years ago and is a locally established firm of CPAs, offering auditing, accounting, management consulting, IT services, and other specialized services to various clients, which consist of special districts, state and local governments, counties, tribes and tribal governments, housing authorities, not-for-profit organizations, and educational entities throughout the United States. Our commitment to our clients has enabled the firm continued growth and success in developing and maintaining strong professional relationships. Our engagement team also has extensive experience in auditing and reviewing financial statements receiving GFOA and CSMFO awards.

The members of the firm have accumulated over four decades of experience in public auditing and accounting, primarily with international certified public firms while employed in high-level supervisory positions. Individually, the partners and management staff are recognized in their respective areas for leadership roles, which they take part in promoting the high ideals of the auditing profession and for producing the highest quality services.

Harshwal & Company, LLP provides services to clients from three (3) locations. San Diego, CA is the location of our head office, and Oakland, CA, and Albuquerque, NM are the location of our branches. Our nearest office to the District, Oakland office will provide audit services to Humboldt Bay Harbor, Recreation and Conservation District. The address and phone numbers for each of our three offices are listed below:

<b>Oakland, CA Office</b>	333 Hegenberger Road, Suite 328 Oakland, CA 94621	Phone: (510) 452-5051 Fax: (510) 452-3432
<b>San Diego, CA Office</b>	11405 W. Bernardo Ct., Suite A, San Diego, CA 92127	Phone: (858) 939-0017 Fax: (858) 964-3754
<b>Albuquerque, NM Office</b>	6565 Americas Pkwy, Suite 800 Albuquerque, NM 87110	Phone: (505) 814-1201 Fax: (505) 395-7581

**Staff Size & Organizational Structure:**

<b>Audit Team</b>	<b>Manpower</b>
Managing Partner	01
Independent Reviewer	01
Additional Partners	01
Audit Manager	02
Operations Manager	01
CPAs and Senior Staff	08
Additional Staff	08
<b>Total</b>	<b>22</b>





## Technical Proposal to Provide Auditing Services

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### Services Provided by the Firm

Harshwal & Company, LLP is a full-service professional firm providing comprehensive services commonly associated with larger firms. The firm is divided into the following departments and provides the following services:

- **Audit Department:** Provides audit services to commercial, governmental and non-profit organizations with a special emphasis on compliance audit in education, health, and housing industries.
- **Accounting Department:** Provides consulting services in setting up businesses and establishing accounting systems, books, and records; assistance in maintaining business records; and preparing financial statements.
- **Tax Department:** Provides a wide range of tax preparation, tax planning, and consulting for corporations, partnership, and individuals.
- **Management Advisory Services:** Our technical knowledge, training, and business experience enable us to provide a broad range of management advisory services, which includes the following:
  - Designing and assisting in the installation of accounting systems to fit the requirements of a particular business.
  - Analyze existing accounting systems and recommend ways to improve controls and efficiency.
  - Assessment, installation, and modification of computer hardware and software systems.
  - Consulting in management information systems.
  - Providing consultation about the use of management information systems for planning and control and the application of accounting and other controls.

### Disciplinary Action or Pending Litigation

Harshwal & Company, LLP's emphasis on quality has rewarded the firm with an excellent track record regarding claims related to professional services. Harshwal & Company, LLP has an impressive history, free of litigation, penalties and debt, and we have no sanctions or restrictions imposed by professional organizations, regulatory authorities or other government institutions. Harshwal & Company, LLP has never been debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or from receiving federal contracts, subcontracts or financial or non financial assistance and benefits, under Executive Order 12549, "Debarment and Suspension" (24 CRT 85.35) or other federal laws, statutes, codes, ordinances, regulations or rules, at any time during the term of the agreement.

### Hold Harmless and Indemnification

Harshwal & Company, LLP have errors and omissions insurance, property and liability and workers' compensation insurance and will indemnify and hold harmless the District from and against all losses and claims in the execution of our work or the consequences of any negligence or carelessness on our part.









Technical Proposal to Provide Auditing Services

License to Practice in California

The firm and all key professional staff are licensed by the State of California to practice as Certified Public Accountants, and meet the Continuing Professional Education requirements under U.S. GAO's Government Auditing Standards to perform the proposed audits.

**CERTIFIED PUBLIC ACCOUNTANT PARTNERSHIP**

REGISTRATION PAR 7299  
RECEIPT NO. 12492026

CALIFORNIA BOARD OF ACCOUNTANCY  
2450 VENTURE OAKS WAY, SUITE 300  
SACRAMENTO, CA 95833  
TELEPHONE: (916) 263-3680  
FACSIMILE: (916) 263-3672

VALID UNTIL OCTOBER 31, 2023

HARSHWAL & COMPANY LLP  
16870 W BERNARDO DRIVE  
STE 250  
SAN DIEGO CA 92127

In accordance with the provisions of Chapter 1, Division 3 of the Business and Professions Code, the firm named hereon is duly registered and entitled to practice as a Partnership.

09/07/21  
09/07/21

----- POST IN PUBLIC VIEW -----

WABPAR 04/12/17

Independence

We are independent of Humboldt Bay Harbor, Recreation and Conservation District as defined by generally accepted auditing standards issued by the U.S. General Accounting Office's Government Auditing Standards. Before accepting any new engagement, we conduct a thorough check to ensure that there are no conflicts of interest or independence issues. This procedure is in compliance with the independence requirements of all regulatory agencies and, specifically, in compliance with the Standard for Audit of Governmental Organizations, Programs, and Activity Functions, as published by the U.S. General Accounting Office (GAO). If selected as your audit firm, we will maintain and monitor our independence as well as reassess our independence with respect to your organization on an annual basis. We will continue to evaluate our independence as your external auditors and will give the City written notice of any professional relationships involving the City and its component unit, if entered into, during the period of the audit contract.

Firm's Most Recent External Quality Control

Harshwal & Company, LLP is a member of the Governmental Audit Quality Center (GAQC) and Employee Benefit Plan Audit Quality Center (EBPAQC) of the American Institute of Certified Public Accountants (the AICPA) and the Center for Audit Quality, an affiliate of the AICPA. One of the requirements of membership in these groups is to have our systems of quality control reviewed by another CPA firm once every three years. Our most recent peer review was completed in 2020, and we received a passing peer review rating.





www.CoughlanNapaCPACo.com  
Company@CoughlanNapaCPACo.com

## Report on the Firm's System of Quality Control

November 25, 2020

To Harshwal & Company LLP and the Peer Review  
Committee of the California Society of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Harshwal & Company LLP (the firm) in effect for the year ended May 31, 2020. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

### Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

### Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

190 Camino Oruga, Suite 1 • Napa, CA 94558 • telephone: 707.255.0677 • fax: 707.255.0687  
Member: American Institute of CPAs • California, Hawaii, & Oregon Societies of CPAs





### **Required Selections and Considerations**

Engagements selected for review included engagements performed under *Government Auditing Standards*, including a compliance audit under the Single Audit Act, and audits of employee benefit plans.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

### **Opinion**

In our opinion, the system of quality control for the accounting and auditing practice of Harshwal & Company LLP in effect for the year ended May 31, 2020, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Harshwal & Company LLP has received a peer review rating of *pass*.

*Coughlan Napa CPA Company, Inc.*

Coughlan Napa CPA Company, Inc.



## Technical Proposal to Provide Auditing Services

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1770 G Street, 4th Floor  
Berkeley, CA 94703  
650-522-3094  
CA-PEER-REVIEW@CALCPA.ORG  
www.calcpa.org

March 01, 2021

Sanwar Harshwal  
Harshwal & Company LLP  
16870 W. Bernardo Dr, STE 250  
San Diego, CA 92127

Dear Sanwar Harshwal:

It is my pleasure to notify you that on February 25, 2021, the California Peer Review Committee accepted the report on the most recent System Review of your firm. The due date for your next review is November 30, 2023. This is the date by which all review documents should be completed and submitted to the administering entity.

As you know, the report had a peer review rating of pass. The Committee asked me to convey its congratulations to the firm.

Thank you for your cooperation.

Sincerely,

*Peer Review Committee*

Peer Review Program  
The Peer Review Program Team  
peerreview@calcpa.org  
650-522-3094

cc: Constance Coughlan

Firm Number: 900005526362

Review Number: 578635





## Technical Proposal to Provide Auditing Services

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### Equal Opportunity Employer

Harshwal & Company, LLP is an equal employment opportunity employer and is in compliance with the Civil Rights Act of 1964, the State Fair Employment Practice Act, and all applicable federal and state laws and regulations relating to equality. We prohibit discrimination of qualified persons based on race, religion, color, sex, age, national origin, disability, sexual orientation, military status, or any other characteristic protected by applicable federal, state, or local law.

### Non-Discrimination Clause

During the performance of this agreement, we will not deny the agreement's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, sexual orientation, physical or mental disability. Furthermore, we will not discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sexual orientation, physical or mental disability, medical condition, marital status, age, or sex. We will ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

### Conflict of Interest Statement

Harshwal & Company, LLP does not have any past or current business or other relationship with the District. We also hereby agree that no member, officer, or employee of the District, no member of the local governing body of the locality in which the District is located and no other public official who exercises any function or responsibilities with respect to the District, during the tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

### Subcontract

We assure the District if we are selected as your auditors, we will not delegate or subcontract our responsibility without written consent of the District.

### Insurance Requirements

We will maintain such insurance coverage during the period of engagement. Harshwal & Company, LLP maintains the following insurance:

- 1) Professional liability for \$2,000,000 per claim and \$4,000,000 aggregate. The carrier is CAMICO Mutual Insurance Company.
- 2) Commercial general liability and property damage for \$2,000,000 per occurrence and \$4,000,000 aggregate. The carrier is Sentinel Insurance Company Ltd.
- 3) Automobile liability for \$2,000,000. The carrier is Sentinel Insurance Company Ltd.
- 4) Workers' compensation (statutory amounts and limits) insurance carrier is Hartford. The limit of the liability is \$1,000,000.









