



AGENDA
REGULAR MEETING
OF THE BOARD OF HARBOR COMMISSIONERS
JANUARY 27, 2021
MOSS LANDING HARBOR DISTRICT
7881 Sandholdt Road, Moss Landing, CA 95039

Moss Landing Harbor District is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/87033583098>

Meeting ID: 870 3358 3098

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A. CLOSED SESSION

A Closed session will be held immediately prior to the public open meeting, and will begin at **6:00 p.m.** to consider the following items. The public open meeting will begin at **7:00 p.m., or as soon thereafter as the Closed Session is concluded**, and any action taken during the Closed Session will be reported out at that time.

1. Meet and confer with legal counsel pursuant to Government Code 54956.9(d)(4) deciding whether to initiate litigation.
2. Confer with real property negotiators (District Counsel and GM) pursuant to Government Code 54956.8 regarding 2 matters.
 - a. Lusamerica Foods Inc. Proposed Cannery Building Office Space Lease
 - b. Proposed lease of storage lot adjacent to the Santa Cruz Cannery Building located at 7532 Sandholdt Rd.
 - c. Proposal received from Loop regarding North Harbor property lease

B. OPEN SESSION CALL TO ORDER - PLEDGE OF ALLEGIANCE – ROLL CALL

Russ Jeffries – President

Tony Leonardini – Vice President

Vince Ferrante – Secretary

James Goulart – Commissioner

Liz Soto - Commissioner

Tommy Razzeca – General Manager

Mike Rodriguez – District Counsel

Shay Shaw – Administrative Assistant

C. PRESIDENT'S REMARKS

The President will use this opportunity to inform the public of issues affecting the District and other items of a general nature not otherwise provided for on this agenda.

D. PUBLIC COMMENTS

Members of the general public may address the Board of Harbor Commissioners regarding any item that is not on the Agenda. The President may limit the total amount of time of testimony.

E. ELECTION OF OFFICERS

Nominations and election of the 2020 Officers for the Board of Harbor Commissioners. The General Manager will conduct the Election of Officers.

F. 2020 COMMITTEE APPOINTMENTS

The President will appoint members of the Board to the various Harbor District committees:

- a. Elkhorn Slough Advisory Committee
- b. Liveaboard Committee
- c. Harbor Improvement Committee
- d. Real Property Committee I
- e. Real Property Committee II
- f. Special Districts/LAFCO
- g. Personnel Committee
- h. Finance Committee
- i. Ad Hoc Budget Committee

G. CONSENT CALENDAR

1. Approval of the December 9, 2020 Regular Meeting Minutes.

H. FINANCIAL REPORT

2. Financial report month ending December 31, 2020.

I. MANAGERS' REPORTS

The General Manager will make oral or written reports. The Board may take action as deemed necessary. The Managers may present additional reports but the Board may not take action on any item not on this Agenda.

3. Projects Status/Update
4. Summary of Permits Issued
5. Meeting Announcements
6. Liveaboard Report
7. Slip Income Report
8. Incident Report

J. COMMITTEE REPORTS

9. Finance Committee – Ferrante/Soto
10. Elkhorn Slough Advisory Committee – Leonardini
11. Special Districts – Jeffries/Ferrante
12. Budget Committee – Leonardini/Goulart
13. Liveaboard Committee – Goulart/Soto
14. Harbor Improvement Committee – Goulart/Soto
15. Real Property Committee I – Jeffries/Leonardini
16. Real Property Committee II – Ferrante/Goulart
17. Meetings attended by Commissioners at District expense since the last regular meeting of the Board (AB 1234 requirements). Such reports may be oral or written.

I. GENERAL MANAGER REPORT AND UPDATE REGARDING ORDINANCE NO. 208

18. The General Manager will provide the Board an update regarding Ordinance No. 208 related to the Passenger Vessel Fee which is not being charged at this time due to the COVID-19 Pandemic. The General Manager will seek direction from the Board

- a. Staff report
- b. Public Comment
- c. Board discussion and direction/recommendation

K. NEW BUSINESS

19. ITEM- Consider approval of Deep Water Desal LLC. Cannery Building Office Space Lease.

- a. Staff report
- b. Public Comment
- c. Board discussion
- d. Board action

20. ITEM- Consider approval of Lusamerica Foods Inc. Cannery Building Office Space Lease.

- a. Staff report
- b. Public Comment
- c. Board discussion
- d. Board action

21. ITEM- Consider approval to extend the term of MBARI Special Activity Use Permit

- a. Staff report
- b. Public Comment
- c. Board discussion
- d. Board action

L. COMMISSIONERS COMMENTS AND CONCERNS

Commissioners may address items of concern at this time, and may request that items be placed on future agendas in accordance with the By-laws of the Board.

M. ADJORNMENT

The next Meeting of the Board of Harbor Commissioners is scheduled for February 24, 2021 at 7:00 PM at the Moss Landing Harbor District, 7881 Sandholdt Road, Moss Landing, CA. Individuals requiring special accommodations should contact Administrative Assistant, Shay Shaw at Shaw@mosslandingharbor.dst.ca.us or at 831.633.2461 no less than 72 hours prior to the meeting or if a Special Meeting, as soon as possible after the Agenda is posted. Copies of the agenda will be available 72 hours prior to Regular Meetings and 24 hours prior to Special Meetings and/or by contacting the District at 831.633.5417 or Shaw@mosslandingharbor.dst.ca.us or on the District's website at www.mosslandingharbor.dst.ca.us. All meetings are noticed and conducted in accordance with the Ralph M. Brown Act.

