

REDWOOD MARINE TERMINAL – BERTH 1

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

LEASE AGREEMENT

Date: November 17, 2010

Lessee's Name: Michael Baird, Towill, Inc.

Hm Phone:

Mailing Address: 5099 Commercial Circle, Suite 100, Concord, CA 94520

Wk Phone: 925-682-6976 x216

Area: Redwood Marine Terminal Berth 1

Description of Use: Water Level Monitoring as described in attached Exhibit A

THIS AGREEMENT between the undersigned (hereafter called "Lessee") and the Humboldt Bay Harbor, Recreation, and Conservation District (hereafter called "District") is made with reference to the following agreed facts:

- A. The District operates the Redwood Marine Terminal, Samoa, California.
- B. Lessee has read and is familiar with the terms and conditions herein.

NOW, THEREFORE, IT IS AGREED:

1. PREMISES

District leases to Lessee and Lessee leases from District pursuant to this Agreement the non-exclusive use of the Redwood Marine Terminal – Berth 1, Samoa, California as defined as that area shown on Exhibit A of this agreement to the extent of District ownership (hereafter called "premises") for the use by Lessee for the purpose of monitoring water levels as described in Exhibit A of this Agreement.

2. TERM

The term of the lease shall commence at 12:00 (Noon) on the 18th day of November 2010 to 12:00 noon on April 30, 2011.

District may revoke immediately any lease agreement when Lessee violates any one of the Redwood Marine Terminal Rules and Regulations or any one of the terms and conditions contained herein.

3. RENT

For Access, Lessee shall pay as rent to the District the sum of \$ 0, as set by the Board of Commissioners, due and payable on the last day of each week, with no prior notice or demand and free of all claims or off sets, in lawful money of the United States of America. A late charge shall be applied to accounts not paid in full on or before the tenth (10th) of the month. One percent (1%) interest shall be applied to accounts not paid in full by the end of the month.

For Dockage, the District charges \$0.42/foot of vessel length/24 hour period due and payable, within 30 days of the date of vessel arrival at Redwood Marine Terminal with no prior notice or demand and free of all claims or off sets, in lawful money of the United States of America. A late charge shall be applied to accounts not paid in full on or before the tenth (10th) of the month. One percent (1%) interest shall be applied to accounts not paid in full by the end of the month.

In addition, the sum of \$ 0 is due and payable to the District upon execution of this Agreement as the security deposit refundable to Lessee upon termination or expiration of the term and upon Lessee's faithful performance of all the terms, covenants and conditions of this Agreement. The security deposit shall be a sum equal to one month's rental charge. It is understood that District may charge or increase the rates for said property by giving Lessee thirty (30) days notice and Lessee shall pay District the new rates thirty (30) days after said notice by District.

4. REDWOOD MARINE TERMINAL RULES AND REGULATIONS

Lessee agrees to all of the provisions, terms and conditions of the Redwood Marine Terminal Rules and Regulations (Ordinance No.18). A copy of which has been provided to Lessee. Lessee hereby agrees to abide by all rules and regulations as described in Ordinance No.18 and made a part of this agreement as Exhibit B by reference. Additional copies are available upon request.

5. SPECIAL CONDITIONS

In addition to the terms and conditions contained in Ordinance 16, Lessee also agrees to the following Special Conditions:

- No fuelling of equipment shall be allowed over the waters of Humboldt Bay. Lessee shall maintain suitable cleanup equipment and materials and trained personnel on-site and employ appropriate best management practices to avoid and prevent spills of hazardous materials onto District property or into the waters of Humboldt Bay. Lessee agrees to provide all necessary measures to protect Humboldt Bay from hazardous materials and construction debris entering the waters of Humboldt Bay.
- All personnel must check in with the Harbor District office (601 Startare Dr. Eureka, CA 95501 9&07) 443-0801 upon arrival and leaving the facility. Lessee agrees to not interfere with other users of the Facility.
- Work may be conducted on the premises between 9AM and 4PM Monday-Friday.

- Any damage to the Premises must be immediately reported to the District. Lessee shall repair any damage caused by Lessee at Lessee's sole expense and to the satisfaction of the District.
- If Lessee desires to temporarily remove any fences, gates or otherwise modify or relocate any other improvements on District's property existing as of the date of this Agreement, Lessee shall request such actions in writing to District and shall not proceed until District has given Lessee permission. Lessee shall replace any improvement temporarily relocated as a result of this project to the District's satisfaction prior to the termination of this Agreement.
- In no event shall Lessee be liable to the other for special, indirect, or consequential damages of any nature whatsoever.
- Prior to entering the Premises, Lessee and Lessee's subcontractors must provide an insurance certificate and endorsement providing proof of liability coverage and naming the District as additionally insured as detailed in Exhibit C of this Agreement.
- Lessee covenants and agrees to indemnify and save harmless the District, its Board of Commissioners, its officers, employees and representatives, against any and all damages to property or injuries or death of any person or persons arising from Lessee's use of the District's facilities, or from intentional, careless, or negligent acts of conduct (or failure to act) of Lessee, Lessee's family, employees, agents, business visitors or invitees, and to further defend, indemnify and save harmless the District, its Board of Commissioners, its officers, employees and representatives, against any and all claims, actions, proceedings, expenses and liabilities whatsoever arising therefrom or connected therewith.

