

AGENDA
REGULAR MEETING OF THE BOARD OF DIRECTORS
HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.

DATE: **October 18, 2023**

TIME: **3:00 PM**

PLACE: Join Zoom Meeting
<https://us02web.zoom.us/j/6917934402>

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

1. Call to Order Regular Session and Roll Call

2. Public Comment

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

3. Consent Calendar

- a) **Adopt Minutes for May 17, 2023 Regular Board Meeting**

4. Unfinished Business

- a) **Review and consider approval of an Agreement to Stay Rent and Loan Obligations between the Humboldt Bay Development Association and the Humboldt Bay Harbor, Recreation and Conservation District.**

5. New Business

- a) **Receive an Update on Manila Community Services District Sewage Treatment Plant Operations**
- b) **Receive and Update on Nordic Aquafarms Permitting**

Agenda for October 18, 2023 Regular Board Meeting

c) Adopt FY 2023-2024 Budget

d) Consider Approval of an Agreement for Administrative Services with the Humboldt Bay Harbor, Recreation and Conservation District for FY 2023/2024

6. Adjournment

**DRAFT MINUTES
REGULAR MEETING OF THE BOARD OF DIRECTORS
HUMBOLDT BAY DEVELOPMENT ASSOCIATION, INC.**

May 17, 2023

PRESENT:

Richard Marks
Aaron Newman
Dale Unea
Leroy Zerlang

ABSENT:

Patrick Higgins

The Regular Meeting of the Board of Directors was called to order at 3:03 PM

PUBLIC COMMENT: None

CONSENT CALENDAR

a) Adopt Minutes for April 19, 2023 Regular Board Meeting

DIRECTOR NEWMAN MOVED TO APPROVE THE CONSENT CALENDAR.

DIRECTOR UNEA SECONDED.

ROLL CALL VOTE WAS CALLED, MOTION CARRIED.

AYES: NEWMAN, UNEA, ZERLANG

NOES: NONE

ABSENT: NONE

ABSTAIN: MARKS

UNFINISHED BUSINESS

a) Wrap-up Investment Fund for New Market Tax Credits

Item presented by District Staff.

The Board Discussed the item.

Item was opened to public comment, no one commented.

Discussion item only, no formal action was taken.

NEW BUSINESS

a) Review the Lease Agreement and the Agreement for Services Between the Humboldt Bay Harbor, Recreation and Conservation District and the Humboldt Bay Development Association

Item presented by District Staff

The Board Discussed the item.

Item was opened to public comment, no one commented.

Discussion item only, no formal action was taken.

The meeting was adjourned at 3:28 PM

Draft Minutes for May 17, 2023 Regular Board Meeting

APPROVED BY:

RECORDED BY:

Patrick Higgins
Secretary
Humboldt Bay Development Association

Mindy Hiley
Director of Administrative Services
Humboldt Bay Harbor District

AGREEMENT TO STAY LOAN AND RENT PAYMENT OBLIGATIONS

THIS AGREEMENT TO STAY LOAN AND RENT PAYMENT OBLIGATIONS is made effective as of October 12, 2023 (“Effective Date”), by and between the Humboldt Bay Harbor, Recreation, and Conservation District (“District”), a California special district, and the Humboldt Bay Development Association (“HBDA”), a California non-profit corporation. The District, Samoa LLC, and HBDA may be referred to individually as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, the District is special district formed pursuant to Appendix 2 of the California Harbors and Navigation Code;

WHEREAS, HBDA is a duly formed and operating public benefit corporation, focused on promoting development in and around Humboldt Bay for the benefit of the local community;

WHEREAS, in order to facilitate the rehabilitation of certain real property owned by the District on the Samoa Peninsula, the District caused HBDA to be formed and thereafter partnered with HBDA to obtain New Market Tax Credits loan funds in the principal amount of \$8,680,000.00 (“Loan”), which funds were used to rehabilitate portions of the District’s property;

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

WHEREAS, in order to facilitate the receipt of the loan funds, the District leased certain real property to HBDA by way of that Ground Lease dated March 9, 2016, for a period of 65 years (the “Ground Lease”); in turn, to allow the District to possess, manage, and rehabilitate the property, HBDA sub-leased the real property to the District by way of that Operating Lease dated March 9, 2016 (the “Operating Lease”);

WHEREAS, pursuant to the Ground Lease, at commencement of the lease term, HBDA made a lump sum payment to the District in the amount of \$3,906,000.00, which HBDA received through the Loan;

WHEREAS, pursuant to the Operating Lease, the District was obligated to pay monthly rent to HBDA in the amounts set forth in Exhibit B to the Operating Lease, which rent payments HBDA used to make payments on the Loan;

WHEREAS, in accordance with the Credit Agreement and the New Market Tax Credit program, HBDA has successfully completed its obligations owed to NMCC and CNMC, and each assigned

to Chase NMTC Samoa Investment Fund, LLC, a Delaware limited liability company (“Samoa LLC”), their collective interest in the Leasehold Mortgage, as more particularly set forth in that Assignment of Leasehold Deed of Trust dated March 10, 2023 (“Assignment”), and recorded as Document Number 2023-005958 in the Official Records of Humboldt County on May 10, 2023;