Moss Landing Harbor District
Balance Sheet
As of December 31, 2020

	<u>Dec 31, 20</u>	<u>Dec 31, 19</u>	<u>\$ Change</u>	<u>% Change</u>
ASSETS				
Current Assets				
Checking/Savings				
1002 · Petty Cash	500	500		
1009 · Union - Operating	3,008,460	2,358,289	650,171	28%
1010 · Union - M.M.		8,361	-8,361	-100%
1011 · Union - Payroll		31,993	-31,993	-100%
1015 · 1st Capital Bank	1,555,792	1,552,675	3,117	0%
1018 · Union Bank- Trust Account	1,265,708	837,013	428,695	51%
1020 · Umpqua - Restricted	1,016,782	1,015,630	1,152	0%
Total Checking/Savings	6,847,242	5,804,461	1,042,781	18%
Accounts Receivable				
11290 · Leases				
BloMineral Lease	4,548		4,548	100%
1282 · NNN Receivable	68,142	97,281	-29,139	-30%
Total 11290 · Leases	72,690	97,281	-24,591	-25%
1200 · Marina Receivables	148,301	164,198	-15,897	-10%
1201 · Marina - Allow for Bad Debt	-40,451	-37,750	-2,701	-7%
Total Accounts Receivable	180,540	223,729	-43,189	-19%
Other Current Assets				
1271 · Prepaid Expenses				
1270 · Insurance	61,340	24,492	36,848	150%
Total 1271 · Prepaid Expenses	61,340	24,492	36,848	150%
Total Other Current Assets	61,340	24,492	36,848	150%
Total Current Assets	7,089,122	6,052,682	1,036,440	17%
Fixed Assets				
1650 · Construction in Progress	4,861,140	4,554,742	306,398	7%
1670 · Equipment	463,119	453,356	9,763	2%
1700 · Improvements				
1710 · NH Buildings & Improvements	6,880,629	6,880,629		
1720 · NH Floating Docks	524,675	524,675		
1725 · NH Offsite Improvements	632,218	632,218		
1730 · SH Buildings & Improvements	8,160,807	8,160,807		
1740 · SH Floating Docks	9,457,184	9,457,184		
Total 1700 · Improvements	25,655,513	25,655,513		
1800 · Less - Depreciation				
1805 · Equipment	-432,141	-419,403	-12,738	-3%
1810 · NH Buildings & Improvements	-3,545,271	-3,292,376	-252,895	-8%
1820 · NH Floating Docks	-530,693	-526,797	-3,896	-1%
1825 · NH Offsite Improvements	-503,186	-484,396	-18,790	-4%
1830 · SH Buildings & Improvements	-6,258,435	-6,131,124	-127,311	-2%
1840 · SH Floating Docks	-6,602,540	-6,217,493	-385,047	-6%
Total 1800 · Less - Depreciation	-17,872,266	-17,071,589	-800,677	-5%

Moss Landing Harbor District
Balance Sheet
As of December 31, 2020

	<u>Dec 31, 20</u>	<u>Dec 31, 19</u>	<u>\$ Change</u>	<u>% Change</u>
1900 · Land	1,642,860	1,642,860		
Total Fixed Assets	14,750,366	15,234,882	-484,516	-3%
Other Assets				
1320 · Workers Comp Deposit	200	200		
1530 · Principal Financial CS	7,389	7,389		
Total Other Assets	7,589	7,589		
TOTAL ASSETS	<u>21,847,077</u>	<u>21,295,153</u>	<u>551,924</u>	<u>3%</u>

Moss Landing Harbor District
Balance Sheet
As of December 31, 2020

	<u>Dec 31, 20</u>	<u>Dec 31, 19</u>	<u>\$ Change</u>	<u>% Change</u>
LIABILITIES & EQUITY				
Liabilities				
Current Liabilities				
Accounts Payable				
2010 · Accounts Payable	-13,862	-287,074	273,212	95%
Total Accounts Payable	<u>-13,862</u>	<u>-287,074</u>	<u>273,212</u>	<u>95%</u>
Other Current Liabilities				
2020 · Accrued Salaries Payable	15,386	8,828	6,558	74%
2021 · Accrued Vacation	22,412	21,810	602	3%
2023 · Accrued Payroll Taxes	3,971	561	3,410	608%
2030 · Customer Deposits	337,134	316,345	20,789	7%
2051 · Note Interest Payable				
2062 · Umpqua Accrued Interest	31,689	33,588	-1,899	-6%
Total 2051 · Note Interest Payable	<u>31,689</u>	<u>33,588</u>	<u>-1,899</u>	<u>-6%</u>
2080 · Prepaid Berth Fees	169,088	177,369	-8,281	-5%
2082 · MLCP Cost Reimb. Deposit	78,901	81,329	-2,428	-3%
2086 · Prepaid Leases				
20861 · Duke	17,209	24,385	-7,176	-29%
20862 · MBARI	9,416	4,857	4,559	94%
Total 2086 · Prepaid Leases	<u>26,625</u>	<u>29,242</u>	<u>-2,617</u>	<u>-9%</u>
2087 · Lease Deposits	19,501	18,236	1,265	7%
Total Other Current Liabilities	<u>704,707</u>	<u>687,308</u>	<u>17,399</u>	<u>3%</u>
Total Current Liabilities	<u>690,845</u>	<u>400,234</u>	<u>290,611</u>	<u>73%</u>
Long Term Liabilities				
2605 · Umpqua Loan	2,508,701	2,908,856	-400,155	-14%
Total Long Term Liabilities	<u>2,508,701</u>	<u>2,908,856</u>	<u>-400,155</u>	<u>-14%</u>
Total Liabilities	<u>3,199,546</u>	<u>3,309,090</u>	<u>-109,544</u>	<u>-3%</u>
Equity				
3020 · Retained Net Assets	6,456,231	6,456,231		
3050 · Prior Year Earnings	11,796,804	11,690,585	106,219	1%
Net Income	<u>394,496</u>	<u>-160,753</u>	<u>555,249</u>	<u>345%</u>
Total Equity	<u>18,647,531</u>	<u>17,986,063</u>	<u>661,468</u>	<u>4%</u>
TOTAL LIABILITIES & EQUITY	<u><u>21,847,077</u></u>	<u><u>21,295,153</u></u>	<u><u>551,924</u></u>	<u><u>3%</u></u>