Towill, Inc.

HUMBOLDT BAY HARBOR, RECREATION,
AND CONSERVATION DISTRICT

M. S. Sim

Lessee

By: *[Signature]*

Its: Chief Executive Officer

Date: *11/18/10*

Date: November 18, 2010

EXHIBIT A

Project Description

David Hull

From: Michael Baird [Michael.Baird@towill.com]
Sent: Tuesday, November 16, 2010 10:36 AM
To: Michael Baird; dhull@portofhumboldt.org; ptyson@portofhumboldt.org
Subject: RE: Access permission for Water Level Station deployment
Attachments: Site_Recon_Field_Notes_Form_SAMOA.pdf; Anne Strum.vcf; Eureka Tide Gauges Samoa 003.jpg; SAMOA_0869.jpg; Eureka Tide Gauges Samoa 001.jpg; GE SAMOA BMs.pdf

David,

Thanks for returning my call this morning. I am attaching several photos of the site where we would like to install a temporary tide gauge, as well as the Site Recon Field Notes that we submitted to NOAA.

For a little background, the USACE has implemented a program to update tidal datums for Humboldt Harbor and Bay. The intent is to determine if a project is designed relative to hydraulic or hydrodynamic models that are based on reliable elevations and water-level gauge data, and that permanent benchmarks are placed at an adequate density and accuracy relative to the National Spatial Reference System (NSRS), and to NOAA's National Water Level Observation Network (NWLON).

Towill's contact at the USACE San Francisco office is Anne Sturm – I have attached her contact information.

Towill's role is to install and monitor 2 water level stations in Humboldt Bay; one at the historic gauge site Samoa (NOAA Station number 941-8817), and one at Fields Landing (NOAA Station number 941-8723). Towill is under contract with the USACE to collect water level data for a period of 3 months, in order to update the tidal datum. We anticipate installing the gauge and associated equipment (data collector and small photovoltaic charger) during November, 2010, and collecting data for the months of December, January, and February. We are required to collect 3 complete months of data, so there is a possibility that we would need to collect data in March also. The temporary gauge will be removed promptly after data collection is complete.

We anticipate a total of 4 visits to the site:

1. Recon and initial measurements (completed in September 2010)
2. Equipment installation (November 2010)
3. Benchmark and gauge leveling by survey crew (November 2010)
4. Equipment removal (March or April 2011)

If possible, we would like to complete the installation this week and the leveling next week. If we can get the station 'on-line' before December 1st, we can begin collecting data for the month of December. If that's not possible, we would like to complete the installation in early December.

Please let me know if you need any additional information, and thank you for your assistance.

Michael Baird, PLS
Towill, Inc.
(925) 682-6976 x 216



National Oceanic and Atmospheric Administration
National Ocean Service
Center for Operational Oceanographic Products and Services

Site Reconnaissance Field Notes



GENERAL SITE INFORMATION			
Station Number 9418817	Station Name SAMOA, CA	Date 9/10/2010	
Project Name HUMBOLDT BAY CEPD & WATER LEVEL STATIONS	Station Type TEMPORARY	Permanent; Temporary; NWLON; Navigation; Hydro; COASTAL; Other	
Site Name SAMOA - Redwood Terminal	Site Location SAMOA HUMBOLDT CA 95564 City County State Zip code		
How To Reach LAT N40-49-04.8 LONG W124-10-50.8 GO SW'LY ON NEW NAVY BASE ROAD FROM RTE 255, TAKE FIRST LEFT (S'LY) ON COOKHOUSE RD. TURN LEFT (E'LY) AT VANCE RD. GO EAST 0.1 MILE TO GATE ON RIGHT. WITH ESCORT GO THROUGH GATE SOUTH AND SW'LY 0.25 MILE TO ANOTHER LOCKED GATE. CONTINUE SW'LY TO FENCELINE AT WHARF. LOCK AT CENTER GATE WILL OPEN. STA SITE AT SE COR WHARF.			
Property Owner: HUMBOLDT BAY HARBOR DISTRICT Address: PO BOX 1030 EUREKA, CA 95502 Phone: (707)443-0801 Cell Phone: (707)443-0800 fax Fax: (707)443-0800 fax		Local Contact: ADAM WAGSCHAL Address: 601 STARTARE DR EUREKA 95502 Phone: (707)496-2088 CELL Cell Phone: (707)496-2088 CELL Fax: adam@portofhumboldtby.org	
Communications or Agreements Made To Date SURVEYOR MET WITH ADAM WAGSCHAL AT HIS OFFICE AND ARRANGED TO MEET HIM AT GATE ENTRANCE TO SITE. 3 SEPARATE LOCKED GATES WERE OPENED TO REACH STATION LOCATION. AGREEMENT FOR PROPERTY ENTRY & ACCESS EMAILED TO ADAM (see above), DAVID HULL, CEO (dhull@portofhumboldtby.org) and PATTI TYSON (ptyson@portofhumboldtby.org).			Contact dates? Letter, phone or meeting? Details of Discussion? Follow-up needed? MOU or permits needed?
SITE DESCRIPTION		GEOGRAPHIC/OCEANIC DESCRIPTION	
Facility GOVERNMENT; FORMERLY INDUSTRIAL GATED; LOCKED AT ALL TIMES	Public; Private; Government; Industrial; Commercial; Residential Accessibility	Geographic & Hydraulic Features BAY; ON SAMOA CHANNEL MEAN RANGE 5.31 OBSERVED NO WAVES	Open Coast; Sheltered Harbor; Bay; Sound; Marsh Tide Range; Wave Height; Currents
Support Structure WOOD PILE, 12" DIA. TOP IS 0.5 FT BELOW DECK	Bulkhead; Pier; Pilings; Other Wood; Concrete; Steel Measurements & Sizes Additional Bracing Necessary?	Shoreline/Bottom Characteristics SEDIMENT UNKNOWN SLOPE	Sand; Sediment; Gravel; Stone; Rocks; Bedrock Bottom Slope Shifting Shoals? Erosion? Scouring?
Structure Height Above Bottom = 15.6 Above Water Surface = 5.5 Time of Measurement = 1615 PDT Water Depth 10.1		Marine Growth LIGHT; BARNACLES	Light; Heavy; Kelp; Weeds; Barnacles; Mussels
		Proposed Sensor & DCP Locations MOUNT SENSOR CASING TO PILING BOLT ENCLOSURE TO DECK SURFACE NEARBY	
INSTRUMENTATION		SUPPORT STRUCTURES	
Data Collection Platform To Be Installed STEVENS DL3000		Type Of Shelter To Be Used NEMA 4, FIBERGLASS	
Sensor(s) To Be Installed AQUATRAK MODEL 5000		Type & Length Of Well 4" PVC - 20'	
		Clamps Required TWO	

