



REQUEST FOR PROPOSALS

Shelter Cove Boat Launch and Site Operations

Invitation for Proposals

The Humboldt Bay Harbor, Recreation & Conservation District (District) is requesting proposals from qualified individuals/firms to operate the boat launch and other services in Shelter Cove, CA.

Proposals Due: 1:00 p.m. Thursday, March 22, 2018

Submit Proposals to: Larry Oetker, Executive Director, loetker@humboldtbay.org

Background

The District leases and currently operates boat launching services, the fish cleaning facility, and boat storage on the Shelter Cove marina property in Humboldt County, Ca. The District intends to contract for site operations and services, consistent with the current lease. The District lease (including lease area map) is included in Attachment A and the boat storage area map is Attachment B.

The District is also proposing to construct a new building on the site in three phases: 1) new fish cleaning facility, 2) office with shop/storage area, and 3) market/retail space. See Attachment C for more information.

RFP Attachments:

- A. District Lease including lease area map
- B. Boat Storage Area Map
- C. Project Description for proposed new building
- D. Actual Income April 2016 – December 2017

Please contact Alan Bobillot at District (707 443 0801) abobillot@humboldtbay.org; with questions.

Proposal Submission Requirements

Please submit a letter of interest and responses to the information below.

1. Proposer name and contact information.
2. Please describe the services you propose to contract for:
 - a. Tractor boat launch
 - b. Charter Boat License
 - c. Commercial Boat License
 - d. Boat Storage
 - e. Marina Building with fish cleaning station, freezer, and ice sales

- f. Fish purchasing station
 - g. Other services
3. Describe how you would operate and provide reliable service for all of the above.
4. Describe your previous experience with managing a business, facility, or similar operation.
5. Describe if you would be using your own equipment or if you are proposing to use the Districts equipment.
 - a. If proposing to use the District's equipment, describe if you are proposing to lease, lease/purchase, or purchase outright.
6. Describe how you would maintain the building, equipment, and tractors.
7. Describe the system you would establish to provide customers with information regarding the facility operations, including but not limited to:
 - a. Operating hours
 - b. Launching schedule
 - c. Cost for services
 - d. Rules and restrictions
 - e. Customer feedback
8. Describe how you would ensure the safety of customers and before, during and after boat launching.
9. Provide how you propose to insure and indemnify the Harbor District.
10. Proposed contract terms.

Proposal Selection Process and Criteria

Proposals will be reviewed by District staff, who will make a recommendation to the Commission. Project to be awarded at the March 22, 2018 District board meeting. The following criteria will be used to evaluate proposals:

- Proposed services and qualifications to successfully provide those services.
- Proposed lease terms.

Proposal Submittal

Submittals accepted until 1:00 p.m. Thursday, March 22, 2018 by email to loetker@humboldtbay.org. An electronic submittal is required. In addition, a hard copy proposal may also be delivered to the District Office (postmarks not accepted) at 601 Startare Drive Eureka, CA 95501.

This RFP is available on the District website at www.humboldtbay.org. and at the District office, 601 Startare Drive, Woodley Island, Eureka, CA (707-443-0801) between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Other Information and Disclaimers

The District reserves the right to reject any and all responses to this request. The District will not be liable for any cost incurred incidental to the preparation, submittal or evaluation of any response to this request, or in the negotiation, execution and delivery of an agreement that may be awarded as a result of this Request for Proposal.

LEASE AGREEMENT

This LEASE AGREEMENT ("Lease") is entered into effective as of April 1, 2016 (the "Effective Date") between MARIO'S MARINA, LLC, a California limited liability company ("Lessor" or "Mario's"), and the Humboldt Bay Harbor, Recreation and Conservation District, a California public entity ("Lessee" or "District").

RECITALS:

A. This Lease pertains to the operation by Lessee of Mario's Marina located in Shelter Cove, Humboldt County, California. The area of Mario's Marina in which Lessee may operate marina related activities, services and businesses shall be more particularly described herein and is generally depicted on the drawing attached hereto as **Exhibit A**.

B. Lessor desires to lease the Premises (as defined below) to Lessee, and Lessee is willing to lease the Premises from Lessor and to operate the businesses currently operated therein by Lessor, pursuant to the provisions stated in this Lease.

C. Lessee has inspected the Premises and has investigated the viability of the Businesses (as defined below) and is fully informed of their physical and financial conditions; Lessee acknowledges and understands that Lessor makes no representation or warranty with respect to the suitability of the Premises for Lessee's intended use nor the future financial prospects of the Businesses.

NOW, THEREFORE, Lessor and Lessee mutually agree as follows:

1. **PREMISES.** Lessor leases to Lessee the real properties commonly known as Humboldt County Assessor Parcel Numbers 108-171-023 and 108-171-023R (collectively the "Premises") on which Lessor currently operates the following businesses (collectively, the "Businesses"), and Lessee leases from Lessor such Premises and agrees to operate the Businesses as more particularly provided herein:

(a) Tractor boat launch operation with commercial rights to charge users or sublease the right to operate the launch operation to a third party;

(b) Charter boat license agreements to charge facility use fees;

(c) Commercial boat license agreements to charge facility use fees;

(d) Boat storage area with commercial rights to charge users;

(e) Marina building commercial operation with right to sublease to tenants for uses not inconsistent with the operation and maintenance of a marina operation.

(f) Fish purchasing station with commercial rights to charge facility fee to users or sublease;

(g) Ground lease for operation and maintenance of fish cleaning station and washing station already owned by District (the "Fish Cleaning Station").

2. **INITIAL TERM.** Lessee shall have use and possession of the Premises pursuant to this Lease for an initial term (the "Initial Term") commencing April 1, 2016 (the "Commencement Date"), and ending on March 31, 2021.