## FIRM'S TECHNICAL EXPERIENCE

Harshwal & Company, LLP has performed numerous audits of special districts, state and local governments, counties, tribes and tribal governments, housing authorities, not-for-profit organizations, and educational entities etc, that are subject to financial and compliance audits. Our firm have served the following related clients, many of which are comparable in size to Humboldt Bay Harbor, Recreation and Conservation District.

### Special Districts

- Sunrise Recreation & Park District
- Valley of the Moon Water District
- Burbank Sanitary District
- Goshen Community Services District
- Aromas Tri-County Fire Protection District
- Cypress Fire Protection District
- South Monterey County Fire Protection District
- Rodeo-Hercules Fire District
- Artesia Cemetery District
- Big Rock community service district
- Buena Park Library District
- Central Basin Municipal Water District
- Del Norte Library District
- Gasquet Community Services District
- Paradise Recreation and Park District
- Plumas County Community Development Commission
- San Dieguito River Park Joint Powers Authority
- Smith River Fire Protection District
- Guadalupe Coyote Resource Conservation District
- San Miguel Community Services District
- Yolo Local Agency Formation Commission
- Alameda County Fire Department
- SCC Center Fire Protection District
- Oakland-Alameda County Coliseum Authority
- Los Altos Hills County Fire District
- Santa Clara County Sanitation District 2-3
- Alameda County Community Development Department
- Solano County Local Transportation Fund
- Mission Oak Park and Recreation District
- El Rancho Simi Cemetery District
- Saratoga Fire Protection District
- Lions Gate Community Service District
- Alameda County Law Library
- Fort Dick Fire Protection District
- Cupertino Sanitary District
- Border Coast Regional Airport Authority
- Del Norte Solid Waste Management Authority
- Coastside Fire Protection district
- Bardsdale Cemetery District
- Border Coast Regional Airport Authority
- Carmel Highlands Fire Protection District
- Crescent Fire Protection District
- Del Norte Local Transportation Commission
- Loma Prieta Resource Conservation District
- Perris Valley Cemetery District
- Redwood Empire Dispatch Communications Authority
- Santa Clara County Vector Control District
- West Contra Costa Integrated Waste Management Authority
- First 5 Inyo County
- First 5 Santa Cruz County
- Ambrose Recreation and Park District
- South Santa Clara Co. Fire District
- Menlo Park Fire Protection District
- Los Medanos Community Health Care District
- Alameda County Housing and Community Development
- East Palo Alto Sanitary District
- Fox Canyon Groundwater Management Agency







**State and Local Governments**

- County of Del Norte
- City of San Mateo
- Town of Apple Valley
- City of Sanger
- City of Oakland
- City of East Palo Alto
- City of Crescent City
- City of Vallejo
- County of Santa Clara
- Cibola County
- Sierra County
- First 5 Santa Cruz County
- First 5 Inyo County
- First 5 Alameda County
- First 5 Marin Children & Families Commission
- First 5 Monterey County
- First 5 San Bernardino
- Town of Edgewood
- Town of Springer
- Town of Mesilla
- Town of Cochiti Lake

**COUNTIES**

**Del Norte County**

- Del Norte County
- Del Norte County Solid Waste Management Authority

**Santa Clara County**

- Single Audit (Sub Contractor)
- County of Santa Clara JTPA Program
- Mental Health Short Doyle Program
- Sheriff's Department – Inmate Welfare Fund

**County of San Mateo**

- JTPA Program
- Menlo Park Fire Protection District
- Department of Community Services

**Santa Cruz County**

- Single Audit
- Mental Health - Short Doyle Program

**Solano County**

- City of Vallejo (Sub Contractor)
- Local Transportation Fund
- Mental Health - Short Doyal Program

**Contra Costa County**

- Public Works Department
- Emergency Medical Services





County of Alameda

- Alameda County Housing and Community
- Community Based Organization Audits
- Development and Lead Poisoning Prevention
- Alameda County Public Works Department
- Alameda County Housing and Community Development - Bond Audit
- Alameda County Social Services - Food Stamp
- Oakland-Alameda County Coliseum Authority
- Alameda County Health Care Services Agency
- Alameda County Auditor-Controller's Agency
- City of Oakland, Office of Public Works
- Alameda County Fire Department
- Alameda County Transportation Authority

Housing Entities

- Santa Clara Pueblo Housing Authority
- Housing Authority of the County of San Mateo
- City of Eureka Housing Authority
- Housing Authority of County of San Mateo
- Santa Clara Pueblo Housing Authority
- Greyhills Academy High School
- Eastern Regional Housing Authority
- White Mountain Apache Housing Authority
- Housing Authority of the City of Benicia
- Housing Authority of the County of Alameda
- Santa Clara Pueblo Housing Authority
- County of Humboldt Housing Authority
- Housing Authority of the County of Alameda
- Sisseton Wahpeton Housing Authority
- Housing Authority of the City of Port Hueneme
- Housing Authority of the County of Butte
- Housing Authority of the City of Richmond
- Pueblo of San Felipe Housing Authority

Educational Entities

- Pleasant Valley School District
- Lamont School District
- Conejo Valley Unified School District
- Sacramento Valley Charter School
- EL Segundo Unified School District
- Richland School District
- La Honda-Pescadero Unified School District
- Ravenswood City School District
- Napa Valley Unified School District
- Fairfield-Suisun Unified School District
- Benicia Unified School District
- Belmont-Redwood Shores School District
- Azusa Unified School District
- Spark\* SF Public Schools
- Nazlani Community School
- Pinon Community School, Inc.
- First Mesa Day School
- San Mateo - Foster City School District
- Brisbane School District
- Jefferson School District
- San Bruno Park School District
- Jefferson Union High School District



## Technical Proposal to Provide Auditing Services

### Private Entities

- Optimize Infrastructure, LLC
- Newport Holdings, L.P.
- TerraVerde Energy, LLC
- The Good Earth Organics, Inc.
- Tots Of Love Child Development Center, LLC
- Eureka Housing Associates, LP
- Nelson Trucking Partners, LLC
- Juana Care Facility, LLC
- Solace Supportive Living, Inc.
- The Child Day Schools, LLC
- Thomas Jee & Associates, Inc.
- Vvd Partners, LLC
- RADAR Creative

### Pension Plan Clients

- Akshaya Inc.(401K)
- Burning Man Project (401k) Plan
- Fulfilment Systems, Inc. (401)
- Hammer Prep (401k) Plan
- Kai Ming, Inc. (403B)
- Kickapoo Tribe of Oklahoma (401K) Plan
- Mission Neighborhood Centers (403B) Plan
- Sysintelli, Inc. (401k) Plan
- The Athenian School (403B) Plan
- Baker's (Retirement Plan-403 B)
- East Bay Agency for Children 403(b)
- Fundbox Inc. (401)
- Hog Island Oyster Company (401k) Plan
- Luxesphere Holdings, Inc. (401k) Plan
- Native American Health Center, Inc. (403B)
- Skywalker Properties (401k) Plan
- Storage Pro (401k) Plan
- United Indian Health Services, Inc. (403B) Plan

### Tribes and Tribal Entities

- Sac and Fox Nation
- KTNN Native Broadcast Enterprise
- K'ima: w Medical Center
- Robinson Rancheria Band of Pomo Indians
- Village of Shungopavi
- Kykotsmovi Village
- California Tribal T.A.N.F Partnership
- La Jolla Band of Luiseño Indians
- Big Sandy Rancheria
- Village of Sichomovi
- Kickapoo Tribe of Oklahoma
- Timbisha Shoshone Tribe
- Omaha Tribe of Nebraska
- Kashia Band of Pomo Indians of the Stewarts Point Rancheria
- Kickapoo Tribal Health Center of the Kickapoo Tribe of Oklahoma
- Yuwehloo Pahki Community
- Hoopa Valley Tribe
- Pauma Band of Luiseno Mission Indians
- San Luis Rey Indian Water Authority
- Sipaulovi Village
- Cloverdale pomo band of Indians





### Non-Profit Organizations

- Manzanita Charter School
- San Diego Civic Youth Ballet
- San Francisco Community Clinic Consortium
- Greater Farallones Association
- Santa Clara Teacher Housing Foundation
- Mother Lode Job Training
- Eden United Church of Christ
- Ruckus Society
- Hopi Credit Association
- Health and Human Resource Education Center
- California Hispanic Chambers of Commerce
- California Municipal Utilities Association
- New Bridge Foundation
- San Diego Organizing Project
- Family Paths, Inc.
- Santa Cruz County Parents Association
- Consolidated Tribal Health Project Inc.
- Mnc 1240 Valencia Inc.
- A & I Express Inc.
- A&I Transport Inc.
- Access Reproductive Justice
- Alameda County Deputy Sheriffs Activities League
- Baker's Palace
- California College Of Communications, Inc.
- Center For Third World Organizing
- Center for Youth Development through
- LawConsolidated Tribal Health Project, Inc.
- Countywide Alcohol and Drug Services, Inc.
- Crowden Music Center
- Digital Democracy
- East Oakland Switchboard
- Family Bridges Inc.
- Gallup Inter-Tribal Indian Ceremonial Association, Inc.
- Hopi Credit Associations
- IIT Kanpur
- IIT Bombay Heritage Foundation
- IIT Madras Foundation
- United Way of Santa Cruz County
- ICON Community Development Corporation
- Oakland Metropolitan Chamber of Commerce
- Gluon Solutions, Inc.
- Youth Together, Inc.
- TerraVerde Energy
- Luxesphere Holdings, Inc. and Subsidiaries
- FOOD FIRST/Institute for Food & Development
- Chinese for Affirmative Action
- RFHC Bay Pulgas Landowner, Inc.
- Institute for Molecular Medicine
- Key Educational Group
- Oakland Community Organizations, Inc.
- South County Community Health Center, Inc.
- Native American Health Center, Inc.
- Community Clinic Consortium
- Allen Temple Baptist Church
- American Federation Of State, County & Municipal Employees Local 2428
- American Nonsmokers' Rights Foundation
- Anti Terror Project, Inc.
- Artequity Community
- California Hispanic Chambers Of Commerce Foundation
- Carbon Offsets to Alleviate Property
- Centro Latino de San Francisco
- Community Health Partnership, Inc.
- Court Appointed Special Adocates Program, Inc.
- DayBreak Adult Care Centers
- Dominican Sisters Vision of Hope
- Eden Area Foundation
- Faith in Action Bay area
- Grand Lodge of California
- Heffernan Foundation
- Hiawatha Harris M.D, Inc.
- Just Cities Institutes
- Lakeshore Avenue Baptist Church