TOOLS/SUPPLIES

TOOLS/SUPPLIES

Special Tools or Equipment Required		Boat Jet Pump Pneumatics Hydraulics Generator Welder Diving
BOAT		
Supply List		Lumber Hardware Pipes
MISC. HAND TOOLS, CLAMPS		
Nearby Supplies/Services		
PIERSON BUILDING CENTER - 4100 BROADWAY EUREKA 95503 (707)441-2700 ENGLUND MARINE SUPPLY - 2 COMMERCIAL ST. EUREKA 95501 (707)444-9266		
VERTICAL CONTROL/BENCHMARKS		
Level Procedures to be Performed		2nd Order, Class 1 3rd Order, Class 1 Other
3RD ORDER, CLASS 1		
Bench Marks (Designation/Stamping/Mark Type/Setting/Stability Code/Handheld GPS)		# Recovered # to be Installed Estimated length of run Quality of Bench Marks Static GPS Suitability
941 8817 TIDAL 2/NO.2 1962/DISK ON CONC STRUCT./D/N40-49-04.8 W124-10-50.8/GPS-YES 941 8817 B/8817 B 1978/DISK ON ROD/B/N40-49-16.4 W124-10-48.5/GPS-NO F 735/F 735 1944/DISK ON CONC./C/N40-49-20.2 W124-10-37.1/GPS-YES Z 1901/Z 1901 1967/DISK ON ROD/B/N40-49-43.2 W124-10-20.5/GPS-YES W 1403/W 1403 1988/STEEL PIN IN WELL/B/N40-49-10.8 W124-11-26.2/GPS-YES		
SERVICES/UTILITIES		
Telephone Requirements		# of lines required Origination Point Length of run Overhead/trench Estimated cost Type of cable Type of conduit
NONE		
Telephone Company Info		Name Number Mail Address Contact
N/A		
IP Modem		Service Provider Signal Strength
VERIZON GOOD		
Electrical Requirements		# of lines required Origination Point Length of run Overhead/trench Estimated cost Type of cable Type of conduit
BATTERY WITH SOLAR-POWERED CHARGER		
Electrical Contractor Info		Name Number Mail Address Contact
N/A		
Other Contractors Info		Marine Concrete Diving Welding Price quotes received
N/A		
Additional Information		
SOLAR INCIDENCE ANGLE FOR 12-NOON 9/10/2010 IS 36.40 DEGREES		

Z 1091

Pedrokin

F 735

8817 B

Coswin

W 1403

W 1403

941 8817 TIDAL 2

STA 9418817

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Image © 2010 DigitalGlobe

40°49'21.95"N 124°10'49.44"W elev: 0 ft

Imagery Date: Jun 9, 2006



EXHIBIT B

ORDINANCE NO. 18

THE REDWOOD DOCK FACILITY RULES AND REGULATIONS ORDINANCE

AN ORDINANCE ESTABLISHING RULES, REGULATIONS AND ENFORCEMENT PROCEDURES FOR THE REDWOOD DOCK FACILITY

ARTICLE I SHORT TITLE: DEFINITIONS

SECTION 1.1 SHORT TITLE

This ordinance shall be known as "The Redwood Dock Facility Rules and Regulations Ordinance".

SECTION 1.2 DEFINITIONS

For the purpose of this ordinance, certain words and phrases used herein are defined as follows:

(a) "Abandoned" means any vessel, equipment or other personal property, moored, anchored, aground, stored or placed at the Redwood Dock or other District owned facilities in excess of twenty four (24) hours without a valid Rental Agreement, Long Term Lease Temporary Assignment or written consent of the Port Director.

(b) "Anchoring" means attaching a vessel to the bottom or shore of Humboldt Bay, using equipment, lines, ropes, chain, or cable, which is, carried on board such vessel as regular equipment when underway. "District" shall mean the Humboldt Bay Harbor, Recreation and Conservation District.