3. **RENEWAL TERMS.** Lessee shall have the right to renew this Lease for up to three (3) additional five (5) year terms and two (2) additional ten (10) year terms (each, a "Renewal Term," and the Initial Term and the Renewal Terms collectively, the "Term"), such Renewal Terms to be exercised in any order, in Lessee's sole discretion, by giving Lessor written notice of the intent to renew no later than ninety (90) days prior to the Initial Term or the then-current Renewal Term.

4. **FISH CLEANING STATION LICENSE TERM.** Notwithstanding any other provision of this Lease, including but not limited to Lessee's decision not to renew or to terminate this Lease, the Lessee shall have an irrevocable license to operate and maintain the Fish Cleaning Station for twenty (20) years, commencing April 1, 2016 and ending March 31, 2036. Should the other provisions of this Lease not be renewed or be terminated by the Lessee, the Lessee shall pay \$500 per year in advance on or before April 1 of each year 2016-2026 and \$1,000 each year for years 2027-2036 as rent for the Fish Cleaning Station for each year during which the remainder of the Premises is not leased by Lessee.

5. **RIGHT TO TERMINATE.** Lessee may terminate this Lease at any time during the Initial Term and first Renewal Term with ninety (90) days' written notice to Lessor if Lessee, in Lessee's sole discretion, determines that the findings of a cultural site investigation precludes the site from being developed as Lessee intends, the Building (as defined below) cannot be reasonably and economically constructed, or in the event any other reason is reasonably likely to make the operation of the Premises and the Businesses not economically feasible for the Lessee. However, such a termination would not affect the Lessee's license to operate and maintain the Fish Cleaning Station as set forth in Section 4, above.

6. **RENT.**

(a) Lessee shall pay no rent during the Initial Term or the first year of the first Renewal Term, but in consideration of the right to possession and use of the Premises, shall: (1) within the first year of the Initial Term, contract for and pay for a cultural site investigation (the "Cultural Survey") of the Premises and the property on which the Premises are located (such property, consisting of the Premises and the Restaurant Property (as defined below), the "Property") as necessary to comply with governmental conditions for approval of the development of the Property; (2) within the first two years of the Initial Term, demolish existing remains of marina building and remove debris; (3) within the first two years of the Initial Term, clean up, grade and fence the boat parking/storage area; (4) within the first four years of the Initial Term, conduct site preparation and seek building permit(s) for the construction of the Building as contemplated in 12(b) hereof; (5) no later than the end of the first year of the first

Renewal Term, commence construction of the Building in accordance with the provisions of Section 12(b) hereof; (6) within the first year of the Initial Term, commence to improve the Fish Cleaning Station and take reasonable measures to improve the discharge system of the station and (7) no later than the end of the third year of the first Renewal Term, contract for and pay an engineer or surveyor to prepare, process with the Humboldt County Planning Department ("Planning"), and record after Planning approval, a parcel map (the "Parcel Map") in accordance with the California Subdivision Map Act to create two separate parcels by lot line adjustment or lot subdivision, one substantially constituting the area of the Premises and one substantially constituting the area of the Restaurant Property. Lessor shall reasonably cooperate with all of the foregoing Lessee obligations by approving (which approval shall not be unreasonably withheld, conditioned or delayed) and signing all applications and other documents reasonably necessary to accomplish Lessee's foregoing obligations. Lessee shall be entitled to retain all revenues, if any, generated by Lessee's operation of the Businesses and Premises.

(b) Notwithstanding the foregoing: (i) in the event the findings of the Cultural Survey would result in the actual out-of-pocket cost of Lessee's obligations set forth in items 4 and 5 of Section 6(a) above to exceed \$50,000, Lessee shall be released from such obligations; provided, however, that in such event, Lessee shall then immediately be obligated to pay rent to Lessor; or (ii) in the event the findings of the Cultural Survey would result in delays in the satisfaction of Lessee's obligations set forth in items 4 and 5 of Section 6(a) above beyond the timeframes set forth with respect to each, Lessor and Lessee shall mutually determine, through good faith efforts, an extended timeline for completion of such obligations and a date on which Lessee's obligation to pay rent shall commence. In either event, the rent amount to be paid by Lessee shall be determined in the same manner as set forth in Section 6(c) below.

(c) For any five (5) year period of any Renewal Term, Lessee and Lessor shall attempt to negotiate a reasonable lease rent. If the parties are unable to reach an agreement on rent at least sixty (60) days prior to the commencement of any Renewal Term (or, if applicable, commencement of the second five (5) year period of any ten (10) year Renewal Term), the parties will submit the issue of rental value to an arbitrator mutually selected by the parties. If the parties are unable to agree on an arbitrator, the parties will request the judge of the Humboldt County Superior Court with primary responsibility for civil cases, or the presiding judge of that Court, to appoint an arbitrator from a list of arbitrators nominated the parties (however, that list shall not indicate which party nominated a particular individual). The arbitrator need not be an attorney or retired judge, but may be a real estate broker, appraiser, or other personal with specialized knowledge of commercial lease values. The rental value will be based upon the fair market rental value of the Premises, including the improvements made by the Lessee, as of the start of the applicable Renewal Term. The rent shall be a monthly rent for the applicable Renewal Term or portion thereof, as the case may be.

(d) The arbitrator's decision shall be binding upon Lessor. If Lessee, in Lessee's sole discretion, is of the opinion that the rent is too high, Lessee may decline to lease for the applicable Renewal Term.