## *Technical Proposal to Provide Auditing Services*

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- Maisha Meds, Inc.
- Mary Magdalene Community Services
- New Mexico Cancer Care Alliance
- Pacific Center for Human Growth
- Rwanda School Project
- San Francisco BayKeeper
- Solano Coalition for Better Health
- The Estria Foundation
- Tohatchi Area of Opportunity & Services, Inc.
- Women's Daytime Drop-In Center
- St. James Infirmary
- Redwood Region Economic Development Commission
- Veterans Accession House
- Mission Language & Vocational School
- North County Lifeline Inc.
- Our Common Ground Inc.
- Pawnee Nation College
- Redwoods Rural Health Center
- Sikh Gurdwara San Jose
- Sustainable Economies Law Center
- Sustainable Sciences Institute
- V- Day
- Vascular Cures and Pacific Vascular Research Institute
- El Centro de Libertad/The Freedom Center
- San Carlos Apache Relending Enterprise
- Chinese For Affirmative Action





## REFERENCES

The best indicator of our ability is our success in meeting the needs of our current and past clients. We encourage you to contact these references to inquire about the quality of our services, their overall satisfaction, the effectiveness of our accounting and auditing approach, the abilities of our professionals, and the timeliness and overall value of our services. We would be happy to provide additional references upon request, if you would like.

### 1. Rodeo Hercules Fire Protection District

- **Scope of Work:** Audit and preparation of the Basic Financial Statements and ACFR presentation.
- **Date of Services:** Fiscal years ended June 30, 2017 to present
- **Engagement Partner:** Sanwar Harshwal, Managing Partner
- **Principal Contact:** Getachew Demeku-Ousman  
Address: 1680 Refugio Valley Road, Hercules CA 94547  
Phone Number: (510) 799-4561  
E-Mail: [gdemeku@gmail.com](mailto:gdemeku@gmail.com)

### 2. Cupertino Sanitary District

- **Scope of Work:** Audit and preparation of the Basic Financial Statements and ACFR presentation.
- **Date of Services:** Fiscal years ended June 30, 2015 to present
- **Engagement Partner:** Sanwar Harshwal, Managing Partner
- **Principal Contact:** Lorie Yako, Accounting Specialist  
Address: 20863 Stevens Creek Boulevard, Suite 100 Cupertino, CA 95014  
Phone Number: (408) 477-7319  
E-Mail: [lyako@markthomas.com](mailto:lyako@markthomas.com)

### 3. Buena Park Library District

- **Scope of Work:** Audit and preparation of the Basic Financial Statements
- **Date of Services:** Fiscal years ended June 30, 2020 to present
- **Engagement Partner:** Sanwar Harshwal, Managing Partner
- **Principal Contact:** Marina Tutty, Business Officer  
Address: 7150 La Palma Ave. Buena Park, CA 90620  
Phone Number: (714) 826-4100  
E-Mail: [businessofficer@buenapark.lib.ca.us](mailto:businessofficer@buenapark.lib.ca.us)





**RODEO-HERCULES FIRE PROTECTION DISTRICT**  
1680 REFUGIO VALLEY ROAD, HERCULES, CALIFORNIA 94547  
(510) 799-4561 FAX: (510) 799-0395

Re: Professional Reference for Harshwal & Company, LLP

To Whom It May Concern:

I am pleased to offer an enthusiastic recommendation for retention of Harshwal & Company, LLP (HCLLP).

Rodeo Hercules Fire Protection District has been engaged with HCLLP to perform a Financial Statement Audit throughout the tenure. I have found the HCLLP team to be knowledgeable, professional, and easy to work with. They are always responsive and solution-oriented.

My personal belief is that HCLLP offers a unique perspective and approach to auditing, in that they take the time to fully understand the individual nuances of similar but distinct reporting entities. This enables them to generate a meaningful client dialogue about the accuracy of their work, and more importantly the completeness of the financial reporting that they oversee. I believe that HCLLP is especially cost competitive with their peers, due to the time efficiencies generated by their investment in computerized and electronic work papers.

Please do not hesitate to call upon me directly at (510) 799-4561 for additional information regarding HCLLP.

Sincerely,

Fire Chief Bryan Craig  
Rodeo Hercules Fire Protection District



## Technical Proposal to Provide Auditing Services

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DISTRICT MANAGER-ENGINEER  
MARK THOMAS & COMPANY, INC.  
BENJAMIN T. PORTER, P.E.

DISTRICT COUNSEL  
ARMENTO & HYNES, LLP  
MARC HYNES



20863 STEVENS CREEK BOULEVARD, SUITE 100  
CUPERTINO, CALIFORNIA 95014-2154  
PHONE (408) 253-7071 • Fax (408) 253-5173

BOARD OF DIRECTORS  
JOHN M. GATTO  
WILLIAM A. BOSWORTH  
PATRICK S. KWOK  
ANGELA S. CHEN  
TAGHI S. SAADATI

Re: Professional Reference for Harshwal & Company, LLP

To Whom It May Concern:

Cupertino Sanitary District and Harshwal & Company, LLP have had a great working relationship over the last years. We have worked together and I have found their staff to be very professional, articulate, knowledgeable and dedicated. Their staff is always willing to help us with any questions we may have, responding in a prompt and courteous manner.

HCLLP has provided us with excellent services and has the amount of experience and qualification required for the job assigned. I have found HCLLP cost competitive with their peers, due to the time efficiencies generated by their investment in computerized and electronic work papers. In short, they are willing to go the extra mile in order to ensure we are satisfied and happy.

I highly recommend HCLLP for their excellent staff, integrity, professionalism and performance.

Please feel free to contact me directly at (408) 477-7319 with any questions you may have.

Sincerely,

Lorie Yako  
Accounting Specialist  
Cupertino Sanitary District

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SUPPLYING SANITARY SEWERAGE SERVICES FOR: CITY OF CUPERTINO, PORTIONS OF THE CITIES OF SARATOGA, SUNNYVALE,  
LOS ALTOS AND SURROUNDING UNINCORPORATED AREAS







## BUENA PARK LIBRARY DISTRICT

ESTABLISHED IN 1919

Re: Professional Reference for Harshwal & Company, LLP.

To Whom It May Concern:

I am writing this letter to recommend to you the excellent services provided by Harshwal & Company, LLP (HCLLP).

Buena Park Library District has been engaged with HCLLP to perform financial statement audit and has had a great working relationship and experience. The HCLLP team is knowledgeable, professional, and easy to work with. They are very responsive and solution-oriented. Also, they do critical research so they would give the best solutions for critical issues.

I appreciate their willingness to help with any questions we may have, responding promptly and courteously.

They utilize the latest technology to provide the most up-to-date information to serve our organization. I have found HCLLP cost-competitive with their peers, due to the time efficiencies generated by their investment in computerized and electronic work papers. In short, they ensure that we are satisfied and happy and are willing to go the extra mile.

I highly recommend HCLLP for its excellent staff, integrity, and performance.

Please feel free to contact me directly at 714-826-4100 (ext. 130) with any questions you may have.

Sincerely,

Marina Tutty  
Business Officer  
businessofficer@buenapark.lib.ca.us  
Buena Park Library District





**STAFF QUALIFICATIONS AND EXPERIENCE**

The expertise and experience of Harshwal & Company, LLP's partners and personnel are at the core of the firm's excellence in performing audits of special districts. Harshwal & Company, LLP has experience providing exceptional client service and high-quality audit services through comprehensive knowledge and understanding of governmental accounting standards.

**Staff Continuity over the Term of the Agreement**

We focus on our team members as well as our clients. Our turnover is significantly lower than other national and regional service firms. This staff continuity enables us to develop and maintain an in-depth understanding of your operations, management style and operating practices, which ultimately allows us to offer you experienced resources, value-added services, industry specialization, and overall better personal service. This commitment to people also resides at our executive level where you will find a refreshingly greater hands-on approach compared to other service providers. Our culture stresses the importance of executive presence throughout projects and engagements.

**Key Personnel Assigned to Audit Team**

Name of Team Member	Role	Experience
Sanwar Harshwal, CPA, CIA, CISA, CFE License No. 5953	Managing Partner	38+ Years
Phyl Warnock, CPA	Independent Reviewer	24+ Years
Mariem Tall	Audit Manager	9+ Years
Samson Reda, CPA License No. 50178	Senior Auditor	8+ Years
Kinjal Patel, CPA License No. 149720	Senior Auditor	5+ Years

Almost all of our assigned key personnel are licensed to practice as a Certified Public Accountant. In addition to the key personnel listed, additional staff will be assigned from our pool of highly qualified professionals.