Moss Landing Harbor District
Statement of Cash Flows
July through December 2020

Jul - Dec 20

OPERATING ACTIVITIES	<u>Jul - Dec 20</u>
Net Income	394,496
Adjustments to reconcile Net Income	
to net cash provided by operations:	
11290 · Leases	712
1200 · Marina Receivables	-34,921
1201 · Marina - Allow for Bad Debt	12,750
11290 · Leases:BioMineral Lease	-4,548
11290 · Leases:1282 · NNN Receivable	8,222
1271 · Prepaid Expenses:1270 · Insurance	-61,340
1800 · Less - Depreciation:1805 · Equipment	10,201
1800 · Less - Depreciation:1810 · NH Buildings & Improvements	157,523
1800 · Less - Depreciation:1820 · NH Floating Docks	6,018
1800 · Less - Depreciation:1825 · NH Offsite Improvements	14,691
1800 · Less - Depreciation:1830 · SH Buildings & Improvements	104,389
1800 · Less - Depreciation:1840 · SH Floating Docks	207,200
2010 · Accounts Payable	33,061
2020 · Accrued Salaries Payable	383
2023 · Accrued Payroll Taxes	2,823
2030 · Customer Deposits	13,037
2080 · Prepaid Berth Fees	-2,479
2086 · Prepaid Leases:20861 · Duke	-34,896
2086 · Prepaid Leases:20862 · MBARI	-14,718
2087 · Lease Deposits	1,008
2051 · Note Interest Payable:2062 · Umpqua Accrued Interest	-2,853
2082 · MLCP Cost Reimb. Deposit	-546
Net cash provided by Operating Activities	<u>810,213</u>
FINANCING ACTIVITIES	
2605 · Umpqua Loan	-400,107
Net cash provided by Financing Activities	<u>-400,107</u>
Net cash increase for period	410,106
Cash at beginning of period	<u>6,437,138</u>
Cash at end of period	<u><u>6,847,244</u></u>

Moss Landing Harbor District
Profit & Loss Budget vs. Actual
 July through December 2020

Ordinary Income/Expense	Jul - Dec 20	Budget	\$ Over Budget	% of Budget
Income				
4000 · MARINA REVENUES				
4100 · Berthing Income				
4110 · Assigned Berthing	859,863	889,860	-29,997	97%
4112 · Qtrly/Annual Discount	-1,895	-1,155	-740	164%
4113 · Commercial Vessel Dscnt	-6,381	-6,000	-381	106%
4114 · Away (1 mnth) Dscnt	-338	-594	256	57%
4115 · Temporary Berthing	146,061	130,000	16,061	112%
4120 · Liveaboard Fees	62,800	60,000	2,800	105%
4130 · Transient Berthing	15,977	21,500	-5,523	74%
4220 · Wait List	3,450	4,500	-1,050	77%
4260 · Towing - Intra Harbor	450	300	150	150%
4270 · Pumpouts	600	402	198	149%
4280 · Late Fees	16,590	17,498	-908	95%
4282 · Recovered Lien Costs		1,000	-1,000	
Total 4100 · Berthing Income	1,097,177	1,117,311	-20,134	98%
4200 · Other Income - Operations				
4225 · Merchandise	42	150	-108	28%
4230 · SH Parking	40,307	61,583	-21,276	65%
4285 · Dog Fee	575	570	5	101%
4290 · Misc	1,757	660	1,097	266%
Total 4200 · Other Income - Operations	42,681	62,963	-20,282	68%
4300 · Operating Grant Revenues				
Total 4000 · MARINA REVENUES	1,139,858	1,180,274	-40,416	97%

Moss Landing Harbor District
Profit & Loss Budget vs. Actual
July through December 2020

Expense	Jul - Dec 20	Budget	\$ Over Budget	% of Budget
5200 · General & Administrative				
5100 · Advertising	2,519	3,000	-481	84%
5210 · Dues & Subscriptions	8,703	3,400	5,303	256%
5220 · Office Supplies				
5223 · Administration	5,369	2,070	3,299	259%
5225 · Operations	6,352	4,667	1,685	136%
Total 5220 · Office Supplies	11,721	6,737	4,984	174%
5230 · Postage & Equip Lease				
5232 · Meter Lease	183	325	-142	56%
5235 · Postage	679	108	571	629%
Total 5230 · Postage & Equip Lease	862	433	429	199%
5240 · Copier Lease & Supplies				
5242 · Copier Lease	2,078	1,260	818	165%
Total 5240 · Copier Lease & Supplies	2,078	1,260	818	165%
5250 · Telephone & Communications				
5253 · Administration	8,083	6,286	1,797	129%
5255 · Operations	341	448	-107	76%
Total 5250 · Telephone & Communications	8,424	6,734	1,690	125%
5260 · Professional Services				
5262 · Accounting	19,517	23,000	-3,483	85%
5263 · Audit fees	16,500	18,000	-1,500	92%
5265 · Legal	13,260	50,002	-36,742	27%
5268 · Computer Consulting	1,020	539	481	189%
5269 · Payroll Processing	1,840	1,756	84	105%
Total 5260 · Professional Services	52,137	93,297	-41,160	56%
5290 · Credit Card Fees	10,274	7,779	2,495	132%
5921 · Internet Billing Service	821	1,363	-542	60%
Total 5200 · General & Administrative	97,539	124,003	-26,464	79%
5300 · Personnel				
5310 · Salaries				
5313 · Administration	76,239	105,814	-29,575	72%
5315 · Operations	95,632	118,599	-22,967	81%
5318 · Maintenance	81,384	81,276	108	100%
Total 5310 · Salaries	253,255	305,689	-52,434	83%
5330 · Payroll Taxes				
5333 · Administration	5,832	8,093	-2,261	72%
5335 · Operations	7,940	9,074	-1,134	88%
5338 · Maintenance	6,226	6,220	6	100%
Total 5330 · Payroll Taxes	19,998	23,387	-3,389	86%
5340 · Employee Benefits				
5342 · Vehicle Allowance				
5343 · Administration	23,038	22,346	692	103%
5345 · Operations	1,237		1,237	
5348 · Maintenance	26,909	29,965	-3,056	90%

Moss Landing Harbor District
Profit & Loss Budget vs. Actual
July through December 2020