7. RIGHTS OF FIRST REFUSAL.

(a) During the Term, provided this Lease has not been earlier terminated or expired, that Lessee is not at such time in default of the terms of this Lease and that the Parcel Map has been recorded, Lessee shall have a right of first refusal to purchase the Premises on the same terms and conditions as those offered by a third party and accepted by Lessor subject to this right of first refusal. Lessor shall notify Lessee in writing of any such third party offer and the terms thereof and Lessee may exercise its right of first refusal by providing Lessor with written notice of its exercise of such right. Terms of the purchase will be full payment in cash within one hundred twenty (120) days after Lessee delivers such exercise notice. However, if Lessee has declined to exercise its right of first refusal to purchase the Premises and the Premises is sold by Lessor to a third party, the Lessee's right of first refusal as to the Premises is extinguished and cannot again be exercised.

(b) Lessor also owns a parcel of property in Shelter Cove used for a restaurant, bar, motel and mobile home rental area, shown on Exhibit A as the "Restaurant Property." If Lessor's current tenant operating the restaurant and bar terminates such tenant's lease, Lessee shall have the first right of refusal to lease said the Restaurant Property on the same terms and conditions as those accepted by a third party.

(c) During the Term, provided this Lease has not been earlier terminated or expired, that Lessee is not at such time in default of the terms of this Lease and that the Parcel Map has been recorded, Lessee shall have a right of first refusal to purchase the Restaurant Property on the same terms and conditions as those offered by a third party and accepted by Lessor subject to this right of first refusal. Lessor shall notify Lessee in writing of any such third party offer and the terms thereof and Lessee may exercise its right of first refusal by providing Lessor with written notice of its exercise of such right. Terms of the purchase will be full payment in cash within one hundred twenty (120) days after Lessee delivers such exercise notice. However, if Lessee has declined to exercise its right of first refusal to purchase the Restaurant Property and the Restaurant Property is sold by Lessor to a third party, the Lessee's right of first refusal as to the Restaurant Property is extinguished and cannot again be exercised.

8. PERSONAL PROPERTY TAXES. Lessee shall pay before delinquency any taxes, assessments, license fees, and other charges that may be levied and assessed against Lessee's personal property installed or located in or on the Premises and become payable during the Term.

9. REAL PROPERTY TAXES. Lessor shall pay all real property taxes and any general and special assessments levied and assessed against the Restaurant Property. Lessee shall pay all real property taxes and any general and special assessments levied and assessed against the Premises, including those arising from the construction of any improvements on the Premises and/or improvement of the Fish Cleaning Station by Lessee.

10. USE; LIMITATION ON USE; SIGNAGE; ACCESS. Lessee shall use, and permit use of, the Premises for the uses and operation of the reasonably related business purposes

listed in Section 1 above, and for no other purpose without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessee shall not use or permit the Premises or any part thereof to be used for any purpose or use other than those authorized herein. Any signage to be installed at the Premises by Lessee shall be subject to prior approval of Lessor, approval which shall not be unreasonably withheld, shall comply with all applicable local sign ordinances and shall be at the sole expense of Lessee. Lessor and Lessee each acknowledge that it is intended that (i) Lessor shall at all times have the right to access the Restaurant Property by passage across the Premises for all purposes reasonably necessary for Lessor's operation of the Restaurant Property and (ii) Lessee shall at all times have the right to access the Premises and the Fish Cleaning Station by passage across the Restaurant Property for all purposes reasonably necessary for Lessee's operation of the Premises and the Fish Cleaning Station.

11. REGULATORY REQUIREMENTS.

(a) Lessee shall use commercially reasonable efforts to enter into any and all agreements with the Shelter Cove Resort Improvement District #1 (the "RID") as may be required by RID for Lessee's operation of the Businesses in compliance with all applicable RID ordinances, regulations or other rules. Any such agreement shall provide for automatic termination of such agreement upon the expiration or earlier termination of this Lease or any Renewal Term.

(b) Lessee shall use commercially reasonable efforts to cooperate with the California State Water Resources Control Board ("WRCB") with a goal of mitigating any water pollution caused by the operation of the tractor launching business.

12. CONDITION AT COMMENCEMENT; MAINTENANCE, REPAIRS AND IMPROVEMENTS; OWNERSHIP OF IMPROVEMENTS.

(a) Lessee has had adequate time and access to the Premises to inspect their condition and accepts the Premises in its condition as of the Effective Date.

(b) Lessee shall construct a new marina building (the "Building") on the Premises. Lessee shall be solely responsible for the planning and completion of such construction in accordance with the following goals:

(i) the exterior of the Building shall be aesthetically pleasing and consistent with the adjacent or nearby structures and natural surroundings;

(ii) the Building shall be appropriate to Lessee's use of the Premises and operation of the Businesses and uses set forth in Section 1, above;

(c) Lessee shall be solely responsible, at its cost, for construction of improvements and maintaining the Premises during the term of the Lease, including any Renewal Terms.

(d) Lessee shall pay all costs for construction done by Lessee or caused to be done by Lessee on the Premises as permitted by this Lease. Lessee shall keep the Premises free and clear of all mechanic's liens resulting from construction done by or for Lessee. Lessee shall have the right to contest the correctness or the validity of any such lien if, within five (5) calendar days on demand by Lessor, Lessee procures and records a lien release bond issued by a corporation authorized to issue surety bonds in California in an amount equal to one and one-half (1 and 1/2) times the amount of the claim of lien. The bond shall meet the requirements of Civil Code Section 3143 and shall provide for the payment of any sum that the claimant may recover on the claim (together with any costs of suit and attorney's fees recovered by the claimant in the action). Upon expiration of the Term, Lessor shall own all improvements, including the Building and all fixtures located upon the Premises.