*We assure you regarding the quality of staff over the term of the engagement. We will not replace audit personnel except with prior written permission of the District. In case we change, we will provide replacements having better qualifications and experience.*

**Overall Supervision to be Exercised**

The audit will be managed by the Firm's audit manager, Mariem Tall, who has extensive experience in audits of special districts. Mariem Tall has been in charge of various large audits, governmental funded programs, and community-based organizations receiving federal and state funds.





## AUDIT TEAM RESPONSIBILITIES

<u>Name/Position</u>	<u>Responsibility</u>
<b>Sanwar Harshwal, CPA Managing Partner</b>	<p>Sanwar Harshwal will be the managing partner in charge of administration, reviews, planning of the audit, approval of the audit scope and work, and review of work and liaison with the District. He is responsible for conducting the fieldwork, coordination of the audit plan, and ensuring that the plan formulated has been effectively followed and managed. He will coordinate with the manager and supervisor for proper fieldwork progress. He will also manage and organize the audit team's effort and ensure the various audit components are performed efficiently.</p> <p>He also has the responsibility for meeting with the District's management to keep them informed regarding the progress of the audit. The responsibility also extends to ensure smooth interaction of the firm with the District. He will supervise the conduct of the engagement, and assumes full responsibility for the work performed.</p>
<b>Phyl Warnock, CPA Independent Reviewer</b>	<p>Phyl R. Warnock is responsible for reviewing staff work papers, prepare findings and recommendations, document internal controls, designing test procedures and ensuring compliance with auditing standards. He has extensive experience and will also be managing the staffing assignment for the engagement to meet deadlines.</p>
<b>Mariem Tall Audit Manager</b>	<p>Mariem Tall is in charge of planning the audit, review of the audit work, and guidance of the audit. She is responsible for conducting the fieldwork in conjunction with the lead auditor, to ensure coordination of the audit plan, providing instruction and coordination to senior and staff auditors on the District systems, on site reviews, and assistance in the report.</p>
<b>Samson Reda, CPA Senior Auditor</b>	<p>Samson Reda, is a senior auditor in the firm's audit group and in charge of the fieldwork. He will be responsible for preparation and maintenance of various work-papers required for audit report preparation.</p>
<b>Kinjal Patel, CPA Senior Auditor</b>	<p>Kinjal Patel will perform studies, tests, reviews and analysis of financial statements and will be responsible for preparation of various work-papers required for audit report preparation.</p>







## **AUDIT TEAM RESUMES**

### **SANWAR HARSHWAL, CPA Managing Partner**

Sanwar Harshwal is the managing partner of Harshwal & Company, LLP. He is a globetrotter and a trained technical speaker on auditing and global accounting standards, IT and internal controls, on fraud prevention, and on examinations and internal audits. With over 38+ years of experience with governmental auditing engagements, Mr. Harshwal is also a leading expert on emerging accounting challenges for special districts. Mr. Harshwal has attended AICPA seminars on GASB's New Financial Reporting Model and Financial Statements of School Districts.

During the last 5 years, Mr. Harshwal has provided over 400 hours of training to several professionals on GASB, GAS, Uniform Guidance, FASB, SAAS, GAGAS, Pension Plan audits, COSO, COBIT, internal audits, fraud prevention and examination and tribal governmental governance issues. In addition to having significant experience in audits, strategic assessments of accounting functions, and internal control structures, Mr. Harshwal has extensive experience in evaluating complex accounting and finance issues. He has proficient knowledge of using CaseWare, CaseView, CaseWare IDEA software and other automated tools.

#### **Education:**

- B.S. Business Accounting
- Bachelor of Law

#### **Certification:**

- Certified Public Accountant - State of California (CPA)
- Certified Public Accountant - State of New Mexico (CPA)
- Certified Public Accountant - State of Arizona (CPA)
- Certified Public Accountant - State of Washington (CPA)
- Chartered Accountant - The Institute of Chartered Accountants of India
- Certified Information System Auditor (CISA)
- Certified Fraud Examiner (CFE)
- ORACLE Financial Consultant (Oracle Business Suite)
- Chartered Global Management Accountant (CGMA)
- Certified Risk Management Assurance (CRMA)
- Certified Construction Auditor (CCA)

#### **Professional Membership**

- Member of AICPA
- Member of California CPA Society of Certified Public Accountants
- Member of Information Systems Audit and Control Association, USA
- Member of Association of Certified Fraud Examiners, USA
- Member of Institute of Certified Internal Auditors
- Member of National Association of Construction Auditors
- Member of NM CPA Society





## ***Technical Proposal to Provide Auditing Services***

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### **PHYL WARNOCK, CPA** **Independent Reviewer**

Phyl Warnock is an independent reviewer and have over 24+ years experience in performing financial audits, reviewing staff work papers, writing financial statements, preparing findings and recommendations, documenting internal controls and redesigning test procedures. Phyl has performed financial audits of special districts, state and local governments, non-profit organizations, municipalities and has working knowledge of GAAP used during audits & financial statement preparations. He will be responsible for reviewing the work papers and final audit reports.

#### **Education:**

- Masters of Business Administration
- Bachelors of Science in Accounting

#### **Certification:**

- Certified Public Accountant - State of Utah (CPA)

### **MARIEM TALL** **Audit Manager**

Mariem Tall is an audit manager and has been employed with Harshwal & Company, LLP for nine years. She has been engaged in numerous audits and accounting engagements of special districts, school district, not-for-profit organizations, State and Local Governments, tribes and tribal governments, and housing authorities. She provides support to the senior auditor and staff during the period of the engagement and performs detailed audit procedures on financial statement account balances. She prepares and adjust work papers from the client's trial balance, executes day-to-day activities of audit engagements for clients, and interacts with client personnel when needed. She performs audit testing activities; documents processes and findings; verifies assets and liabilities in accordance with audit programs; follows documentation standards; and prepares clear, concise, and orderly working papers. She has proficient knowledge of using CaseWare, CaseView, CaseWare IDEA Software and other automated tools.

#### **Education:**

- Bachelors of Science in Accounting

### **SAMSON REDA, CPA** **Senior Auditor**

Samson Reda is a senior auditor at Harshwal & Company, LLP and has eight years of experience in auditing and providing accounting services to special districts, state and local governments, educational entities, housing authorities, not-for-profit organizations, and tribes and tribal governments. He is an expert in data analysis and reconciliation and his experience includes auditing, the recording and analysis of account transactions; establishing accounting records; reconciliation of cash balances; implementation of accounting controls; and statistical reports. He also conducts sampling, testing and is well experienced in performing audits in accordance with attestation standards established by the AICPA. He has proficient knowledge of using CaseWare, CaseView, CaseWare IDEA and other automated tools. He will assist in directing the staff and specialize in the timely completion of the audit.





## Technical Proposal to Provide Auditing Services

### **Education:**

- BA in Accounting

### **Certification;**

- Certified Public Accountant - State of Virginia (CPA)

### **KINJAL PATEL, CPA**

#### **Senior Auditor**

Kinjal Patel is a senior auditor. She has been engaged with several audits and accounting engagements of special districts, state and local governments, educational entities, housing authorities, not-for-profit organizations, and tribes and tribal governments. Kinjal is proficient in the operating nuances of accounting and auditing packages and demonstrates up-to-date knowledge of auditing and accounting pronouncements. Kinjal has worked on financial and compliance engagements under the Single Audit Act of 1984 and OMB Circular (Uniform Guidance). She has proficient knowledge of using CaseWare, CaseView, CaseWare IDEA software and other automated tools.

### **Education:**

- Master of Business Administration in Accounting

### **Continuing Professional Education**

Because we are committed to the industries we serve, we provide our professionals with specific, ongoing training. This investment ensures our people stay current on the unique challenges and opportunities within the industry sectors so that they are in the best position to help clients address these issues.

Firm wide, our continuing professional education program (CPE) requires all professional staff obtain education that exceeds the requirements of the American Institute of Certified Public Accountants (AICPA) and where applicable, Government Auditing Standards. Harshwal & Company, LLP places a strong emphasis on lifelong learning and recognizes the importance of developing our professionals to best serve our clients.

### **The following table details CPE hours for each key member of the proposed audit team:**

<b>Audit Team Member</b>	<b>Governmental CPE</b>	<b>Non-Governmental CPE</b>
<b>Sanwar Harshwal, CPA, CFE, CISA, CFE License No. 5393</b>	<b>140</b>	<b>124</b>
<b>Phyl Warnock, CPA</b>	<b>25</b>	<b>42</b>
<b>Mariem Tall</b>	<b>113</b>	<b>67</b>
<b>Samson Reda, CPA License No. 50178</b>	<b>80</b>	<b>56</b>
<b>Kinjal Patel, CPA License No. 149720</b>	<b>58</b>	<b>28</b>







## AUDIT APPROACH

### Scope of Work:

At Harshwal & Company, LLP, our professionals have extensive experience performing audits of special districts and our team has a broad understanding of the work environment that is necessary to conduct an audit of the financial statements of the District. We understand that you require us to perform an audit of the financial statements of the District for the fiscal years ending June 30, 2023, through June 30, 2025 with an option to extend for two (2) subsequent years. We will adhere to the requirements of the RFP and will be performing the following tasks (including, but not limited to):

- We will perform audit of the District's financial statements in accordance with generally accepted governmental auditing standards set forth by the American Institute of Certified Public Accountants, Government Auditing Standards Issued by the Comptroller General of the United States; and the State Controller's minimum requirements for California Special Districts.
- We will provide following supplemental information that is required as a part of the auditor(s)' reports:

#### Statement of Revenue and Expenses

- Unrestricted and Tidelands Trust
- Marina and General

#### Statement of Budgeted and Actual Expenses

- Marina
- General

- We will prepare a Management Letter which will include findings, statements, observations, opinions, comments or recommendations with regards to:
  - Systems of internal control.
  - Accounting systems, functions, procedures, and processes aimed at automation.
  - Compliance with laws, rules, and regulations.