(c) "Board" or "Board of Commissioners" shall mean the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District.

(d) "Float" means any floating platform normally used for mooring or securing of vessels.

(e) "Humboldt Bay" shall mean the land and overlying waters, to the limit of tidal action, of what is commonly known as Humboldt Bay, Humboldt County, California, including the land and overlying waters of all streams and estuaries tributary thereto to the limit of tidal action.

(f) "Lessee" means the legal owner, operator, or individual in legal possession of a vessel, equipment or other personal property using the facilities at the Redwood Dock by authority of District under Rental Agreement, Temporary Assignment, or Long Term Lease.

(g) "Long Term Lease" means an agreement for the right to use a portion of the Redwood Dock for a term greater than a month-to-month agreement as approved by the Board of Commissioners.

(h) "Marine Equipment" and "Equipment" means any equipment used in conjunction with the maritime industry.

(i) "Mooring" means any weight, chain, rope, floating objects, structure or appliance used alone or together for the purposes of holding a vessel in a particular place and which is not carried on board such vessel as regular equipment when underway.

(j) "Pier" means a structure built out into the water with piles for use as a landing place.

(k) "Port Director" shall mean the Chief Executive Officer or a designated representative of the District.

(l) "Redwood Dock Facility" shall mean the dock and ancillary facilities owned by District located wholly or on a portion of AP#'s 401-031-058; 401-031-048; 401-031-056; 401-031-050; 401-031-40; 401-031-041, Samoa, and within Humboldt County, California.

(m) "Rental Agreement" means the right to month-to-month use of a described area for any vessel, equipment or other personal property by Lessee requesting use of the facilities for more than 30 days.

(n) "Space" means an area under District authority, designated by District, to be used by Lessee for the purpose of staging, storage, repairs, and maintenance, of authorized equipment and personal property.

(o) "Temporary Assignment" means the right to interim use of a described area for any vessel, equipment or other personal property by Lessee requesting use of the facilities for less than 30 days.

(p) "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on water. For purposes of this Ordinance the following shall also be included in this definition: (1) a seaplane on the water; (2) barges, dredges, platforms, etc.; (3) a water craft specifically designed to operate on a permanent fixed course, the movement of which is restricted to or guided on such permanently fixed course by means of a mechanical device on a fixed track or arm to which the water craft is attached or by which the water craft is controlled, or by means of a mechanical device attached to the water craft itself.

(q) "Wharf area" means and includes pier, wharf, bulkhead, bulkhead wharf, seawall, seawall structure, embankment, thoroughfare, and other port terminal facility areas along side of which vessels may lie or which are suitable for and are to be used in the loading and unloading, assembling, distribution and handling of authorized equipment and personal property.

ARTICLE 2 AUTHORITY OF THE PORT DIRECTOR

SECTION 2.1 Duties of the Port Director

The Port Director, Humboldt County Sheriff, United States Coast Guard, or their designated representatives shall have authority to enforce the provisions of this ordinance and all regulations and laws affecting the Redwood Dock. It shall be the duty of the Port Director to:

(a) Carry out and enforce the orders of the Board, the provisions of this ordinance and all regulations and laws of the District.

(b) Assign spaces to rent for vessels, equipment and other personal property at the Redwood Dock.

(c) Execute on behalf of the District Rental Agreements and Temporary Assignments for the assignment of spaces for vessels, equipment and other personal property at the Redwood Dock.

(d) Order any vessel, equipment or other personal property that violates any provision of this ordinance to be moved to a location designated by the Port Director or to be removed from the Redwood Dock and District property. Failure to comply with directions of the Port Director shall result in the moving or removal by the Port Director at the cost of the Lessee or owner.

(e) Report promptly to the proper authorities any violation of the laws of the United States for the protection of navigation and the preservation of navigable waters or any violation of state or local laws or regulations.

(f) The Port Director shall perform such other duties as directed by the Board of Commissioners by resolution or motion.

ARTICLE 3 LIABILITY OF LESSEE

SECTION 3.1 Assumption of Risk

Any person using the facilities at the Redwood Dock assumes all risk of damage or loss from any cause to vessels, equipment or other personal property at the Redwood Dock.

SECTION 3.2 District Not Liable for Loss

The District shall not be liable for any loss or damage to vessels, equipment or other personal property at the Redwood Dock facilities.

SECTION 3.3 Compliance with Rules

Lessee shall be responsible their own, and for Lessee's family, employees, agents, contractors and invitees, compliance with all laws, ordinances, rules and regulations of all governmental and regulatory entities. District may move or remove any vessel, equipment or other personal property or to place the same in storage at Lessee's expense if in the sole discretion of the District it may be necessary to do so for the safety or security of the vessel, equipment or other personal property, the District's property, or to repair District's facilities, or for any other reason in the interests of the District. The District shall have no liability for any loss or damage resulting for the moving or for failure to move any vessel, equipment or other personal property.

SECTION 3.4 Removal of Vessel and Equipment

If the District deems it necessary to resecure or relocate a vessel, equipment or other personal property, Lessee shall pay the reasonable cost or charges incurred by the District.

SECTION 3.5 District Not Liable for Removal

The District shall not be liable for the removal, relocation, or storage of vessels, equipment or other personal property as provided in this ordinance.