	<u>Jul - Dec 20</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Total 5340 · Employee Benefits	51,184	52,311	-1,127	98%
5350 · Workers Compensation				
5353 · Administration	1,800	699	1,101	258%
5355 · Operations	3,522	3,326	196	106%
5358 · Maintenance	4,002	6,431	-2,429	62%
Total 5350 · Workers Compensation	9,324	10,456	-1,132	89%
5360 · Education & Training				
5363 · Administration	1,164	2,000	-836	58%
5365 · Operations	1,357		1,357	
5368 · Maintenance	1,100		1,100	
Total 5360 · Education & Training	3,621	2,000	1,621	181%
Total 5300 · Personnel	337,382	393,843	-56,461	86%
5400 · Insurance				
5410 · Liability Insurance	73,354	75,395	-2,041	97%
Total 5400 · Insurance	73,354	75,395	-2,041	97%
5500 · Utilities				
5510 · Garbage	57,218	49,998	7,220	114%
5520 · Gas and Electric	128,296	120,000	8,296	107%
5530 · Water	18,881	21,000	-2,119	90%
5540 · Sewer	21,369	21,000	369	102%
Total 5500 · Utilities	225,764	211,998	13,766	106%
5600 · Operating Supplies				
5610 · Vehicles	6,189	4,800	1,389	129%
5625 · Operations	11,017	11,200	-183	98%
Total 5600 · Operating Supplies	17,206	16,000	1,206	108%
5700 · Depreciation	250,011	250,001	10	100%
5800 · Repairs & Maintenance				
5810 · Vehicles	108	1,056	-948	10%
5830 · Equip Rental	1,498	2,775	-1,277	54%
5840 · Small Tools	665		665	
5850 · Repair Materials	22,002	33,669	-11,667	65%
5860 · Outside Service Contracts	24,054	35,002	-10,948	69%
5870 · Derelict Disposal	25,100	30,000	-4,900	84%
Total 5800 · Repairs & Maintenance	73,427	102,502	-29,075	72%
5900 · Financial Expenses				
5920 · Bank Service Charges	4,864			
5990 · Bad Debt	12,750	15,000	-2,250	85%
Total 5900 · Financial Expenses	17,614	15,000	2,614	117%
Total · MARINA EXPENSES	1,092,297	1,188,742	-96,445	92%
Net Ordinary Income - Marina Operations	47,561	-8,468	56,029	-562%

Moss Landing Harbor District
Profit & Loss Budget vs. Actual
July through December 2020

	<u>Jul - Dec 20</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
4400 · LEASE AND OTHER INCOME				
4050 · Trust Lands Lease Revenue				
4051 · Dynegy Outfall	34,896	34,894	2	100%
4053 · MBARI	14,718	14,718		100%
Total 4050 · Trust Lands Lease Revenue	<u>49,614</u>	<u>49,612</u>	<u>2</u>	<u>100%</u>
4500 · Leases				
4501 · K-Pier Lease	7,056			
4502 · Cannery Building				
4517 · Suite 2	17,211	17,211		100%
4504 · Suite 3	46,882	47,594	-712	99%
4511 · Suite 1 & 10	9,655	9,707	-52	99%
4515 · Suite 4	46,028	46,028	0	100%
4518 · Suite 5	13,247	12,839	408	103%
4510 · Suite 6	13,643	13,643	0	100%
4512 · Suite 7	8,579		8,579	
4503 · Suite 8	4,774	4,674	100	102%
4520 · Suite 9	3,560	4,403	-843	81%
4523 · Canary NNN	17,881	20,000	-2,119	89%
Total 4502 · Cannery Building	<u>181,460</u>	<u>176,099</u>	<u>5,361</u>	<u>103%</u>
4530 · RV Lot	14,704	17,646	-2,942	83%
4540 · Martin & Mason				
4560 · North Harbor				
4562 · Sea Harvest	18,146	18,146		100%
4568 · Monterey Bay Kayaks	45,169	19,263	25,906	234%
Total 4560 · North Harbor	<u>63,315</u>	<u>37,409</u>	<u>25,906</u>	<u>169%</u>
Total 4500 · Leases	<u>266,535</u>	<u>231,154</u>	<u>35,381</u>	<u>115%</u>
4600 · District Property Taxes	191,980	150,000	41,980	128%
4700 · Other Revenues & Concessions				
4125 · Amenity Fee	170,288	173,022	-2,734	98%
4126 · Passenger Vessel Fees		12,000	-12,000	
4710 · Vending Activities				
4711 · Washer/Dryer	3,235	4,050	-815	80%
4712 · Soda	138	200	-62	69%
Total 4710 · Vending Activities	<u>3,373</u>	<u>4,250</u>	<u>-877</u>	<u>79%</u>
4720 · Dry Storage	30,156	30,000	156	101%
4725 · North Harbor Use Fee	84,749	71,000	13,749	119%
4727 · Key Sales	4,020	2,470	1,550	163%
4730 · NH Washdown	263	650	-387	40%
4735 · Camp/RV		1,248	-1,248	
4740 · Equipment Rental	100	100		100%
4751 · Permits	2,806	2,250	556	125%
4765 · Faxes, Copies & Postage	14	30	-16	47%
4770 · Surplus Auction/Sales	258		258	100%
Total 4700 · Other Revenues & Concessions	<u>296,027</u>	<u>297,020</u>	<u>-993</u>	<u>100%</u>

Moss Landing Harbor District
Profit & Loss Budget vs. Actual
July through December 2020