### Other Requirements

- We will be available to present the audited financial statements to the District's Board of Commissioners at a regularly scheduled Board meeting.
- We will supply one (1) unbound reproducible master of the completed audit.
- We will supply a minimum of 3 bound copies of the completed audit, including supplemental reports.
- We will be available for telephone consultations with the Executive Director, Director of Administrative Services and District Treasurer throughout the year, as needed, to provide guidance on various accounting matters at no additional cost.
- We will be available to make presentations and answer questions when the Annual Financial Statements are presented to the District Board of Commissioners.





## Technical Proposal to Provide Auditing Services

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### Understanding of the Project to be Performed

The two most critical components of the audit are (1) to have continuity and consistency among the auditors involved and (2) to have the entire audit team, from partners to staff, understand and be aware of the technical requirements for the engagement. Therefore, careful audit planning is emphasized along with written instructions, and a comprehensive workshop is carried out for the staff engaged. We have ascertained that this effort not only serves to state the line of organization and responsibility from the commencement but also serves to discuss the areas of concern and applicable audit techniques to be adopted in the examinations proposed to be conducted.

Our plan will involve a comprehensive entrance meeting with the District's audit committee and management. During this phase, we hope to establish the timetable for the examination and identify dates for future meetings to report on our progress in the examination. Shortly thereafter, the partners and an audit manager will meet with the District Manager and Finance Director to be able to obtain a more detailed outline of the District's financial systems and processes. This will help us to determine the extent and concentration of our audit effort, obtain knowledge and an understanding of the legal and reporting requirements by obtaining pertinent statutes, regulations, charter provisions, bond coverage and other requirements. The meeting will serve as a guideline to prepare and outline our audit-planning memorandum and the audit plan. Upon completion of the audit plan, we will meet with the District Officials to go over our plan. During the meeting, we hope to share our understanding of the audit approach and fine-tune the dates of commencement, the assistance available to us, the assistance the District may need from us, and the introduction of the audit team seniors to the District Officials.

In the next step, a conference will be initiated by the audit team to be assigned. The conference will serve as a platform to share our audit plan and programs, discuss areas of concern, identify audit teams and dates, and address any and all pertinent questions from our staff.

### Specific Audit Approach

Our audit process begins with the assignment of staff to the engagement. Our engagement team has the expertise to provide the level of service desired and deserved by your organization. Our engagements are supervised by the engagement partner and an audit manager. As high-level involvement is vital to a quality audit, the partner and manager's time will account for approximately 30% of the total hours spent on the engagement. Our team's approach is to be efficient, yet non-intrusive. We believe on-going communication throughout the entire audit will ensure that all aspects of the audit are thoroughly addressed. We encourage regular communications throughout the year, not just during fieldwork. As such, we do not anticipate any potential audit problems to arise during our engagement.

### Audit Planning — Interim Phase

Our audit planning process includes a risk assessment of the District and a review of the control environment. We begin with a pre-planning meeting to ensure that management's expectations and our expectations are communicated prior to commencing the audit. We will confirm our understanding of the engagement deadlines and ensure these are met in a timely manner. In addition, we will provide a list and samples of schedules specifically tailored to Humboldt Bay Harbor, Recreation and Conservation District to aid the District's staff in preparing schedules and providing audit documentation.







## Technical Proposal to Provide Auditing Services

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### Risk Assessment — Interim Phase

As part of our extensive planning phase, the engagement team will discuss with management issues surrounding the applicable industry, the District's internal and external environment, significant events, as well as economic, political, and social factors to determine and document areas of risk. Once areas of risk have been identified, the next process will be to review the control environment.

### Control Environment — Interim Phase

We will document and test the following control processes to evaluate their effectiveness in preparing reliable financial statements:

- Disbursements
- Receipts
- Payroll
- IT and general computer controls
- Financial reporting
- Journal entry process
- Federal and state programs

Based on our understanding of the District's risks and control environment, we will design our substantive procedures and communicate our audit approach to management. As part of our review and documentation of the control environment, we may have recommendations for enhancing controls and/or efficiencies. These recommendations will be discussed with management prior to any comments included in a formal management letter.

### Laws and Regulations

We will review the laws and regulations covering the District's grants and major programs as part of any Single Audit testing if applicable. Based upon our inquiries with the District staff we will determine the relevant laws and regulations that will be subject to additional test work.

### Substantive Procedures — Year End Phase

Substantive audit procedures are designed based on our risk assessment process. Complex and high-risk accounts will be identified early in the audit process and these accounts will be assigned to the manager and/or partner for actual testing. Our substantive audit procedures will include the following:

- Tests of account details — Detail transaction testing to source documentation
- Analytical procedures — Ratio analysis, variance analysis, trend analysis
- Use of data analysis software — Review of large volumes of data to detect anomalies
- Unpredictability tests — Varying timing and extent of tests
- Review of management's estimates — To determine the reasonableness
- Review of subsequent events and contingencies — For proper adjustment and footnote disclosure

### Drawing Audit Samples (for tests of compliance)

Auditor judgment will be used in selecting our audit samples for tests of compliance work. The majority of the testing of compliance will be centered around the single audit testing (if applicable) of the direct and material elements for the major programs.





## Technical Proposal to Provide Auditing Services

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### Preparation of Audit Report and Review — Year-end Phase and Wrap-up Phase

Audit work papers are reviewed throughout the audit by an audit manager and engagement partner. Before we leave your offices, the file will be substantially reviewed and any issues will be discussed and resolved. The financial statements are prepared by the audit manager. All reports are reviewed by the engagement partner and concurring partner. Upon approval, we will issue drafts of all reports based on the District's predetermined schedule as indicated in the Request for Proposal. This will allow adequate time for the review and distribution of reports.

### Audit Sizes and Statistical Sampling Techniques

Audit sampling provides the auditor with an appropriate basis on which to conclude on an audit area by examining evidence from a sample of a population. We utilize both statistical and non-statistical-sampling techniques as described in the AICPA's Audit Sampling Guide, depending on the type of testing being performed. Internal control, substantive, and compliance testing samples are generally selected using non-statistical techniques. Sample sizes are determined by risk assessment and nature of the population. We may use statistical sampling to assist with forensic testing in areas, which have a higher risk of misstatement due to fraud.

### Working Paper Retention and Access to Working Papers

We will retain audit working papers for a minimum of seven (7) years unless we are notified in writing by the District of the need to change the retention period. In addition, we will respond to reasonable inquiries of the District and successor auditors, and allow the District its cognizant agent, the State audit agencies and successor auditors to review working papers relating to matters of continuing accounting significance.

### Technological Advantages

We utilize the latest technology, including virtual servers, smart devices, and online libraries, to provide us with the most up-to-date information to better serve our clients. Our online client portal *Suralink*, allows us to send and receive information to and from our clients faster and more securely. As portals are encrypted and use password protection to ensure that data can only be viewed by the appropriate client, we are dedicated to protecting the District's confidential information. Furthermore, we streamline our audit process and organize support documents through the use of the paperless audit program - CaseWare Working Papers. By effectively reviewing large volumes of data through these programs, we can develop a better understanding and gain a broader view of Humboldt Bay Harbor, Recreation and Conservation District. These technologies enable us to increase both the scope of our engagement and the reliability of our audit opinion more efficiently, as a larger amount of information can be processed, analyzed, and interpreted in a shorter time frame.

### Management Letter

Communication with management is crucial since it is essential to hear your concerns and comprehend the financial records to have a complete and thorough understanding of business operations. Management confirmation is required on all information contained within the financial statements to ensure that they are true and accurate and that all information has been properly disclosed. We will review all significant audit findings with the District as the work proceeds and once on completion of our audit procedures.





## Technical Proposal to Provide Auditing Services

It is standard practice for our firm to produce a management letter in conjunction with each engagement. The audit process provides an opportunity to assess performance and trends, to identify opportunities to improve internal controls and/or accounting efficiency and, spot emerging needs or opportunities. By reporting these conditions and opening them up for discussion, the management letter can play an important role in maintaining the future financial health of the organization. Should we become aware of any irregularities, illegal acts, or indications of illegal acts, we will make an immediate verbal and written report of such findings to the District's Council. The report will be discussed with the members responsible for the financial statements before submitting it to the Board Members.

### Proposed Timeline for Fieldwork and Final Reporting:

Harshwal & Company, LLP is prepared to meet the deadlines required.

Milestones	FY 2023
Planning, risk assessment and system evaluation	1st Week of August 2023 or before
Initial Meeting	3rd Week of August 2023 or before
Interim audit fieldwork & Meetings	Last Week of August 2023 or before
Final audit fieldwork and audit work to be completed	3rd Week of October 2023 or before
Draft audit reports and management letters for review	3rd Week of November 2023 or before
Exit Meeting	Last Week of November 2023 or before
Final audit reports and management letters	2nd Week of December 2023 or before

- *The timeline is reasonable given the totality of work involved and our managers being highly qualified and trained.*
- *This timeline is dependent on the availability of your personnel and is subject to the anticipated closing of your accounting records.*





## Technical Proposal to Provide Auditing Services

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### Benefits of Choosing Harshwal & Company, LLP

Harshwal & Company, LLP is recognized for its professionalism, integrity, and for providing clients with effective resolutions for their unique circumstances and issues. Our firm prides itself on being able to provide personalized client services, and with that sentiment in mind, we have carefully chosen our engagement teams.