SECTION 3.6 Insurance Requirements

All contractors performing work for Lessees shall have on file with the District, prior to commencement of work, current liability insurance listing the Humboldt Bay Harbor, Recreation and Conservation District as additionally insured.

ARTICLE 4 RENTAL AGREEMENTS, TEMPORARY ASSIGNMENTS, and LONG TERM LEASES

No person (including the owner, master, operator, or person in possession of a vessel, equipment or other personal property) shall moor, anchor or place a vessel, equipment or other personal property at the Redwood Dock or District property without having first secured a Rental Agreement, Temporary Assignment or Long Term Lease from the Port Director.

SECTION 4.1 Rental Agreements

The District shall assign available facilities from a chronological waiting list. A vacant space assignment will be offered first to the person highest on the list for that size assignment and then, if refused, in sequence to those next on the list. Acceptance of an assignment must be confirmed within ten (10) days of notification by payment of all applicable rents and deposits, and execution of all applicable documents.

SECTION 4.2 Temporary Assignments

Temporary Assignments shall be made on a space available basis. Acceptance of an assignment must be indicated within ten (10) days of notification by payment of rents and execution of a Temporary Assignment agreement.

SECTION 4.3 Long Term Lease

Long Term Leases shall be assigned at the sole discretion of the Board of Commissioners.

SECTION 4.4 Termination of Rights

Upon expiration of the Rental Agreement or Temporary Assignment, unless extended or renewed, all rights thereunder shall automatically terminate. No Rental Agreement or Temporary Assignment shall be renewed if the holder is in violation of any of the terms of this ordinance, regulations of the District, or provisions of the Rental Agreement or Temporary Assignment, and all fees and charges have been paid in full.

Expiration of Long Term Lease shall be subject to provisions as stated in the Long Term Lease.

SECTION 4.5 Facility Uses

An assignment authorizes the holder to use the facilities at the Redwood Dock for vessel repairs and maintenance, moorage and storage of vessels, and storage of marine equipment, and other equipment and personal property. Additional

or varying uses shall not be allowed except at the sole discretion of the District.

SECTION 4.6 Permits Non-Assignable

Rental Agreements, Temporary Assignments, and Long Term Leases are non-assignable, are not transferable, and cannot be sublet. No attempted transfer, assignment or subletting, whether voluntary or involuntary, or operation of law, shall be valid and shall automatically terminate any Rental Agreement, Temporary Assignment or Long Term Lease. Transfers to a third party can be accomplished only by the third party's application to the District for a Rental Agreement, Temporary Assignment, or Long Term Lease.

SECTION 4.7 Permits Issued

Rental Agreements, Temporary Assignments, and Long Term Leases shall be issued only to a named individual, corporation or other business entity, or government entity.

SECTION 4.8 Reassignment of Space

Spaces may be reassigned at the discretion of the Port Director. Holders of a Rental Agreement, Temporary Assignment, or Long Term Lease may apply for reassignment; however, reassignment is not within the sole discretion of the Port Director.

SECTION 4.9 Temporary Reassignment of Space

Vessels, equipment and other personal property subject to Rental Agreements, Temporary Assignments or Long Term Leases may be temporarily assigned or reassigned to other spaces under the control of the District to accommodate repairs, improvements, maintenance, construction, emergencies, or when necessary in order to permit maximum efficient utilization of the Redwood Dock at the discretion of the Port Director.

SECTION 4.10 Revocation of Assignment

Any Rental Agreement or Temporary Assignment permit may be revoked by the Port Director if the holder violates any provision of this ordinance, any provision of the Rental Agreement or Temporary Assignment, or any governmental or regulatory laws, ordinances, rules or regulations.

SECTION 4.11 Notice of Cancellation to the District

A Rental Agreement may be cancelled by the holder with thirty (30) days written notice to the Port Director.

SECTION 4.12 Notice to District

The holder of a Rental Agreement, Temporary Assignment or Long Term Lease, shall keep the District informed of his or her current mailing address, telephone numbers, legal owner's address and telephone numbers and any emergency telephone numbers. The holder thereof shall also notify the District immediately upon any change of ownership of the vessel, equipment or other personal property to which his/her Rental Agreement, Temporary Assignment or Long Term Lease applies, and shall notify the District immediately upon vacating the space assigned to the Lessee. Failure to keep the District informed as to the provisions set forth in this paragraph shall be grounds for revocation of the Rental Agreement, Temporary Assignment or Long Term Lease by District and forfeiture of any deposits.

SECTION 4.13 Notice by Mail

Upon notice by certified mail, return receipt requested, or by personal service delivered to the holder of a Rental Agreement, Temporary Assignment or Long Term Lease that the Rental Agreement, Temporary Assignment or Long Term Lease has been revoked by the District pursuant to this ordinance, and after the expiration of three (3) days from the date when the notice was personally delivered or three (3) days from the date that the certified mail was deposited with the United States Post Office, the Port Director may remove any vessel, equipment or other personal property left by the holder upon the District's properties and dispose of the same in such manner as the District may deem proper.

SECTION 4.14 Refusal of Assignment

District shall have the right to refuse assignment or to refuse to issue a Rental Agreement, Temporary Assignment or Long Term Lease to any Lessee if any vessel, equipment or other personal property is, in the opinion of the Port Director, unsightly, improperly maintained, inappropriate or may present a danger to District's property or to other vessels, equipment or other personal property.