(e) Lessor shall deliver and assign to Lessee all permits and other authorizations or information previously obtained in connection with the demolition of the marina building and construction of the Building and shall approve, in its reasonable discretion, and sign all documents as may be reasonably necessary in its capacity as property owner for Lessee's construction of the improvements contemplated in this Agreement.

13. UTILITIES AND SERVICES.

(a) On or before the Commencement Date, to the extent separately metered, Lessee shall have made or shall make all arrangements for and pay all utilities and services furnished to the Premises and utilized in the operation of the Businesses, including, without limitation, gas, electricity, water, telephone service, sewage, heating, air conditioning and ventilating, janitorial, trash collection, any security or burglar alarm system and for all connection charges and deposits, and for all other materials and services which may be furnished to or used on or about the Premises during the Term. To the extent any such utilities are not separately metered, Lessee shall reimburse Lessor for such utilities in an amount reasonably attributable to Lessee's use of the Premises and operation of the Businesses; Lessee and Lessor shall cooperate to determine the amount of Lessee's share of any such utilities that are not separately metered.

(b) Lessee shall be solely responsible, at its cost, for implementation of any necessary upgrades or additions to electrical service to the Premises. Lessor shall retain for its use in its sole discretion all residential unit equivalents ("RUEs") required for the provision of sewer service for the Building and it shall be a condition to the effectiveness and commencement of this Lease that the RID assign to Lessor, at no cost to Lessor, all RUEs currently allocated to Mario's Marina and not otherwise already in use by Mario's Marina. Lessee shall use its commercially reasonable efforts, at its sole cost and expense, to secure all RUEs necessary or required for use in connection with the Building. If Lessee is unable to obtain the RUE's necessary for the Building from the RID despite use of commercially reasonable efforts, and Lessee's operations at the Premises adversely impacts Lessor's discharge capacity needed for its operation of the Restaurant Property, Lessee shall pay a share of the cost of sewer improvements necessary to secure discharge capacity sufficient to serve both Lessee's operation of the Premises and Lessor's operation of the Restaurant Property, such share being equal to Lessee's proportionate discharge capacity needs for its operation of the Premises.

14. COMPLIANCE WITH LAWS; LESSOR'S ACCESS.

(a) Lessee expressly understands and agrees that except to the extent Lessee may be exempt as a California public entity, Lessee is responsible for abiding by and complying with all federal, state, county and local laws, rules, regulations and ordinances, including, but not limited to, all "Hazardous Materials Laws"(as defined below), all other laws wages and hours worked, including, but not limited to, the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, et seq.; social security; unemployment insurance; workers' compensation; executive orders; OSHA; Cal/OSHA; labor code laws; migrant workers; seasonal workers; safety; environmental protection; and any other requirements set forth in this Agreement.

(b) For the purposes of this Agreement, "Hazardous Material Laws" shall include any and all federal, state and local laws, regulations, ordinances, codes and policies relating to substances, chemicals, wastes, sewage or other materials that are regulated, controlled or prohibited; or relating to pollution or protection of the environment, of natural resources or of public health and safety, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the California Hazardous Waste Control Act, Cal. Health & Saf. Code § 25300, et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Cal. Health & Saf. Code § 25249.8, et seq.; and the California Porter-Cologne Water Quality Control Act, Cal. Water Code § 13000, et seq.

(c) Lessor and its agents and employees shall have the right to enter in and upon the Premises and the Building at any reasonable time and with reasonable notice to inspect Lessee's operations and confirm that Lessee is complying with this Agreement.

15. INDEMNITY. Lessee shall hold Lessor harmless from all loss, liability, damage, cost, and expense (including attorney's fees) arising out of any damage to any person or property occurring in, on or about the Premises, except that Lessor shall be liable to Lessee for damage resulting from any acts or omissions of Lessor or Lessor's authorized representatives, and Lessor shall hold Lessee harmless from all damages arising out of any such acts or omissions of Lessor or Lessor's authorized representatives.

16. INSURANCE.

(a) At all times during the term of this Lease, Lessee shall procure and maintain, at Lessee's own expense, all of the following coverage and in the amounts described below:

(i) Workers' Compensation Insurance conforming to the statutory requirements of the State of California;

(ii) Regardless of the minimum statutory requirements of the State of California, employer liability coverage under the above-referenced Workers' Compensation Insurance with minimum limits of no less than \$1,000,000;

(iii) General liability (CGL) insurance shall be maintained with minimum limits of \$5,000,000 each occurrence; \$5,000,000 General Aggregate; and \$5,000,000 Products/Completed Operations Aggregate. CGL insurance shall be written on ISO occurrence form CG 00 01 or equivalent and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Such CGL insurance shall name and include Lessor as an Additional Insured using ISO additional insured endorsement CG 20 10 04 13 and 20 37 04 13 or their aggregate equivalent;

(b) Commercial automobile liability insurance shall be maintained with minimum limits of \$1,000,000 per accident including coverage for any owned, non-owned, leased or hired vehicle written, or substantially similar coverage procured through a joint powers authority of California governmental entities that provides insurance services and protection for such entities.

(c) The coverage procured by Lessee as required herein shall not include a deductible in excess of \$10,000 per loss without Lessor's written approval.

(d) All insurance coverage (the "Policies") shall be procured to the satisfaction and consent of Lessor, which shall not be unreasonably withheld. The Policies shall be endorsed to include (i) a waiver of subrogation and (ii) a provision that specifies the Policies are primary and that any insurance or self-insurance maintained by Lessor shall not contribute with it and (iii) that the waiver of subrogation shall not affect the Lessor's right, or any additional insured's right, to recover under such insurance policy. Lessor shall be entitled to inspect proof of required insurance at any time with reasonable notice to Lessee. If Lessee fails to maintain insurance coverage as required by this Lease, Lessor shall have the right, in addition to any other remedy available to it, to (i) immediately terminate this Agreement on written notice to Lessee or (ii) secure any or all of said Policies and Lessee shall immediately reimburse Lessor for the cost of such Policies upon request by Lessor.