Harshwal & Company, LLP's main objective is always to provide Humboldt Bay Harbor, Recreation and Conservation District with solutions and directions, led by highly experienced and capable partners who can successfully implement the work and produce the results you expect. This philosophy and mindset allows us to provide a superior level of service.

We trust that this proposal has given you the information you need about the Firm. We are committed to exceeding your expectations, and we look forward to bringing our experience and expertise to Humboldt Bay Harbor, Recreation and Conservation District and providing you with the excellent level of service that you expect and deserve.

Inherent in our service is the on-going support, education, and advice to our clients. The comprehensive service includes:

- Email updates on all new and pertinent developments.
- A careful review of the effects of these new developments (if any), on your particular circumstances. If necessary, we will advise you on any changes needed in accounting procedures.
- We will meet with the Finance Department head at the beginning of the audit to advise on matters of particular interest. We will provide "best practices" for effective daily operations that will also provide information necessary for the financial statements.
- Throughout the audit, we will advise your accounting personnel on best practices for maximum efficiency in each major operational area.

Harshwal & Company, LLP and its employees has an impressive history and has never been disciplined, penalized, fined, sanctioned, or otherwise punished for any act or omission related, in any way, to grant writing services or financial improprieties.

**"Keeping in touch with" is the hallmark of our service. You will receive phone calls, emails, and information through the Harshwal & Company, LLP portal on a consistent and regular basis.**





**COMMISSIONERS**

1<sup>st</sup> Division: Aaron Newman  
2<sup>nd</sup> Division: Greg Dale  
3<sup>rd</sup> Division: Stephen Kullmann  
4<sup>th</sup> Division: Craig Benson  
5<sup>th</sup> Division: Patrick Higgins

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



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**STAFF REPORT  
HARBOR DISTRICT MEETING  
August 10, 2023**

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

**FROM:** Rob Holmlund, Development Director

**DATE:** August 4, 2023

**TITLE: Consider Adopting Resolution 2023-14 Establishing Findings Relative to Humboldt Bay Harbor, Recreation and Conservation District Permit 2023-03; a CEQA Exemption; and Conditional Approval of Permit 2023-03 for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project**

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**STAFF RECOMMENDATION:** Staff recommends that the Board receive a staff report, receive public comment, and adopt Humboldt Bay Harbor, Recreation, and Conservation District Resolution No. 2023-14 which includes:

- Establishing Findings Relative to the Permit Application for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project and the California Environmental Quality Act Exemption
- Approving Permit 2023-03 with conditions for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project

**SUMMARY:** The Caltrans Eureka Slough Bridges Geotechnical Investigation Project (Project) will characterize subsurface conditions to support the design and construction of the proposed replacement of northbound and southbound Eureka Slough Bridges on U.S. Highway 101. The geotechnical investigation includes drilling and performing geophysical surveys for the proposed bridge alignments at or near the proposed foundation locations. Up to six (6) geophysical surveys would occur. No earthwork would be required to access or perform the proposed surveys. Up to 22 borings would be drilled. Depending on location, the borings would be advanced through the existing bridge deck, highway pavement surface, median strip, or vegetated area adjacent to the approach embankments. A majority of the work locations would be accessed along the highway shoulders and median and through the Eureka Slough Bridges bridge decks within the existing Caltrans right of way.

**BACKGROUND:** Caltrans plans to replace the U.S. Highway 101 northbound and southbound Eureka Slough Bridges to address seismic, geometric, and functional deficiencies. Caltrans will ultimately apply for a District permit for the full bridge replacement project. However, prior to applying for the full project, Caltrans has elected to complete separate CEQA and permitting process for the needed geotechnical investigations. This staff report is for the Caltrans permit application associated with the geotechnical investigations. The permit application for the full bridge replacement is anticipated to occur in the future. For the purposes of this staff report, the “Project” consists only of the geotechnical investigations.

**DISCUSSION:** The project is located in Eureka Slough near the U.S. Highway 101 bridges between post miles (PMs) 79.50 and 80.20 (Figure 1). Work is anticipated to take approximately 20 weeks. A majority of the work locations would be accessed along the highway shoulders and median and through the Eureka Slough Bridges bridge decks within the existing Caltrans right of way. Minimal access would be required at and through the southeastern corner of the Target parcel (Humboldt County Parcel 002-201-08).



Figure 1. Eureka Slough Geotechnical Project Layout Map

The Eureka Slough Bridges Geotechnical Investigation would address seismic, geometric, and functional deficiencies to the U.S. Highway 101 northbound and southbound Eureka Slough Bridges by supporting the design and construction of two to three bridges to replace the existing northbound and southbound bridges. The geotechnical investigation would include drilling and performing geophysical surveys on the proposed bridge alignments at or near the

proposed foundation locations. The investigation would include the following components: 1) geophysical surveys, 2) geotechnical drilling, and 3) P-S (compression and shear wave velocities) suspension logging. Project Layout Plan Sheets show the proposed drilling and survey locations and potential disturbance areas from access paths. The Environmental Study Limits map indicates the area surrounding the project location that was analyzed for environmental impacts.

Caltrans prepared a Natural Environment Study to identify existing biological resources, assess potential impacts, and identify permitting requirements for the geotechnical investigation. Temporary impacts to Sensitive Natural Communities (SNC), wetlands, and aquatic habitats considered to be ESHAs may occur during the geotechnical drilling. It is anticipated minor impacts to this sensitive natural community and wetland vegetation and soils would not be visible by the following year. Impacts on Humboldt Bay owl's clover and Point Reyes bird's-beak are not anticipated. A Caltrans biologist will flag occurrences of these rare plants prior to beginning of work. Standard Best Management Practices (BMPs) would be followed to avoid and minimize impacts to waters and biological resources. Additional project specific avoidance and minimization measures would also be implemented as detailed in the application materials (Permit Application Attachment 2).

There is eelgrass in the project area. However, impacts on eelgrass or eelgrass habitat are not anticipated because eelgrass would not be directly impacted by any geotechnical drilling as it does not extend under the bridge where geotechnical drilling would occur. Eelgrass is not present within the gap between the existing structures and around the existing support structures, likely due to unsuitable light conditions. Caltrans anticipates that eelgrass will not be disturbed based on current conditions and location of eelgrass. Prior to beginning drilling in locations in the slough channel, qualified environmental personnel will survey the location to ensure drilling does not disturb eelgrass. The drill casings used for this type of sampling are typically two to five inches in diameter. Therefore, the disturbance created by the drill casing is likely to cover a radius of less than one foot depending on how carefully it is placed. Given the limited area of disturbance, the geotechnical work has the flexibility to shift drilling locations to avoid areas of eelgrass.

Caltrans has already obtained various agency permits for the proposed project including: CDFW 1600 (LSA), 401 Certification, and Coastal Development Permit for this project and anticipates receiving the Army Corps 404 by mid-August. The Caltrans Geotech team is targeting to begin work at the end of August or early September (2023).

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

This project was approved by Caltrans, as the lead agency, as a NEPA Categorical Exclusion, 23 CFR 771.117(c)(24) and a CEQA Common Sense Exemption on April 3, 2023. This determined the project can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (14 CCR 15061[b][3]). The Humboldt Bay Harbor, Recreation and Conservation District is a responsible agency for the proposed project and must consider the information contained in the application and CEQA Notice of Exemption (Attachment B).

**ATTACHMENTS:**

- A. Resolution No. 2023-14 Establishing Findings Relative to Humboldt Bay Harbor, Recreation and Conservation District Permit 2023-03; A CEQA Exemption; and Conditional Approval of Permit 2023-03 for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project

Exhibit A-1. Humboldt Bay Harbor, Recreation and Conservation District Permit 2023-03 for the Caltrans Eureka Slough Bridges Geotechnical Investigation Project

- B. Caltrans CEQA Exemption/NEPA Categorical Exclusion Determination Form for the Eureka Slough Bridges Geotechnical Investigation Project

Documents incorporated here by reference are on file with the Harbor district and available online (<https://humboltdbay.org/public-notice-announcements-information> - June 2, 2023, Application):

- Caltrans Eureka Slough Bridges Geotechnical Investigation; Excerpt from Humboldt Bay Harbor Recreation and Conservation District Permit Application – Attachment 2



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

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**RESOLUTION NO. 2023-14**

**A RESOLUTION ESTABLISHING FINDINGS RELATIVE TO HUMBOLDT BAY HARBOR, RECREATION  
AND CONSERVATION DISTRICT PERMIT 2023-03; A CEQA EXEMPTION; AND CONDITIONAL  
APPROVAL OF PERMIT 2023-03 FOR THE CALTRANS EUREKA SLOUGH BRIDGES  
GEOTECHNICAL INVESTIGATION PROJECT**

**WHEREAS**, the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District is empowered by Appendix II of the Harbors and Navigation Code, and its own ordinances and resolutions, to grant permits, leases, rights, and privileges; and,

**WHEREAS**, no permits, rights, leases, and privileges may be granted without first having considered certain potential impacts and without first having made findings relative to said impacts; and,

**WHEREAS**, the California Department of Transportation (Caltrans) – District 1 applied to the Humboldt Bay Harbor, Recreation, and Conservation District for the Eureka Slough Bridges Geotechnical Investigation Project “Project”; and

**WHEREAS**, consistent with Humboldt Bay Harbor, Recreation, and Conservation District Ordinances and the Harbors and Navigation Code, an application was filed and accepted by the Board on June 8, 2023 and a Notice of Application was published and sent to adjacent property owners and regulatory agencies; and

**WHEREAS**, Caltrans, as the “lead agency” under the California Environmental Quality Act (CEQA) prepared and approved a Notice of Exemption for the Project; and

**WHEREAS**, the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District has been presented with certain evidence relating to the impact of the Eureka Slough Bridges Geotechnical Investigation Project upon the air, land, environment, and ecology of the Bay under the jurisdiction of the Humboldt Bay Harbor, Recreation, and Conservation District;

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** That the above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** That the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District has found, after considering the impact of the proposed use upon the air, water, land, environment, and ecology of the lands under the jurisdiction of the Humboldt Bay Harbor, Recreation, and Conservation District, that:

- a) The proposed uses are necessary to promote public safety, health, comfort, and convenience of the public;
- b) The proposed uses are required by the public convenience and necessity;
- c) The proposed uses will not have any substantial adverse environmental or ecological effect;
- d) The proposed use is consistent with the Humboldt Bay Management Plan;
- e) The permit, right, or privilege is reasonably required by public convenience to promote growth, and to meet area demands, and does not adversely affect the environment or ecology of the area to any substantial degree; and
- f) The proposed use will not produce an unreasonable burden on the natural resources and aesthetics of the area, on the public health and safety, and air and water quality in the vicinity of Humboldt Bay, or on the parks, recreation and scenic area, historic sites and buildings, or archeological sites in the area.