ARTICLE 5 RATES AND USE

SECTION 5.1 Rates

Rates, charges, and tariffs for Rental Agreements, Temporary Assignments, and Long Term Leases shall be adopted by the Board of Commissioners at a duly held meeting.

SECTION 5.2 Payment of Rates

All fees and other charges are due at the time of issuance of the Rental Agreement and the Temporary Assignment or as agreed in the Long Term Lease.

(a) Payment of Rates, Late Charges, and Interest

Failure of a month-to-month Lessee to pay fees and other charges within ten (10) days of the due date, or a Long Term Lessee to pay fees and other charges within twenty (20) days, shall result in a late penalty charge as follows: if the Lessee's balance is less than \$50.00, the late penalty charge is \$5.00 per month; if the Lessee's balance is \$50.01 to \$100.00, the late penalty charge is \$10.00 per month; and if the Lessee's balance is in excess of \$100.00, the late charge penalty is \$15.00 per month. Past due accounts (accounts not paid in full) in addition to the late penalty charges shall have interest accrued on the unpaid balance at 1% per month.

SECTION 5.3 Security Deposit

District shall charge a security deposit, which shall be equal to one month's rental charge.

SECTION 5.4 Change of Rates, Charges, and Tariffs

District shall have the right to change or increase the rates for Rental Agreements or Temporary Assignments with thirty (30) days written notice to Lessee.

SECTION 5.5 Non-Exclusive Possession

District may issue a Rental Agreement, Temporary Assignment, or Long Term Lease for non-exclusive possession or use of facilities. Non-exclusive possession or use means a right to the use of specific facilities when the same facilities are also used by others. District reserves the right to assign to others the right to use such facilities when Lessee's use is designated as non-exclusive use. If Lessee's use is based upon non-exclusive use as provided for in the Rental Agreement, Temporary Assignment or Long Term Lease, and Lessee's vessel, equipment or other personal property will be absent from the facilities for five (5) days or more, District may, at its sole option, allow use of the facilities by another Lessee in its sole discretion. Prior to Lessee's departure from the facilities for a period of five (5) days or more, Lessee shall notify District of the Lessee's intended schedule. District shall be under no obligation to have the facilities clear for Lessee prior to the intended estimated time of arrival. If the specific facilities are not available to Lessee, temporary facilities may be made available to Lessee.

ARTICLE 6 RULES AND REGULATIONS

SECTION 6.1 Tampering with Vessels, Equipment, Structures and Personal Property

It shall be unlawful for any person to tamper with, convert or trespass upon any vessel, equipment or other personal property at the Redwood Dock Facility without the written consent of the owner, unless in the performance of official duties or to protect life, property, navigation or the environment.

SECTION 6.2 Closures

The Redwood Dock facility shall be closed during hours of darkness, during times when necessary for port security purposes, and during times necessary for repairs and maintenance. Except with the written consent of the Port Director, it shall be unlawful for persons to be within the facility after hours of darkness, during times when necessary for port security purposes, and during times necessary for repairs and maintenance and any such persons shall be considered trespassers and prosecuted by law.

SECTION 6.3 Minors

It shall be unlawful for any person under the age of eighteen (18) years to be on any of the gangways, floats, vessels

or equipment in the Redwood Dock unless the minor is accompanied by an adult, or unless such person has the written permission of the owner, on file with the Port Director, of the specific vessel, equipment or other personal property located at the Redwood Dock, or unless the minor has written permission from the Port Director.

SECTION 6.4 Use of Vessel, Equipment, or Personal Property as a Residence

No vessel, equipment or other personal property within the Redwood Dock shall be used as a place of residence except with the written permission of the Port Director

SECTION 6.5 Refuse and Environment

All activities at the Redwood Dock shall be in accordance with best and reasonable practices to prevent water, soil and air pollution. Lessee will be financially responsible for clean-up expenses and fines as a result of pollution or accumulation of hazardous materials arising from any activity concerning Lessee's vessel, equipment or other personal property that results in pollution, accumulation of hazardous materials, or that constitutes a nuisance.

(a) No persons shall dispose or in any other manner deposit any refuse matter, human waste, dead animals, fish, shellfish, fish parts, bait, putrefying matter, bilge water, paints, solvents, oil, spirits, inflammable liquid, hazardous materials, contaminants, plastics or garbage of any kind whatsoever into or upon the water of Humboldt Bay or in any part of the Redwood Dock facilities.

(b) All material shall be disposed of in an approved manner for the specific material.

(c) No person on board any vessel within the Redwood Dock shall use the sanitary facilities, toilets, or sinks of such vessel unless vessel is equipped with a properly working holding tank to prevent discharge.

(d) Pets shall not be allowed within the Redwood Dock facility.

(e) Any person in violation of safe and appropriate disposal practices shall have their Rental Agreement or Temporary Assignment revoked immediately and shall be responsible for all clean up costs and any other damages.

SECTION 6.6 Rules and Regulations

(a) All persons entering into the Redwood Dock must log in daily at the office prior to commencing any work.

(b) All vessels, equipment and other personal property must be secured so to avoid an overhang of any walkway or driveway.