	<u>Jul - Dec 20</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
4800 · Interest				
4841 · Union Bank Interest	77	150	-73	51%
4843 · First Capital Bank	1,568	1,548	20	101%
4846 · Umpqua Interest	256	1,800	-1,544	14%
Total 4800 · Interest	<u>1,901</u>	<u>3,498</u>	<u>-1,597</u>	<u>54%</u>
Total 4400 · LEASE AND OTHER INCOME	<u>806,037</u>	<u>731,284</u>	<u>74,753</u>	<u>110%</u>
7000 · LEASE AND OTHER EXPENSES				
7100 · Interest Expense				
7134 · Umpqua Accrued Interest	38,598	38,598		100%
Total 7100 · Interest Expense	<u>38,598</u>	<u>38,598</u>		<u>100%</u>
7200 · Other Financial Expenses				
7221 · CSDA Dues				
7230 · LAFO Administrative Charges	5,425	7,500	-2,075	72%
Total 7200 · Other Financial Expenses	<u>5,425</u>	<u>7,500</u>	<u>-2,075</u>	<u>72%</u>
5700 · Depreciation	<u>250,011</u>	<u>250,001</u>	<u>10</u>	<u>100%</u>
7300 · Commissioner Expenses				
7310 · Election Costs		500,000	-500,000	
7320 · Monthly Stipend	7,125	9,750	-2,625	73%
7321 · Employer Payroll Taxes	545	746	-201	73%
7330 · Incurred Expenses	161	1,000	-839	16%
Total 7300 · Commissioner Expenses	<u>7,831</u>	<u>511,496</u>	<u>-503,665</u>	<u>2%</u>
Total 7000 · LEASE AND OTHER EXPENSES	<u>301,865</u>	<u>807,595</u>	<u>-505,730</u>	<u>37%</u>
Net Ordinary Income - Lease & Other Operations	<u>504,172</u>	<u>-76,311</u>	<u>580,483</u>	<u>-661%</u>
Net Ordinary Income - Combined Operations	<u>551,733</u>	<u>-84,779</u>	<u>636,512</u>	<u>-651%</u>

Moss Landing Harbor District
Profit & Loss Budget vs. Actual
July through December 2020

	<u>Jul - Dec 20</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Other Income/Expense				
Other Income				
8000 · CAPITAL PROJECT REVENUE				
8215 · FEMA Grant Receivable		600,000	-600,000	
Total 8000 · CAPITAL PROJECT REVENUE		<u>600,000</u>	<u>-600,000</u>	
8001 · Cost Reimbursements				
8101 · Revenue from reimbursements	546	99,998	-99,452	1%
8201 · Reimbursable expenses	-696	-99,998	99,302	1%
Total 8001 · Cost Reimbursements	<u>-150</u>		<u>-150</u>	<u>100%</u>
Total Other Income	<u>-150</u>	<u>600,000</u>	<u>-600,150</u>	<u>-0%</u>
Other Expense				
9000 · CAPITAL PROJECT EXPENSES				
5880 · Dredging		250,000	-250,000	
9051 · Sewer Lift Station		50,000	-50,000	
9053 · Dock Maintenance		100,000	-100,000	
9054 · Sea Lion Deterrent Fencing	1,953	25,000	-23,047	8%
9060 · NH Berthers Parking/Paving		100,000	-100,000	
9150 · Cannery	9,429	300,000	-290,571	3%
9250 · Security Camera		50,000	-50,000	
9305 · Piling Replacement Proj. - Dist	126,562	100,000	26,562	127%
9309 · New NH Building	1,719	1,000,000	-998,281	0%
9310 · NH Hotel		75,000	-75,000	
9470 · NH Visitor Dock		400,000	-400,000	
9530 · Dry Storage Yard		50,000	-50,000	
9565 · Miscellaneous Capital Projects	17,424	150,000	-132,576	12%
9750 · Office Computers		225,000	-225,000	
9800 · Dock Replacement		200,000	-200,000	
Total 9000 · CAPITAL PROJECT EXPENSES	<u>157,087</u>	<u>3,075,000</u>	<u>-2,917,913</u>	<u>5%</u>
Total Other Expense	<u>157,087</u>	<u>3,075,000</u>	<u>-2,917,913</u>	<u>5%</u>
Net Other Income	<u>-157,237</u>	<u>-2,475,000</u>	<u>2,317,763</u>	<u>6%</u>
Net Income	<u><u>394,496</u></u>	<u><u>-2,559,779</u></u>	<u><u>2,954,275</u></u>	<u><u>-15%</u></u>

**Moss Landing Harbor District
Profit & Loss YTD Comparison
July through December 2020**

	<u>Jul - Dec 20</u>	<u>Jul - Dec 19</u>	<u>\$ Change</u>	<u>% Change</u>
Ordinary Income/Expense				
Income				
4000 · MARINA REVENUES				
4100 · Berthing Income				
4110 · Assigned Berthing	859,863	829,332	30,531	4%
4112 · Qtrly/Annual Discount	-1,895	-647	-1,248	-193%
4113 · Commercial Vessel Dscnt	-6,381	-6,130	-251	-4%
4114 · Away (1 mnth) Dscnt	-338	-742	404	54%
4115 · Temporary Berthing	146,061	122,524	23,537	19%
4120 · Liveaboard Fees	62,800	64,488	-1,688	-3%
4130 · Transient Berthing	15,977	20,634	-4,657	-23%
4220 · Wait List	3,450	2,350	1,100	47%
4260 · Towing - Intra Harbor	450	150	300	200%
4270 · Pumpouts	600	1,050	-450	-43%
4280 · Late Fees	16,590	17,300	-710	-4%
4282 · Recovered Lien Costs		340	-340	-100%
Total 4100 · Berthing Income	<u>1,097,177</u>	<u>1,050,649</u>	<u>46,528</u>	<u>4%</u>
4200 · Other Income - Operations				
4225 · Merchandise	42	222	-180	-81%
4230 · SH Parking	40,307	71,712	-31,405	-44%
4285 · Dog Fee	575	705	-130	-18%
4290 · Misc	1,757	526	1,231	234%
Total 4200 · Other Income - Operations	<u>42,681</u>	<u>73,165</u>	<u>-30,484</u>	<u>-42%</u>
Total 4000 · MARINA REVENUES	<u>1,139,858</u>	<u>1,123,814</u>	<u>16,044</u>	<u>1%</u>

Moss Landing Harbor District
Profit & Loss YTD Comparison
July through December 2020