**SECTION 3.** That the Humboldt Bay Harbor, Recreation, and Conservation District, as a CEQA responsible agency, concurs with the Notice of Exemption prepared for the project per CCR title 14 §15061.b.3, common sense exemption. There is no substantial evidence that the activity in question may have a significant effect on the environment.

**SECTION 4.** That the Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners does hereby issue Permit No 2023-03 conditionally approving the Caltrans Eureka Slough Bridges Geotechnical Investigation Project (Exhibit A-1).

**PASSED AND ADOPTED** by the Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners at a duly called meeting held on the 10<sup>th</sup> day of August 2023 by the following polled vote:

**AYES:**

**NOES:**

**ABSENT:**

**ATTEST:**

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**Greg Dale, President  
Board of Commissioners**

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**Aaron Newman, Secretary  
Board of Commissioners**

**CERTIFICATE OF SECRETARY**

The undersigned, duly qualified and acting Secretary of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, does hereby certify that the attached Resolution is a true and correct copy of RESOLUTION NO. **2023-14** entitled,

**A RESOLUTION ESTABLISHING FINDINGS RELATIVE TO HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT PERMIT 2023-03; A CEQA EXEMPTION; AND CONDITIONAL APPROVAL OF PERMIT 2023-03 FOR THE CALTRANS EUREKA SLOUGH BRIDGES GEOTECHNICAL INVESTIGATION PROJECT**

as regularly adopted at a legally convened meeting of the Board of Commissioners of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, duly held on the **10<sup>th</sup> day of August 2023**; and further, that such Resolution has been fully recorded in the Journal of Proceedings in my office, and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 10<sup>th</sup> day of August 2023.

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**Aaron Newman, Secretary  
Board of Commissioners**

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

**PERMIT**

**Permit No. 2023-03**

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

**Permittee:**

**California Department of Transportation – District 1**

**Contact:** Felicia Zimmerman

1656 Union Street, Eureka, CA 95501

[FeliciaZimmerman@dot.ca.gov](mailto:FeliciaZimmerman@dot.ca.gov)

707-815-5994

The Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District** hereinafter referred to as “**District**”, having considered the Application herein, number 2023-03, filed by California Department of Transportation – District 1 (Caltrans), hereinafter referred to as “**Permittee**”, and the **Humboldt Bay Harbor, Recreation and Conservation District (HBHRCD)** as responsible agency, pursuant to the California Environmental Quality Act of 1970, as amended, having made a determination establishing findings relative to the Application in the CEQA Exemption relative to the Application by **Permittee** for the Eureka Slough Bridges Geotechnical Investigation Project as provided for in this Permit, the **Permittee** is hereby authorized to perform the work as more particularly described in the Application filed with the **District**.

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

The Eureka Slough Bridges Geotechnical Investigation Project (the “project”) which will characterize subsurface conditions to support the design and construction of the proposed replacement of northbound and southbound Eureka Slough Bridges on U.S. Highway 101. The geotechnical investigation includes drilling and performing geophysical surveys for the proposed bridge alignments at or near the proposed foundation locations. Up to six (6) geophysical surveys would occur and up to 22 borings would be drilled with more details described in the Application filed by **Permittee**.

The project is located along the existing northbound Caltrans U.S. Highway 101 on/off ramps at 6th Street near the gas station in Eureka and southbound at approx. Post Mile (PM) 79.9 and 80.20 in Humboldt County.

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

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

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

3. That this Permit, if not previously revoked or specifically extended, shall cease and be null and void and terminate on **August 10, 2024**. If **Permittee** cannot complete the work within the time granted by this Permit, an application for extension must be filed prior to the Permit termination date. Up to four (4) one year extensions may be granted, for a total permit term of up to five years.
4. Any in-water work requires a Spill Prevention, Control and Countermeasure (SPCC) plan. Spill kits with appropriate contents will be maintained at the project site. Kits shall be equipped with enough material to provide preliminary containment for a volume of material that can reasonably be expected to spill. Booms will be available to contain spilled materials.
5. All construction debris shall be removed from the site and disposed of only at an authorized disposal site. Sidecasting of such material or placement of any such material within Humboldt Bay or any wetland area is prohibited.
6. If archeological or cultural features or materials are unearthed during any phase of project activity, all work in the immediate vicinity of the find shall halt until the **Permittee** has contacted the Wiyot Tribe's Cultural Department, and the significance of the resource has been evaluated, to the satisfaction of the Wiyot Tribe. Any mitigation measures that may be deemed necessary will be provided to the Wiyot Cultural Director for review and input to ensure they are consistent with the standards for cultural resource mitigation particularly in cooperation with Native American tribal representatives and the California State Native American Heritage Commission. Mitigation measures shall be implemented by a qualified archeologist representing the **Permittee** prior to resumption of construction activities. If human remains are exposed by project related activity, the **Permittee** shall comply with California State Health and Safety Code, §7050.5, which states that no further disturbance shall occur until the County Coroner has made the necessary findings as to the origin and disposition pursuant to California Public Resources Code, §5097.98.

7. That there shall be no unreasonable interference with navigation by the work herein authorized.
8. That no attempt shall be made by the **Permittee** to interfere or forbid the full and free use by the public of all navigable waters at or adjacent to the work.
9. That the **District**, its Commissioners, or any officer or employee of the **District** shall in no case be liable for any damages or injury of the work herein authorized which may be caused by or result from future operations undertaken by the **District** for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
10. That neither the **District**, nor its Board of Commissioners, nor any officer of the **District** shall be liable to any extent for any such injury or damage to any person or property or for the death of any person arising out of or connected with the work authorized by this Permit.
11. That the Board of Commissioners of the **District** may revoke this Permit at any time upon a finding by the **District** of a violation by the **Permittee** of any condition of this Permit.
12. That the **Permittee** shall comply with any regulations, condition, or instructions affecting the work hereby authorized if and when issued by the Federal Water Pollution Control Administration and/or the State of California Water Resources Control Agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instruction in effect or prescribed by Federal or State Agencies are hereby made a condition of this Permit.
13. That as a condition to the issuance of this Permit, **Permittee** agrees to indemnify and hold harmless **District** from and against any and all liability, loss, or damage **District** may suffer from claims and demands for attorneys' fees, costs of suit, and costs of administrative records made against **District** by any and all third parties as a result of third party environmental actions against **District** arising out of the subject matter of this Permit, including, but not limited to attorneys' fees, costs of suit, and costs of administrative records pursuant to the California Code of Civil Procedure §1021.5 or any other applicable local, state or federal laws, whether such attorneys' fees, costs of suit, and costs of administrative records are direct or indirect, or incurred in the compromise, attempted compromise, trial appeal or arbitration of claims for attorneys' fees, costs of suit, and costs of administrative records in connection with the subject matter of this Permit.

14. That this Permit is valid as of August 10, 2023 and is made subject to the **Permittee** approving and agreeing to the conditions above set forth and executing said approval as hereinafter provided.

EXECUTED on this 10<sup>th</sup> day of August 2023, by authority of the Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District**.

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

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

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

Dated: \_\_\_\_\_

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California Department of Transportation – District 1



**CEQA EXEMPTION / NEPA CATEGORICAL EXCLUSION  
DETERMINATION FORM (rev. 11/2020)**

**Project Information**

**Project Name:** Eureka Slough Bridges Replacement: Geotechnical Investigation

**DIST-CO-RTE:** 01-HUM-101

**PM/PM:** 79.50/80.20

**EA:** 01-0F200

**Federal-Aid Project Number:** 0115000088

**Project Description**

This geotechnical investigation is needed to characterize subsurface conditions to support the design and construction of the proposed replacement of northbound and southbound Eureka Slough Bridges on U.S. Highway 101 between post miles (PM) 79.50 and 80.20 in Humboldt county. See continuation sheet for additional details.

**Caltrans CEQA Determination** (Check one)

- Not Applicable** – Caltrans is not the CEQA Lead Agency
- Not Applicable** – Caltrans has prepared an IS or EIR under CEQA

Based on an examination of this proposal and supporting information, the project is:

- Exempt by Statute.** (PRC 21080[b]; 14 CCR 15260 et seq.)
- Categorically Exempt.** (PRC 21084; 14 CCR 15300 et seq.)
  - No exceptions apply that would bar the use of a categorical exemption (PRC 21084 and 14 CCR 15300.2). See the SER Chapter 34 for exceptions.
- Covered by the Common Sense Exemption.** This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (14 CCR 15061[b][3].)