(c) Oil absorbent materials shall be used when the possibility of a spill exists. Lessee shall be responsible for the removal and proper disposal of all absorbent material and product from District property.

(d) Spray painting is prohibited at the Redwood Dock facilities without prior notice to the District and written permission from the Port Director. Persons shall use all caution while spray, roller, or brush painting and Lessee shall be responsible for paint damage to adjacent vessels, equipment and other personal property. The use of antifouling paint containing tributyl tin is prohibited. All paint spillage must be properly cleaned up immediately. Lessee shall be responsible for cleanup and shall be responsible for the proper disposal of all materials use in cleanup. Failure of the Lessee to clean up paint spillage and dispose of materials may result in the District cleaning up spillage and disposing of materials at the Lessee's expense.

(e) Sandings from boats shall be collected by using visquine, plastic tents, or other materials to keep pollutants from contaminating the soil, water, or becoming airborne and all dry sandings shall be vacuumed. Exterior wet sanding is not allowed. Sanding shall not be cleaned by hose or water pressure cleaning as storm drains may go directly into Humboldt Bay.

(f) Sand blasting is prohibited except in approved areas.

(g) Use of welders, burning tools, fires, fuel heating stoves, or any fuel cooking facilities is prohibited except with written consent of the Port Director.

(h) No person shall display on any vessel, equipment or other personal property a "For Sale" sign in

excess of 150 square inches on the face.

(i) Bulk fueling of any vessel in the Redwood Dock is prohibited unless with the expressed written permission of the Port Director.

(j) Lessee is responsible for maintaining their space in a clean and orderly manner. All tools, equipment, and supplies are to be stored or secured in an orderly fashion within Lessee's space before leaving the area for the day. Failure of the Lessee to clean up may result in the District cleaning up the area at the Lessee's expense.

(k) Lessee is responsible for final clean up of space at the end of Lessee's occupancy. Failure to adequately clean space at the end of occupancy shall result in the forfeiture of part or all of the deposit, and may subject Lessee to additional charges if the cost to clean and restore the area exceeds the amount of the deposit.

(l) Lessees engaged in work on their vessel, equipment or other personal property must take reasonable steps to prevent interfering with the work of others.

(m) Vehicles must park in appropriate areas and must never hinder access for other Lessees' vessels, equipment or other personal property. No vehicle shall be parked so as to obstruct the road, driveway, gate, dock, or other public access. The District reserves the right to regulate all parking of motor vehicles and equipment, including guests and invitees of Lessee. No overnight parking of vehicles of any kind shall be permitted except under the provisions of a permit issued by the District or with the written consent of the Port Director. All vehicles left unattended or illegally parked may be towed away and stored at owner's or Lessee's expense.

(n) No brokers, peddlers, agents, or solicitations shall be permitted in the Redwood Dock except upon the prior written consent of the Port Director.

(o) No chemicals, fuels, oils, paints, solvents, resins, and fillers may be stored by Lessee. All chemicals, fuels, oils, paints, solvents, resins and fillers used by Lessee must be kept in their original container or smaller appropriate containers with labels identifying material enclosed. A Material Safety Data Sheet (MSDS) shall be provided to the District and be placed next to the primary entrance of each warehouse containing materials.

SECTION 6.7 Crews and Guests

Lessee is responsible and liable for Lessee's family, employees, agents, business visitors, contractors, and invitees within the Redwood Dock for compliance with all rules, regulations, and provisions of the Rental Agreement, Temporary Assignment, and this ordinance.

SECTION 6.8 Documentation or Registration

All vessels are required to be either currently documented with the United States Government or currently registered with a state and must remain currently documented or registered to retain a Rental Agreement.

SECTION 6.9 Fishing, Swimming, and Divers

(a) No person shall engage in fishing from the Redwood Dock.

(b) Recreational swimming within the Redwood Dock facility is prohibited.

ARTICLE 7 DEFAULT

SECTION 7.1 Termination of Permits

In the event of any default by Lessee in the payment of rent or Lessee's other obligations set forth in the Rental Agreement or Temporary Assignment, or Lessee's other obligations as set forth in this ordinance, the District may immediately terminate the Lessee's Rental Agreement or Temporary Assignment and Lessee's rights hereunder without further notice, in which event Lessee shall promptly surrender the premises, remove the vessel, equipment or other personal property, and pay the District all sums to which the District may be entitled, including damages, damage to District's property, reasonable attorney's fees or other expenses for liability incurred by the District by reason of any such default.

SECTION 7.2

Re-entry by District

As an additional remedy to the District as that set forth in the paragraph above, for any such default by Lessee, the District may without terminating the Rental Agreement and Temporary Assignment, re-enter the area and take possession of it. However, no such re-entry shall be construed as an election to terminate the tenancy unless written notice of termination is given by the District to Lessee. The District may remove all persons and personal property, transfer such property to a warehouse, anchorage or elsewhere at the expense of Lessee and relet the premises for the account of Lessee. In this event, Lessee shall be responsible and liable to the District for all costs of re-entry, repossession, handling, storage and anchorage charges, attorney's fees, marshal or sheriff's fees, advertising, and any other costs or expense to the District incurred by the District by reason of any default hereunder by Lessee or by reason of the District exercising any of its rights.