Expense	Jul - Dec 20	Jul - Dec 19	\$ Change	% Change
5200 · General & Administrative				
5100 · Advertising	2,519	2,372	147	6%
5210 · Dues & Subscriptions	8,703	4,832	3,871	80%
5220 · Office Supplies				
5223 · Administration	5,369	3,090	2,279	74%
5225 · Operations	6,352	3,364	2,988	89%
Total 5220 · Office Supplies	11,721	6,454	5,267	82%
5230 · Postage & Equip Lease				
5232 · Meter Lease	183	416	-233	-56%
5235 · Postage	679	179	500	279%
Total 5230 · Postage & Equip Lease	862	595	267	45%
5240 · Copier Lease & Supplies				
5242 · Copier Lease	2,078	1,338	740	55%
Total 5240 · Copier Lease & Supplies	2,078	1,338	740	55%
5250 · Telephone & Communications				
5253 · Administration	8,083	6,859	1,224	18%
5255 · Operations	341	679	-338	-50%
Total 5250 · Telephone & Communications	8,424	7,538	886	12%
5260 · Professional Services				
5262 · Accounting	19,517	20,017	-500	-2%
5263 · Audit fees	16,500	16,500		
5265 · Legal	13,260	29,030	-15,770	-54%
5268 · Computer Consulting	1,020	1,240	-220	-18%
5269 · Payroll Processing	1,840	1,808	32	2%
Total 5260 · Professional Services	52,137	68,595	-16,458	-24%
5290 · Credit Card Fees	10,274	9,611	663	7%
5921 · Internet Billing Service	821	1,563	-742	-47%
Total 5200 · General & Administrative	97,539	102,898	-5,359	-5%
5300 · Personnel				
5310 · Salaries				
5313 · Administration	76,239	70,728	5,511	8%
5315 · Operations	95,632	94,344	1,288	1%
5318 · Maintenance	81,384	77,109	4,275	6%
Total 5310 · Salaries	253,255	242,181	11,074	5%
5330 · Payroll Taxes				
5333 · Administration	5,832	5,260	572	11%
5335 · Operations	7,940	7,217	723	10%
5338 · Maintenance	6,226	6,025	201	3%
Total 5330 · Payroll Taxes	19,998	18,502	1,496	8%
5340 · Employee Benefits				
5343 · Administration	23,038	22,089	939	4%
5345 · Operations	1,237	2,821	-1,584	-56%
5348 · Maintenance	26,909	26,025	884	3%
Total 5340 · Employee Benefits	51,184	50,945	239	0%

Moss Landing Harbor District
Profit & Loss YTD Comparison
July through December 2020

	<u>Jul - Dec 20</u>	<u>Jul - Dec 19</u>	<u>\$ Change</u>	<u>% Change</u>
5350 · Workers Compensation				
5353 · Administration	1,800	1,800		
5355 · Operations	3,522	3,129	393	13%
5358 · Maintenance	4,002	4,002		
Total 5350 · Workers Compensation	<u>9,324</u>	<u>8,931</u>	<u>393</u>	<u>4%</u>
5360 · Education & Training				
5363 · Administration	1,164	920	244	27%
5365 · Operations	1,357		1,357	100%
5368 · Maintenance	1,100		1,100	100%
Total 5360 · Education & Training	<u>3,621</u>	<u>920</u>	<u>2,701</u>	<u>294%</u>
Total 5300 · Personnel	<u>337,382</u>	<u>321,479</u>	<u>15,903</u>	<u>5%</u>
5400 · Insurance				
5410 · Liability Insurance	73,354	61,968	11,386	18%
Total 5400 · Insurance	<u>73,354</u>	<u>61,968</u>	<u>11,386</u>	<u>18%</u>
5500 · Utilities				
5510 · Garbage	57,218	54,585	2,633	5%
5520 · Gas and Electric	128,296	127,496	800	1%
5530 · Water	18,881	20,214	-1,333	-7%
5540 · Sewer	21,369	20,781	588	3%
Total 5500 · Utilities	<u>225,764</u>	<u>223,076</u>	<u>2,688</u>	<u>1%</u>
5600 · Operating Supplies				
5610 · Vehicles	6,189	3,975	2,214	56%
5625 · Operations	11,017	10,801	216	2%
Total 5600 · Operating Supplies	<u>17,206</u>	<u>14,776</u>	<u>2,430</u>	<u>16%</u>
5700 · Depreciation	250,011	235,998	14,013	6%
5800 · Repairs & Maintenance				
5810 · Vehicles	108	1,444	-1,336	-93%
5830 · Equip Rental	1,498	2,717	-1,219	-45%
5840 · Small Tools	665		665	100%
5850 · Repair Materials	22,002	29,452	-7,450	-25%
5860 · Outside Service Contracts	24,054	28,442	-4,388	-15%
5870 · Derelict Disposal	25,100	17,322	7,778	45%
Total 5800 · Repairs & Maintenance	<u>73,427</u>	<u>79,377</u>	<u>-5,950</u>	<u>-7%</u>
5900 · Financial Expenses				
5920 · Bank Service Charges	4,864		4,864	100%
5990 · Bad Debt	12,750	12,750		
Total 5900 · Financial Expenses	<u>17,614</u>	<u>12,750</u>	<u>4,864</u>	<u>38%</u>
Total · MARINA EXPENSES	<u>1,092,297</u>	<u>1,052,322</u>	<u>39,975</u>	<u>4%</u>
Net Ordinary Income - Marina Operations	<u>47,561</u>	<u>71,492</u>	<u>-23,931</u>	<u>-33%</u>

Moss Landing Harbor District
Profit & Loss YTD Comparison
July through December 2020