**Senior Environmental Planner or Environmental Branch Chief**

Jason Meyer		03/28/2023
	Signature	Date

**Project Manager**

Jeff Pimentel		04/03/2023
	Signature	Date





CEQA EXEMPTION / NEPA CATEGORICAL EXCLUSION DETERMINATION FORM

Caltrans NEPA Determination (Check one)

Not Applicable

Caltrans has determined that this project has no significant impacts on the environment as defined by NEPA, and that there are no unusual circumstances as described in 23 CFR 771.117(b). See SER Chapter 30 for unusual circumstances. As such, the project is categorically excluded from the requirements to prepare an EA or EIS under NEPA and is included under the following:

23 USC 326: Caltrans has been assigned, and hereby certifies that it has carried out the responsibility to make this determination pursuant to 23 USC 326 and the Memorandum of Understanding dated April 18, 2019, executed between FHWA and Caltrans. Caltrans has determined that the project is a Categorical Exclusion under:

- 23 CFR 771.117(c): activity (c)(24)
23 CFR 771.117(d): activity (d)(Enter activity number)
Activity Enter activity number listed in Appendix A of the MOU between FHWA and Caltrans

23 USC 327: Based on an examination of this proposal and supporting information, Caltrans has determined that the project is a Categorical Exclusion under 23 USC 327. The environmental review, consultation, and any other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated December 23, 2016, and executed by FHWA and Caltrans.

Senior Environmental Planner or Environmental Branch Chief

Jason Meyer Signature Date 03/28/2023

Project Manager/ DLA Engineer

Jeff Pimentel Signature Date 04/03/2023

Date of Categorical Exclusion Checklist completion: 3/13/2023
Date of Environmental Commitment Record or equivalent: 3/13/2023

Briefly list environmental commitments on continuation sheet if needed (i.e., not necessary if included on an attached ECR). Reference additional information, as appropriate (e.g., additional studies and design conditions).



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### Continuation sheet:

#### Project Description cont.:

The geotechnical investigation would include drilling and performing geophysical surveys on the proposed bridge alignments at or near the proposed foundation locations. Drilling would be performed at up to twenty-two (22) locations taking approximately 4 days each to complete. Mud-rotary drilling methods would be utilized for the geotechnical borings to support geotechnical sampling and the installation of instrumentation. The estimated maximum depth for the 4.75-inch diameter, vertical borings would be approximately 200 feet below ground surface. Solid PVC casings would be installed in two of the borings to support PS suspension logging. Geophysical surveys are planned for up to six (6) locations and would take approximately 2 days each to complete. Each of the survey lines (SL) would be between approximately 200 and 500 feet in length. Seismic refraction and electrical resistivity surveys would be performed at the proposed line locations. Seismic refraction and electrical resistivity surveys would help characterize the subsurface conditions, estimate the depth of soft mud, and evaluate geologic variability. No earthwork would be required to perform the proposed geophysical surveys. Most of the work would be located within the Caltrans right of way. Access agreements are needed to enter private property and perform drilling and a geophysical survey at one (1) location. Various agency permits would be required to perform the geotechnical investigation work. The project has been analyzed for biological, cultural, water quality, and hazardous waste impacts.

#### The following measures would be included as part of the geotechnical investigation activities:

- Before start of work, as required by permit or consultation conditions, a Caltrans biologist or ECL would meet with the site investigation team to brief them on environmental permit conditions and requirements relative to each stage of the proposed project, including, but not limited to, work windows, drilling site management, and how to identify and report regulated species within the project areas.
- To protect migratory and nongame birds (occupied nests and eggs), if possible, vegetation removal would be limited to the period outside of the bird breeding season (removal would occur between September 16 and January 31). If vegetation removal is required during the bird breeding season, a nesting bird survey would be conducted by a qualified biologist within one week prior to vegetation removal. If an active nest is located, the biologist would coordinate with CDFW to establish appropriate species-specific buffer(s) and any monitoring requirements. The buffer(s) would be delineated around each active nest and construction activities would be excluded from these areas until birds have fledged, or the nest is determined to be unoccupied.
- Artificial night lighting may be required. To reduce potential disturbance to sensitive resources, lighting would be temporary, and directed specifically on the portion of the work area actively under construction. Use of artificial lighting would be limited to Cal/OSHA work area lighting requirements.
- A Limited Operating Period would be observed, whereby all in-stream work



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below ordinary high water (OHW) would be restricted to the period between June 15 and October 15 to protect water quality and vulnerable life stages of sensitive fish species. Geotechnical drilling restricted to this period includes drilling through the bridge deck into the slough channel

- All equipment would be thoroughly cleaned of all dirt and vegetation prior to entering the job site to prevent importing invasive non-native species. Project personnel would adhere to the latest version of the *California Department of Fish and Wildlife Aquatic Invasive Species Cleaning/Decontamination Protocol (Northern Region)* for all field gear and equipment in contact with water.

- Prior to the start of work, flagging would be installed around Humboldt Bay owl's clover and Point Reyes bird's-beak occurrences that are within the ESL and no drilling or heavy equipment would occur in these areas. Geophysical surveys consisting of foot traffic to lay cables, geophones, and strike plates would be allowed in or adjacent to occurrences.

- Before geotechnical activities begin, the project environmental coordinator or biologist would discuss the implementation of the required BMPs with the site investigation team and identify and document environmentally sensitive areas and potential occurrence of listed species.

- When geotechnical drilling takes place, drilling fluid would be made up of water, or water mixed with bentonite clay without additives. Drilling would be conducted inside a casing so that all spoils are recoverable in a collection structure. All drilling fluids and materials would be self-contained and removed from the site after use, in accordance with Caltrans Drilling Services Quality Management Plan (Caltrans 2019).

- The boring holes would be backfilled with cement. To prevent contamination of sensitive areas with cement, for those boring holes in the slough channel, the top 20 feet would be filled with a non-toxic bentonite clay mixture. For those boring holes on land or in wetlands, the top 5 feet would be filled with native soils retained from the holes.

- The only equipment that would be parked or driven in wetlands would be a track-mounted drill rig. Temporary wetland protection mats would be used to prevent permanent damage and minimize temporary damage to wetlands from the track-mounted drill rig. With the exception of the track-mounted drill rig, no equipment parking or storage would occur within wetlands or special status plant communities.

- BMPs will be implemented as appropriate to control on-site and offsite releases from geotechnical drilling operations. In the event of a fluid spill, drilling will cease immediately to allow for containment and clean-up. The District 1 Spill Communication Plan will be followed, which outlines the process of spill response and notification of appropriate agencies and entities.

- Precautions during drilling will be employed to mitigate any possible equipment leaks or drilling fluid spillage. These may include, plastic tarps, absorption mats, and straw wattles where appropriate. Where risk exists of drilling fluid being sprayed or otherwise ejected beyond the controlled work zone, into an adjacent wetland area, removable barriers, such as plastic sheeting would be deployed.

- When drilling within the slough channel, potential leakage at the casing mud-line contact will be monitored. If leakage is detected, wet drilling will be stopped and the casing will be advanced by dry drilling to a depth at which leakage has stopped



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(adequately sealed off).

- Equipment would be inspected on a daily basis for leaks and completely cleaned of any external petroleum products, hydraulic fluid, coolants, and other deleterious materials prior to operating equipment.

- Maintenance and fueling of equipment and vehicles would occur at least 15 meters from the Ordinary High-Water Line (OHWL) or the edge of sensitive habitats (e.g., wetlands).

- Vegetation would be mowed or trimmed to a height greater than 4 inches. Existing vegetated areas would be maintained to the maximum extent practicable.

- A project Health and Safety Plan would address worker safety related to lead contaminated soils within the project area.

- Traffic control will be used continuously where required and to support entrance and exit from drilling locations.

- After the completion of each geotechnical boring, soil cuttings and drilling fluid generated by the operation will be pumped and/or shoveled into 55-gallon drums for hazardous waste characterization and disposal. Any cuttings and/or drilling fluid inadvertently

spilled onto the ground during drilling operations will similarly be shoveled or sponged up and disposed of in 55-gallon drums. If additional water is needed to clean pavement surfaces to prevent contamination of future storm-water or impacts to public safety, a minimal amount will be used and as much of the impacted water captured as practical. Any areas of ground disturbance created during off-road drilling activities will be mitigated with appropriate BMPs to prevent erosion and storm-water pollution

- Precautions during drilling will be employed using Best Management Practices (BMP) to mitigate excessive noise, possible equipment leaks, or drilling fluid spillage. These may include plastic tarps, absorption mats, and jute waddles. When drilling within the slough channel, potential leakage at the casing mud-line contact will be monitored. If leakage is detected the wet drilling will be stopped and the casing will be advanced by dry drilling to a depth at which leakage has stopped (adequately sealed off).

- In the event of a spill or leak, the District 1 Spill Communication Plan will be followed, which outlines the process of spill response and notifications to appropriate Agencies and Entities.

- Work window restrictions developed by Caltrans North Region Environmental would be followed for all exploration locations.

- Prior to beginning drilling on each day of drilling through the bridge deck into Eureka Slough, a qualified environmental staff member, or construction staff trained by environmental staff, would scan the water around the drill site for marine mammals. If any marine mammals are spotted within a 50-foot radius around the drill site, no drilling would occur until the marine mammal has left the area.

- Prior to beginning drilling in locations in the slough channel, qualified environmental personnel will survey the location to ensure drilling does not disturb eelgrass.

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Final Audit Report

2023-04-03

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