(e) Lessee shall require its subcontractors and subtenants to maintain in full force and effect commercially reasonable insurance coverage substantially similar in form and substance to the insurance coverage required of Lessee in this Section 12, as appropriate to the nature of subcontractors' operations, each with minimum limits of no less than \$1,000,000 each occurrence and/or general aggregate, as applicable, unless otherwise agreed to by Lessor in writing. Lessee shall be solely responsible for monitoring compliance by such subcontractors and subtenants with the aforementioned insurance requirements.

(f) Notwithstanding the foregoing, substantially similar coverages and endorsements may be provided through a joint powers authority of California governmental entities that provides insurance services and protection for such entities.

17. **LIMITATION ON VOLUNTARY ASSIGNMENT.** Lessee shall not assign Lessee's interest in this Lease or in the Premises without first obtaining Lessor's written consent, which consent may be withheld in Lessor's sole discretion. The parties expressly acknowledge that the Lessee's operation of the Premises contemplates subleases with third party tenants or subcontracts, and any such sublease or subcontract does not require the consent of Lessor, provided that the term of any such sublease or subcontract shall expressly expire upon the expiration or earlier termination of this Lease Agreement.

18. **TENANT'S DEFAULT; REMEDIES.** It shall constitute an event of default for Lessee to fail to perform any provision of this Lease if the failure to perform is not cured within thirty (30) days after written notice has been given to Lessee. If the default cannot reasonably be cured within thirty (30) days, Lessee shall not be in default of this Lease if Lessee commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default; provided, however, that Lessee shall be in default if the default is capable of being cured within ninety (90) days and Lessee fails to cure such default within ninety (90) days from written notice to Lessee; provided further, however, that in the event Lessor determines in good faith in its reasonable discretion that such default constitutes a material default that is incapable of being cured, Lessor may terminate this Lease upon ninety (90) days' written notice to Lessee.

Notices given under this Section 18 shall specify the alleged default and the applicable Lease provisions and shall demand that Lessee perform the provisions of this Lease within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or termination of this Lease unless Lessor so elects in the notice.

Subject to the cure periods set forth in this Section 18, upon material default by Lessee, Lessor may terminate Lessee's right to possession of the Premises at any time and may seek any and all other remedies available to Lessor at law or in equity.

19. **SEVERABILITY.** The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid or illegal.

20. **ATTORNEY'S FEES.** Each party agrees to indemnify the other for such attorney's fees and costs incurred by the other party (the "Indemnified Party") as a result of the Indemnified Party's becoming a party to any litigation (including arbitration) concerning this Lease, the Premises or the Building or the improvements in which the Premises are located by reason of any act or omission of the other party (the "Indemnifying Party") or the Indemnifying Party's authorized representatives, and not by any act or omission of the Indemnified Party or any act or omission of that Indemnified Party's authorized representatives. If either party commences an action (including arbitration) against the other party arising out of or in connection with this Lease, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and costs of suit.

21. **NOTICES.** All notices, demands, requests, and consents required or desired to be given by Lessor or Lessee hereunder shall be in writing and either served personally or sent

by United States mail or United Kingdom Postal Service, certified or registered, postage prepaid, addressed to Lessee at 601 Startare Drive, Eureka, California, 95501, and to Lessor at 533 Machi Road, Shelter Cove, California, 95589, or such other address as shall be designated by either party in compliance with the provisions of this Section.

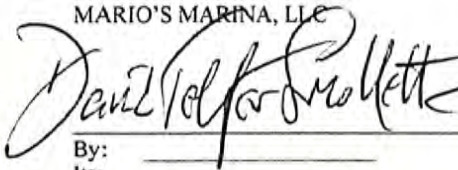
22. MISCELLANEOUS.

- (a) Time of Essence. Time is of the essence of each provision of this Lease.
- (b) Successors. This Lease shall be binding upon and shall inure to the benefit of the parties and their successors, except that nothing in this provision shall be deemed to permit any assignment, subletting, or use of the Premises other than as provided for herein.
- (c) Applicable Law. This Lease shall be construed and interpreted in accordance with the laws of the State of California. Unless otherwise agreed in writing by the parties, exclusive jurisdiction and venue for any legal proceeding related to or arising from the Agreement shall be in the Superior Court of the State of California, County of Humboldt.
- (d) This Lease may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- (e) This Lease may be executed and delivered by facsimile and the parties agree that such facsimile execution and delivery will have the same force and effect as delivery of an original document with original signatures, and that each party may use such facsimile signatures as evidence of the execution and delivery of this Lease by all parties to the same extent that an original signature could be used.

23. INTEGRATED LEASE; MODIFICATION. This Lease contains all the agreements of the parties and cannot be amended or modified except by a writing executed by the party to be charged with any such amendment or modification.

IN WITNESS WHEREOF the parties hereto have executed this Amendment the day and year first written above.