WHEREAS, pursuant to that NMTC Exit Agreement dated March 10, 2023, and the Fund Interest Purchase Agreement dated March 10, 2023, the District holds a 100% membership interest in Samoa LLC;

WHEREAS, pursuant to that Release of Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing dated March 10, 2023 (“Release and Reconveyance”), and recorded as Document No. 2023-005959 in the Official Records of Humboldt County on May 10, 2023, Samoa LLC fully released and reconveyed to HBDA its interest in Leasehold Mortgage following the Assignment;

WHEREAS, in light of the fact that HBDA has successfully completed its obligations owed to NMCC and CNMC and such lenders have assigned to Samoa LLC all right, title and interest in the Loan, the District, Samoa LLC, and HBDA desire to stay any further Loan payments and any further rent payments under the Operating Lease, while the parties work to provide for the orderly dissolution and winding up of the Ground Lease and Operating Lease.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. Stay in Rental Payments. During the Term of this Agreement and subject to the terms and conditions herein, HBDA agrees to relieve the District of its obligations under the Operating Agreement to make payments of monthly rent. All other terms and conditions of the Operating Lease remain in full force and effect.

2. Stay in Loan Payments. During the Term of this Agreement and subject to the terms and conditions herein, the District and Samoa LLC agree to relieve HBDA of its obligations under the Loan Agreement (all ancillary agreements thereto, including, without limitation, any notes and the Leasehold Mortgage) to make payments on the Loan.

3. Term. The term of this agreement shall retroactively commence on April 1, 2023, and shall remain in place for a period of twelve full calendar months, concluding on March 31, 2024 (“Term”), unless sooner terminated or extended by mutual agreement of the Parties.

4. Dissolution and Unwinding. During the Term, the Parties agree to work together, in good faith, to reach an agreement to unwind the Ground Lease, Operating Lease, and the Loan Agreement; provided, that nothing in this Agreement obligates either Party to reach an agreement.

5. Authority. Each Party hereto represents and warrants to the other that the individual executing this Agreement has the requisite authority to execute this Agreement.

IN WITNESS WHEREOF, this NMTC Exit Agreement has been duly executed and delivered by the duly authorized person of each party hereto as of the date first above written.

HUMBOLDT BAY DEVELOPMENT
ASSOCIATION, INC., a California nonprofit public
benefit corporation

By: _____

Name: _____

Its: _____

HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT, a California
public entity

By: _____

Greg Dale
President

IN WITNESS WHEREOF, this NMTC Exit Agreement has been duly executed and delivered by the duly authorized person of each party hereto as of the date first above written.

HUMBOLDT BAY DEVELOPMENT
ASSOCIATION, INC., a California nonprofit public
benefit corporation

By: _____

Name: _____

Its: _____

HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT, a California
public entity

By:  _____
Greg Dale
President

AGREEMENT FOR SERVICES

Between

Humboldt Bay Harbor, Recreation and Conservation District
and Humboldt Bay Development Association, Inc.

Whereas the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District), has complied with all federal, state, and local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the task to be performed under this agreement.

Whereas, Humboldt Bay Development Assn, Inc. (HBDA) intends to contract with the Harbor District for assistance with accounting services, THEREFORE, IN CONSIDERATION OF THE FOREGOING REPRESENTATIONS, AND THE FOLLOWING TERMS AND CONDITIONS, THE PARTIES AGREE:

1. **SERVICES TO BE PERFORMED.** HBDA engages the Harbor District to perform on-going general accounting duties, preparation of interim financial statements, attendance at Board Meetings, participation in annual audit, and compliance reporting for New Market Tax Credits as well as other administrative and clerical duties.
2. **TERM OF CONTRACT.** This contract is for a one-year period beginning July 1, 2023 and ending June 30, 2024.
3. Services will be charged on a quarterly basis.
4. **TERMS OF PAYMENT.** HBDA shall pay the Harbor District \$36,000 annually in quarterly installments for satisfactory work done during each quarter of the fiscal year.
5. **INSTRUMENTALITIES.** The Harbor District shall supply materials and supplies to cover the designated tasks, unless HBDA staff direct otherwise. All original records shall remain the property of HBDA.
6. **GENERAL SUPERVISION.** The Harbor District retains the sole right to control or direct the manner in which the services described herein are to be accomplished. Subject to the foregoing, HBDA reserves the right to inspect, to stop work, to prescribe alterations and generally review the work to ensure its conformity with that specified herein.
7. **NO PAYROLL OR EMPLOYEMENT TAXES.** No payroll or employment taxes of any kind shall be withheld or paid with respect to payments to the Harbor District.
8. **NO WORKER'S COMPENSATION.** No worker's compensation insurance has been or will be obtained by HBDA on account of any Harbor District representatives.
9. **CONFIDENTIALITY.** During this project, the Harbor District will receive confidential information. The Harbor District will ensure the confidentiality of such information, which shall be disclosed only on a "need to know" basis. Harbor District staff will work directly with HBDA Board President, HBHRCD Executive Director, or any individuals/groups they may authorize.
10. **TERMINATION.** This agreement may be terminated by either party for cause, at any time, with thirty-day written notice.

Agreed to on this _____ day of October 2022, Eureka, California.

Humboldt Bay Harbor, Recreation and
Conservation District

Humboldt Bay Development Assn, Inc.

BY: _____

BY: _____

Larry Oetker
Executive Director

Richard Marks
President