	Jul - Dec 20	Jul - Dec 19	\$ Change	% Change
4400 · LEASE AND OTHER INCOME				
4050 · Trust Lands Lease Revenue				
4051 · Dynegy Outfall	34,896	33,853	1,043	3%
4053 · MBARI	14,718	13,874	844	6%
Total 4050 · Trust Lands Lease Revenue	49,614	47,727	1,887	4%
4500 · Leases				
4501 · K-Pier Lease	7,056		7,056	100%
4502 · Cannery Building				
4517 · Suite 2	17,211	16,697	514	3%
4504 · Suite 3	46,882	46,171	711	2%
4511 · Suite 1 & 10	9,655	9,394	261	3%
4515 · Suite 4	46,028	44,653	1,375	3%
4518 · Suite 5	13,247	12,956	291	2%
4510 · Suite 6	13,643	13,236	407	3%
4512 · Suite 7	8,579	3,568	5,011	140%
4503 · Suite 8	4,774	4,635	139	3%
4520 · Suite 9	3,560	2,848	712	25%
4523 · Canary NNN	17,881	8,348	9,533	114%
Total 4502 · Cannery Building	181,460	162,506	18,954	12%
4530 · RV Lot	14,704	17,118	-2,414	-14%
4560 · North Harbor				
4562 · Sea Harvest	18,146	17,604	542	3%
4568 · Monterey Bay Kayaks	45,169	34,727	10,442	30%
Total 4560 · North Harbor	63,315	52,331	10,984	21%
Total 4500 · Leases	266,535	231,955	34,580	15%
4600 · District Property Taxes	191,960	177,621	14,339	8%
4700 · Other Revenues & Concessions				
4125 · Amenity Fee	170,288	139,022	31,266	22%
4126 · Passenger Vessel Fees		19,586	-19,586	-100%
4710 · Vending Activities				
4711 · Washer/Dryer	3,235	3,752	-517	-14%
4712 · Soda	138	133	5	4%
Total 4710 · Vending Activities	3,373	3,885	-512	-13%
4720 · Dry Storage	30,156	30,922	-766	-2%
4725 · North Harbor Use Fee	84,749	66,426	18,323	28%
4727 · Key Sales	4,020	1,983	2,037	103%
4730 · NH Washdown	263	717	-454	-63%
4735 · Camp/RV		550	-550	-100%
4740 · Equipment Rental	100		100	100%
4751 · Permits	2,806	614	2,192	357%
4765 · Faxes, Copies & Postage	14	55	-41	-75%
4770 · Surplus Auction/Sales	258		258	100%
Total 4700 · Other Revenues & Concessions	296,027	263,760	32,267	12%

Moss Landing Harbor District
Profit & Loss YTD Comparison
July through December 2020

	Jul - Dec 20	Jul - Dec 19	\$ Change	% Change
4800 · Interest				
4841 · Union Bank Interest	77	142	-65	-46%
4843 · First Capital Bank	1,568	1,582	-14	-1%
4846 · Umpqua Interest	256	1,919	-1,663	-87%
Total 4800 · Interest	1,901	3,643	-1,742	-48%
Total 4400 · LEASE AND OTHER INCOME	806,037	724,706	81,331	11%
7000 · LEASE AND OTHER EXPENSES				
7100 · Interest Expense				
7134 · Umpqua Accrued Interest	38,598	41,420	-2,822	-7%
Total 7100 · Interest Expense	38,598	41,420	-2,822	-7%
7200 · Other Financial Expenses				
7230 · LAFO Administrative Charges	5,425	6,357	-932	-15%
Total 7200 · Other Financial Expenses	5,425	6,357	-932	-15%
5700 · Depreciation	250,011	235,998	14,013	6%
7300 · Commissioner Expenses				
7320 · Monthly Stipend	7,125	7,900	-775	-10%
7321 · Employer Payroll Taxes	545	604	-59	-10%
7330 · Incurred Expenses	161	2,319	-2,158	-93%
Total 7300 · Commissioner Expenses	7,831	10,823	-2,992	-28%
Total 7000 · LEASE AND OTHER EXPENSES	301,865	294,598	7,267	2%
Net Ordinary Income - Lease & Other Operations	504,172	430,108	74,064	17%
Net Ordinary Income - Combined Operations	551,733	501,600	50,133	10%
Other Income/Expense				
Other Income				
8001 · Cost Reimbursements				
8101 · Revenue from reimbursements	546	18,672	-18,126	-97%
8201 · Reimbursable expenses	-696	-19,953	19,257	97%
Total 8001 · Cost Reimbursements	-150	-1,281	1,131	88%
Total Other Income	-150	-1,281	1,131	88%
Other Expense				
Gain/Loss on Disposition		54,632	-54,632	-100%
9000 · CAPITAL PROJECT EXPENSES				
5880 · Dredging		306,040	-306,040	-100%
9054 · Sea Lion Deterrent Fencing	1,953		1,953	100%
9150 · Cannery	9,429		9,429	100%
9305 · Piling Replacement Proj. - Dist	31,610		31,610	100%
9307 · Piling Replacement Proj.	94,952		94,952	100%
9309 · New NH Building	1,719	300,398	-298,679	-99%
9565 · Miscellaneous Capital Projects	17,424		17,424	100%
Total 9000 · CAPITAL PROJECT EXPENSES	157,087	606,438	-449,351	-74%
Total Other Expense	157,087	661,070	-503,983	-76%
Net Other Income	-157,237	-662,351	505,114	76%
Net Income	394,496	-160,751	555,247	345%