MARIO'S MARINA, LLC



By: _____
Its: _____

HUMBOLDT BAY HARBOR
RECREATION AND CONSERVATION
DISTRICT

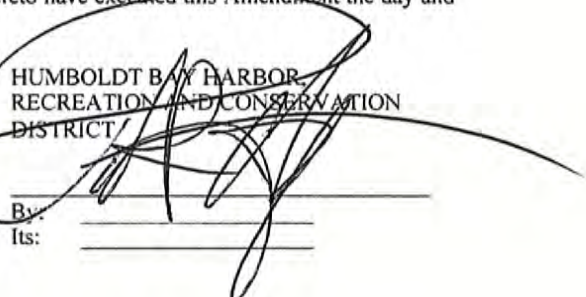

By: _____
Its: _____

EXHIBIT A

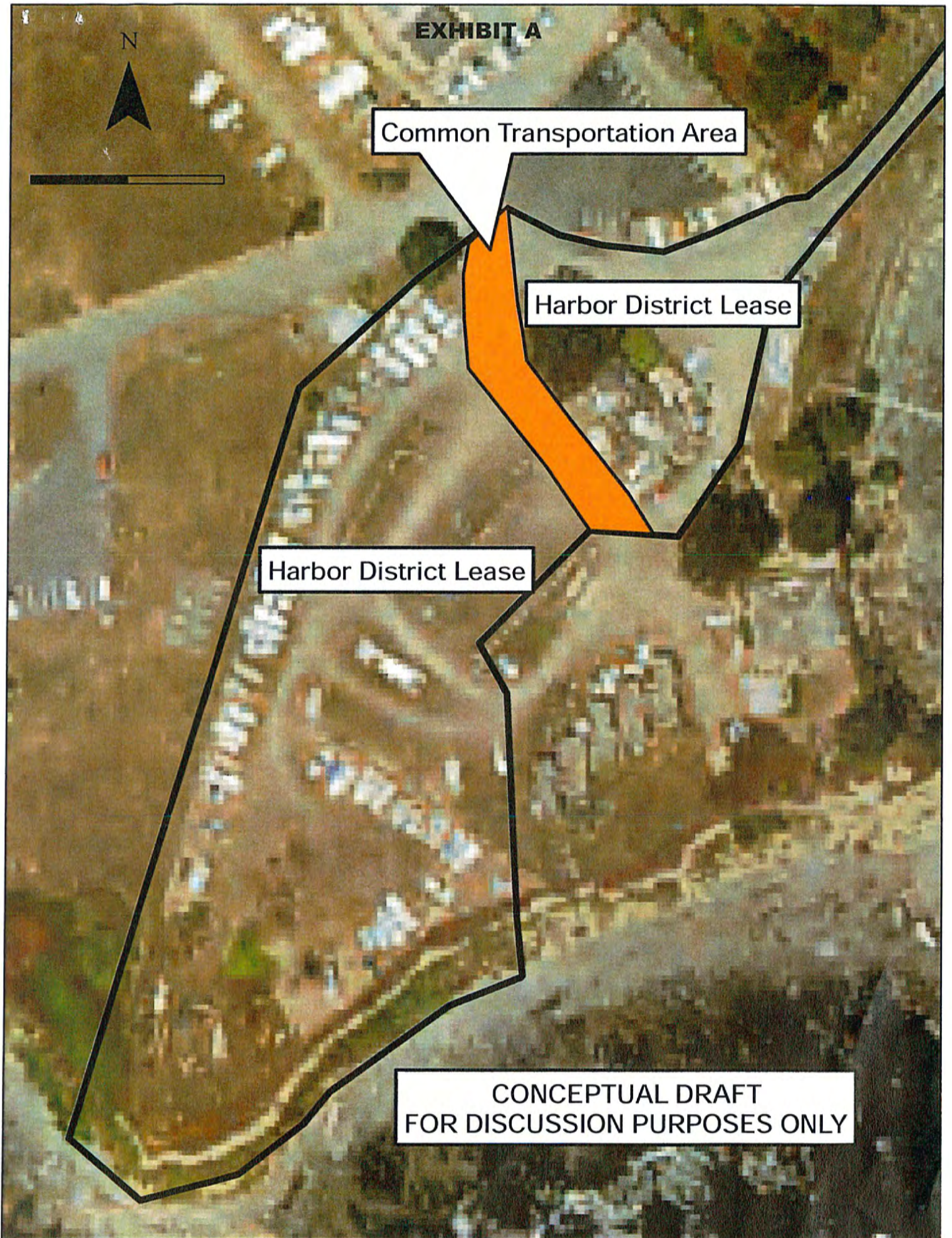
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Common Transportation Area

Harbor District Lease

Harbor District Lease

CONCEPTUAL DRAFT
FOR DISCUSSION PURPOSES ONLY



Boat Stoorage Yard

10' x 25' Lots

Legend

- Mario's Marina Motel
- Shelter



Shelter Cove Fish Cleaning Facility

Project Description & Plan of Operation

May 2017



Humboldt Bay Harbor, Recreation and Conservation District
601 Startare Drive
Eureka, CA 95502

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Attachments

- A - Vicinity map
- B - Site photos
- C - Site plans & building elevations
- D - Resort Improvement District will-serve letter (note: has been requested and is being prepared, to be submitted when received)
- E - CEQA Notice of Exemption

Background

The Humboldt Bay Harbor, Recreation, and Conservation District (Harbor District or HBHRCD) secured a lease for the Shelter Cove marina property including operation of the boat launch facility and the existing fish cleaning station. The Harbor District is in the process of planning and providing site improvements that will continue to support local boating and fishing activities, improve operations and benefit the area economically.

The Harbor District has helped maintain boating access at Shelter Cove since the mid-1970s and has assisted with the operation of the existing fish cleaning station since 1988. The existing station is located on a bluff, approximately 200 feet above the ocean adjacent to the boat launching facility (Attachment A – Vicinity Map). Currently, fishermen clean their catch on a table and direct fish waste into a central chute (Attachment B – Site Photos). The chute leads to a commercial grinder that grinds the fish waste and discharges directly offshore via an approximately 225 foot long suspended pipe. The fish cleaning station has served the commercial and recreational fishers for 29 years and has become indispensable to the Shelter Cove economy.