SECTION 7.3

Lessee's Failure to Comply

In the event the Board of Commissioners of the District determines that Lessee has failed to comply with the terms and provisions of the Rental Agreement or Temporary Assignment or with the ordinances, rules and regulations promulgated by the District, for the safety of District's facilities, the Rental Agreement and Temporary Assignment may be terminated forthwith by the District and upon being so notified in writing by the District, Lessee shall immediately remove his vessel, equipment and all personal property from the assigned area.

ARTICLE 8 ENFORCEMENT

SECTION 8.1

Violation of Ordinance

The Port Director or his designated representative shall have full authority to enforce the provisions of this ordinance and to issue citations for violations of any provision of this ordinance.

SECTION 8.2

Violation a Misdemeanor

Any person violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00) per offense, or by imprisonment in the county jail for a period not to exceed six (6) months, or both such fine and imprisonment. Each day any person is in violation of the provisions of this ordinance shall constitute a separate offense.

ARTICLE 9 INDEMNITY

Lessees covenant and agree to indemnify and save harmless the District, its Board of Commissioners, its Port Director, employees and representatives, against any and all damages to property or injuries or death of any person or persons arising from Lessee's use of the District's facilities, or from intentional, careless, or negligent acts of conduct (or failure to act) of Lessee, Lessee's family, employees, agents, business visitors or invitees, and to further defend, indemnify and save harmless the District, its Board of Commissioners, its Port Director, employees and representatives, against any and all claims, actions, proceedings, expenses and liabilities whatsoever arising therefrom or connected therewith.

PASSED AND ADOPTED THIS 22 DAY OF MARCH 2005, BY THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT BY THE FOLLOWING POLLED VOTE:

AYES: COMMISSIONER PELLEGRINI, COMMISSIONER CURLESS, COMMISSIONER FRITZSCHE, COMMISSIONER HUNTER, COMMISSIONER OLLIVIER

NOES:

ABSENT:

Signature on File
RONNIE PELLEGRINI, President
Board of Commissioners

ATTEST:

Signature on File
ROY L. CURLESS, Secretary
Board of Commissioners

EXHIBIT C

DISTRICT'S STANDARD INSURANCE REQUIREMENTS

- A. Unless modified in the agreement, Consultant shall maintain the insurance required in this insurance standard.
- B. Commercial General Liability Insurance shall be maintained by Consultant in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury, personal injury, and property damage. Coverage shall be at least as broad as Insurance Services Office form number CG-0001.
- C. Comprehensive Automobile Liability Insurance, which provides for total limits of not less than \$1,000,000, combined single limits per accident applicable to all owned, non-owned and hired vehicles. Coverage shall be at least as broad as Insurance Services Office form number CA-0001 (latest edition).
- D. General Liability and Automobile Liability Policies are to contain, or be endorsed to contain, the following provisions:
 - 1. District, its elected officials, officers, employees, agents, and volunteers are to be covered as additional insured as respects liability arising out of work or operations performed by or on behalf of Consultant; premises owned, leased, or used by Consultant; or automobiles owned, leased, hired, or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to District, its elected officials, officers, employees, agents, and volunteers.
 - 2. The insurance coverage of Consultant shall be primary insurance as respects District, its elected officials, officers, employees, agents, and volunteers. Any insurance or self-insurance maintained by District, its elected officials, officers, employees, agents, and volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
 - 3. Coverage shall state that the insurance of Consultant shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - 4. Each insurance policy shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice has been given to District.
 - 5. Statutory Workers' Compensation shall be provided in the amount required by the Labor Code of the State of California and Employers' Liability Insurance. Both the Workers' Compensation and Employers' Liability Insurance policies shall contain the insurer's waiver of subrogation in favor of District, its elected officials, officers, employees, agents, and volunteers.

6. Professional Liability Insurance (Errors and Omissions) shall be provided in an amount not less than \$1,000,000 against loss due to error or omission or malpractice of Consultant. Coverage is to be endorsed to include contractual liability.
- E. Any deductibles or self-insured retentions must be declared to and approved by District.
- F. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII.
- G. Consultant shall designate the Humboldt Bay Harbor Recreation and Conservation District as an Additional Insured of the insurance. Consultant shall furnish District with certificates of insurance and original endorsements effecting the coverages required by this clause. Certificates and endorsements shall be furnished to: Humboldt Bay Harbor Recreation and Conservation District, P.O. Box 1030, Eureka, CA 95502-1030. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District prior to the commencement of contracted services. District may withhold payments to Consultant if adequate certificates of insurance and endorsements required have not been provided.
- H. The requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by District, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to an agreement with the District, including, without limitation, provisions concerning indemnification.
- I. If any policy of insurance required by this Section is a "claims made" policy, pursuant to Code of Civil Procedure §342 and Government Code §945.6, Consultant shall keep said insurance in effect for a period of eighteen (18) months after the termination of any agreement.
- J. If any damage, including death, personal injury or property damage, occurs in connection with the Consultant's performance in accordance with an agreement with the District, Consultant shall immediately notify District by telephone at 707-443-0801. No later than three (3) calendar days after the event, Consultant shall submit a written report to District's Chief Executive Officer, containing the following information, as applicable: (1) name and address of injured or deceased person(s); (2) name and address of witnesses; (3) name and address of any known insurance company other than Consultant's; and (4) a detailed description of the events, damage, and whether any District property or personnel was involved.