The existing Shelter Cove fish waste discharge pipe is located in the King Range National Conservation Area, Area of Special Biological Significance (ASBS). ASBS's are intended to afford special marine life protection by banning waste discharges within these designated areas. In 2010 the California State Water Resources Control Board (SWRCB) denied a HBHRCD requested conditional waiver to allow for the continuation of fish waste discharges; and SWRCB reemphasized that the HBHRCD must move forward to cease the fish cleaning station discharges into the ASBS as mandated by the California Ocean Plan. Since 2010, HBHRCD has been working with the Shelter Cove community and resource agencies to identify the most feasible solution to ending fish waste discharge without incurring economic damage to the community. The HBHRCD received a California Ocean Protection Council grant in 2016 to assist with development of the proposed project, a new fish cleaning station facility.

Project Site and Existing Uses

In addition to the existing fish cleaning station, the lease area is used for boat launching staging and day use parking. The lease area also has long term boat storage/parking for the Shelter Cove fleet of Commercial Passenger Fishing Vessels (CPFV), recreational, and other commercial boats. Water service from Shelter Cove Resort Improvement District #1 (RID#1) is currently supplied at boat storage locations. The two temporary approximately 140 square foot storage sheds in the project area will be relocated within the District lease area to accommodate the proposed project.

The lease area is mostly pervious surfaces, including dirt, grass, and gravel with the exception of the paved area around the existing fish cleaning station; and the few parking spaces adjacent to it along the cliff at the top of the boat ramp. HBHRCD

operates the only commercial launch service in Shelter Cove which includes two tractors that are parked on-site when not actively launching boats.

Proposed Project

The Harbor District proposes to relocate and replace the existing fish waste disposal system with a new approximately 3,200 square foot facility constructed in three phases (Attachment C – Site Plans). The new facility would replace the existing fish cleaning waste discharge facility with improved visitor serving and fishing industry support facilities.

The proposed project includes:

- New fish cleaning facility that will include cold storage, freezer, ice machine, and an area for a fish buyer (Phase 1).
- Office with maintenance shop/storage and two tractor work bays (Phase 2).
- Market/retail space (Phase 3).

Once the new fish cleaning facility is operational, the existing station's damaged gravity-driven ocean discharge pipe will be removed. There will be no fisheries-related economic losses from fish cleaning facility modifications, and fishing activities will not be affected or interrupted. HBHRCD is dedicated to protecting the local economy during the construction and transition phases of this project.

All exterior lighting, whether installed for security, safety, or signage purposes, will be shielded and/or positioned to direct light downward and not shine beyond the site boundaries. In the future, solar panels may be installed on the roofs of Phase 1 and 2, as shown on the site plans (Attachment C). The proposed solar panels would be designed and positioned to not result in glare to airport users. The facility will be clearly marked with signage stating the hours of operation for the multiple services provided such as: "Fish Cleaning Station", "Fish Buyer", "Tractor Launch", and "Fish Market" and acknowledging OPC and Prop. 1 grant funding. The existing tree on the corner of the property will remain, and the placement of drainage swales will be integrated on-site as specified by the Humboldt County Public Works Department.

The new slab foundation will be elevated approximately six inches above grade, to cap the existing substrate and minimize ground disturbance. The water and sewer lines will also be placed above existing grade, within the elevated foundation as feasible; and the proposed solid waste separator would be accessible for cleaning purposes. The project's water and sewer lines will tie into exiting RID#1 lines adjacent to the proposed facility.

The Phase 1 foundation, fish cleaning tables, and cold storage/freezer are proposed to be constructed and installed this year (2017). Temporary fencing with access gate, similar to the fencing around the existing fish cleaning facility, will be installed until the

remainder of the structure is constructed. The additional improvements described below will be constructed in subsequent years.

Phase 1: Fish Cleaning Station

Phase 1 of the proposed project will relocate and replace the existing fish cleaning station system and change the method of fish offal disposition. Seasonal Harbor District or concessionaire employees will manually separate fish cleaning wastes into carcasses suitable for crab bait. Other bio-wastes will be stored in fish cooler containers, to be ground up and used in fertilizer amendments. Segregated fish waste will be prepared for local pick up or for transport to an appropriate out of area location.

The proposed 40 ft x 30 ft covered structure will include two 20 ft x 8 ft walk-in cold storage/freezer units, fish cleaning table and fish grinder; and will be open-air on three sides.

The first phase will require water supply, electricity, and sewer services from the RID#1 (Attachment D – RID#1 will-serve letter to be provided). The project would connect the fish cleaning station drain to the RID#1 sewer system; a solid waste separator will be included and maintained by Harbor District staff.

Phase 2: Covered Tractor Work Bays with Office/ Maintenance Shop

The second phase of the proposed project will house two tractor work bays, and a shop/office/storage space. The enclosed approximately 40 ft x 30 ft structure will have three large, garage-type roll-up doors. The shop/office/storage space will include a water supply for a shop sink, water heater, and a drain that connects to the Phase 1 sewer line that ties into the RID#1 system.

Phase 3: Market/ Retail Space

The third project phase will be market/retail space development. This 28 ft x 34 ft building will be constructed in between the other two phases. The main public entrance into the market/retail space will be on the east side of the building through the main doors surrounded by two windows on each side. This single story portion of the structure will have a higher peaked roofline. It will have an access door on the north side into the fish cleaning area (Phase 1). The exterior will have signage with “Mario’s Marina Fish Market-Ice-Bait & Tackle” and a clock above it.

The interior will include multiple retail shelving units. There will be a cooler/display case for fish sales, a work table, a bait cooler, and ice machine. It will contain four sinks along the back wall and a drain in the floor. The water supply and drain will connect to the Phase 1 existing line that ties into the RID#1 system.

Plan of Operations

Operation and Security

Similar to the existing fish cleaning station, the new fish cleaning facility will be accessible at all times. The other phases will have similar hours as the tractor launch to facilitate the fishermen's needs as they complete their day use on the ocean and other visitors wanting to purchase fish and other items from the market.

As described above, seasonal employees will manually separate fish cleaning wastes into carcasses suitable for crab bait and other bio-wastes to be stored in fish cooler containers to be ground up and used in fertilizer amendments. Segregated fish waste will be prepared for local pick up or for transport to Eureka. The fish cleaning station (Phase 1) will be cleaned daily and the solid waste separator will be maintained and cleaned dependent on seasonal use demands. Security for the property, buildings, stored boats and tractors are monitored by staff presence at the property.

Parking

The estimated parking requirements, based on Humboldt County Code (H.C.C.) standards for commercial uses per building square foot, are shown in the table below. For the purposes of this analysis the parking standards for Retail/Service (H.C.C. 109.1.4.3.1) was applied to the entire project (Phases 1-3). Up to four employees would staff the proposed project at buildout. The project includes development of one paved ADA accessible parking space with loading/unloading area, the remaining onsite parking would remain gravel/dirt. There is more than 39,000 square feet of onsite space available for car, truck, trailer and boat parking, which could accommodate over 100 standard parking spaces. These are mostly unpaved gravel/dirt areas south and east of the proposed project in the central portion of the project site. Therefore, there is more than enough on-site capacity to meet project related parking requirements and other onsite uses.

Proposed Project	H.C.C Parking Standards 313-109.1.4.3.1	Minimum Number of Parking Spaces Required
Phases 1-3: approx. 3,232 ft ²	One parking space for every 300 ft ² ...plus one for each employee	11 + 4 = 15 spaces

There is not expected to be an increase in traffic to and from the site as a result of proposed project. The existing site uses would remain and the new facility would replace an existing facility. Traffic would continue to be associated with both employees and visitors/recreational users.

Water/Wastewater and Electricity

As noted in the Project Description above, water, wastewater collection and disposal, and electricity service will all be provided by the RID#1. A will-serve letter is attached (Attachment D).

Other Considerations

Land Use and Zoning

The site is designated Commercial Recreation-Coastal Related (CR/C) by the Humboldt County General Plan and is zoned Coastal Dependent Commercial Recreation (CRD), Qualified (Q), Airport Safety Review (AP), Special Archaeological Resources Area (A), Design Review (D). The proposed project replaces an existing facility that supports coastal recreation, tourist, and fishing uses in Shelter Cove. The proposed improvements support visitor serving uses and the local fishing industry and comply with applicable regulations.

Airport Safety Review

The parcel is located within the B1 or Approach/Departure Zone of the Shelter Cove Airport. This zone limits uses to single story commercial and office buildings. The proposed project includes development of a single story visitor serving structure that is consistent with applicable zoning standards. It is not expected to result in substantially more people using or visiting the site than current use. All exterior lighting, will be shielded and/or positioned to direct light downward and not shine beyond the site boundaries or impair visibility to airport users. The proposed solar panels would be designed and positioned to not result in glare to airport users.

Cultural Resources

A pre-construction Cultural Resources Study will be conducted by William Rich & Associates for the proposed project. All project related work will be completed in accordance with those survey results. Ground disturbance activities would occur as a result of foundation work for development of the structures. To minimize potential impacts to buried cultural resources, the foundation depth will be minimized by rocking up and essentially capping the existing substrate with a slightly elevated foundation. In addition, the Harbor District's adopted inadvertent discovery protocols will be implemented as necessary and the District will proceed with the appropriate supervision and culturally sensitive protocol for this potentially sensitive area.

During the spring of 2016, William Rich and Associates conducted an investigation for the Harbor District's lease area at Point Delgada, Shelter Cove. That survey included an evaluation of historical significance for the ruins of the former bunkhouse building and adjacent eucalyptus tree, planted in 1960, now permitted for removal. The evaluation found that neither the ruins of the former bunkhouse building nor the eucalyptus tree qualify for listing as a historical resource. It further found that because that project did not include excavation or other large scale ground disturbing activities, it would be unlikely that historic period or Native American archaeological materials would be discovered.

CEQA Compliance

HBHRCD prepared a Notice of Exemption citing CEQA guidelines Section 15303 for “new construction or conversion of small structures”. The proposed project is replacing, relocating, and removing existing structures. The proposed project is not expected to result in significant environmental effects. The potential to unearth archaeological materials not yet identified is addressed by the Harbor District’s adopted Standard Operating Procedures for inadvertently discovered historic resources.

Harbor District - Shelter Cove Operations Income - Monthly

LAUNCH		STORAGE		LAUNCH + STORAGE	
2016	2017	2016	2017	2016	2017
January	3815	January	2250	January	6065
February	1750	February	2093	February	3843
March	1505	March	2080	March	3585
April	770	April	640	April	1410
May	6265	May	1830	May	8095
June	7140	June	3310	June	10450
July	15645	July	2439	July	18084
August	17255	August	2235	August	19490
September	8275	September	3010	September	11285
October	3955	October	2011	October	5966
November	1260	November	2276	November	3536
December	2415	December	2069	December	4484
TOTAL	\$ 62,980	TOTAL	\$ 19,820	TOTAL	\$ 82,800
	\$ 56,070		\$ 30,840		\$ 86,910

AV Month \$ 6,998 \$ 4,673

\$ 2,202 \$ 2,570

\$ 9,200 \$ 7,243