Moss Landing Harbor District
A/P Aging Summary
As of December 31, 2020

	<u>Current</u>	<u>1 - 30</u>	<u>31 - 60</u>	<u>61 - 90</u>	<u>> 90</u>	<u>TOTAL</u>
Allied Administrators for Delta Dental	0.00	-402.14	0.00	0.00	0.00	-402.14
AT&T	320.80	0.00	0.00	0.00	0.00	320.80
Auto Care LifeSaver Towing	0.00	0.00	0.00	1,504.00	0.00	1,504.00
Big Creek Lumber	228.25	0.00	0.00	0.00	0.00	228.25
Blue Shield of California	0.00	-357.20	0.00	0.00	0.00	-357.20
CAHM & PC	0.00	-350.00	0.00	0.00	0.00	-350.00
California Special Districts Association	0.00	0.00	0.00	-7,253.00	0.00	-7,253.00
CalPERS	0.00	-5,375.00	-5,375.00	0.00	0.00	-10,750.00
Carmel Marina Corporation	1,031.00	0.00	0.00	0.00	0.00	1,031.00
Despard Marine Services	700.00	0.00	0.00	100.00	0.00	800.00
Gordon Smith	510.00	0.00	0.00	0.00	0.00	510.00
IPFS Corporation	0.00	-10,704.35	0.00	0.00	0.00	-10,704.35
Joe Flatley	0.00	525.00	0.00	0.00	0.00	525.00
Kelly-Moore Paint Co	0.00	517.41	0.00	0.00	0.00	517.41
Kevin Youngblood	0.00	500.00	0.00	0.00	0.00	500.00
Kurt Stuhr	575.00	0.00	0.00	0.00	0.00	575.00
MBS Business Systems	177.60	0.00	0.00	0.00	0.00	177.60
Mechanics Bank	801.86	0.00	0.00	0.00	0.00	801.86
Northern Tool & Equipment	0.00	0.00	214.42	0.00	0.00	214.42
Pacific Coast Congress	0.00	-265.00	0.00	0.00	0.00	-265.00
Pajaro/Sunny Mesa C.S.D.	1,945.80	0.00	0.00	0.00	0.00	1,945.80
PG&E	0.00	-20,000.00	0.00	0.00	0.00	-20,000.00
Redshift	0.00	-136.85	0.00	0.00	0.00	-136.85
State Water Resources Control Brd	18,729.00	0.00	0.00	0.00	0.00	18,729.00
Stephen Pederson	550.00	0.00	0.00	0.00	0.00	550.00
The Nature Conservancy	471.80	0.00	0.00	0.00	0.00	471.80
Tommy Razzeca	0.00	-300.00	0.00	0.00	0.00	-300.00
U.S. Bank	4,373.37	0.00	0.00	0.00	0.00	4,373.37
Unified Building Maintenance	1,350.00	0.00	0.00	0.00	0.00	1,350.00
VALIC	1,615.39	0.00	0.00	0.00	0.00	1,615.39
Verizon Wireless	113.20	0.00	0.00	0.00	0.00	113.20
Vision Sevice Plan	0.00	-197.34	0.00	0.00	0.00	-197.34
TOTAL	<u>33,493.07</u>	<u>-36,545.47</u>	<u>-5,160.58</u>	<u>-5,649.00</u>	<u>0.00</u>	<u>-13,861.98</u>

**Moss Landing Harbor District
Warrant Listing
As of December 31, 2020**

Type	Date	Num	Name	Amount
1009 - Union - Operating				
Check	11/05/2020		NPC Merchant Pymt Proc	-2,883.04
Bill Pmt -Check	11/11/2020	21373	Allied Administrators for Delta Dental	-402.14
Bill Pmt -Check	11/11/2020	21374	AT&T	-319.26
Bill Pmt -Check	11/11/2020	21375	Big Creek Lumber	-1,927.67
Bill Pmt -Check	11/11/2020	21376	Blue Shield of California	-357.20
Bill Pmt -Check	11/11/2020	21377	Carmel Marina Corporation	-4,607.18
Bill Pmt -Check	11/11/2020	21378	Castroville "ACE" Hardware	-115.89
Bill Pmt -Check	11/11/2020	21379	Central Coast Systems, Inc.	-105.00
Bill Pmt -Check	11/11/2020	21380	Cintas	-337.89
Bill Pmt -Check	11/11/2020	21381	Damm Good Water	-87.55
Bill Pmt -Check	11/11/2020	21382	Employment Development Dept.	-624.50
Bill Pmt -Check	11/11/2020	21383	IPFS Corporation	-10,704.35
Bill Pmt -Check	11/11/2020	21384	Leslie Holbrook	-550.00
Bill Pmt -Check	11/11/2020	21385	MBS Business Systems	-220.44
Bill Pmt -Check	11/11/2020	21386	Mechanics Bank	0.00
Bill Pmt -Check	11/11/2020	21387	Mike Vucina	-220.00
Bill Pmt -Check	11/11/2020	21388	Monterey Regional Waste Management Dist.	-25.00
Bill Pmt -Check	11/11/2020	21389	Niels Nielsen	-550.00
Bill Pmt -Check	11/11/2020	21390	Northern Tool & Equipment	0.00
Bill Pmt -Check	11/11/2020	21391	Pajaro Valley Lock Shop	-206.82
Bill Pmt -Check	11/11/2020	21392	Pajaro/Sunny Mesa C.S.D.	-2,674.45
Bill Pmt -Check	11/11/2020	21393	Peter De Groot	-570.00
Bill Pmt -Check	11/11/2020	21394	Peter Wolinski	-549.70
Bill Pmt -Check	11/11/2020	21395	PG&E	-20,000.00
Bill Pmt -Check	11/11/2020	21396	Randazzo Enterprises Inc.	-3,760.00
Bill Pmt -Check	11/11/2020	21397	Redshift	-136.85
Bill Pmt -Check	11/11/2020	21398	Richard Scott	-91.59
Bill Pmt -Check	11/11/2020	21399	Richo International	-2,055.00
Bill Pmt -Check	11/11/2020	21400	Tom's Septic Construction	-805.00
Bill Pmt -Check	11/11/2020	21401	Tommy Razzeca	-300.00
Bill Pmt -Check	11/11/2020	21402	U.S. Bank	-4,102.33
Bill Pmt -Check	11/11/2020	21403	VALIC	-1,615.39
Bill Pmt -Check	11/11/2020	21404	Veritiv Operating Company	-1,316.62
Bill Pmt -Check	11/11/2020	21405	Verizon Wireless	-112.49
Bill Pmt -Check	11/11/2020	21406	Vision Sevice Plan	-150.33
Bill Pmt -Check	11/11/2020	21407	Wald, Ruhnke & Dost Architects, LP	-3,128.99
Bill Pmt -Check	11/11/2020	21408	Yu Chen	-525.00
Bill Pmt -Check	11/11/2020	21409	Carmel Marina Corporation	-1,579.67
Bill Pmt -Check	11/11/2020	21410	Mechanics Bank	0.00
Bill Pmt -Check	11/11/2020	21411	Carmel Marina Corporation	-1,395.36
Bill Pmt -Check	11/11/2020	21412	Mechanics Bank	0.00
Bill Pmt -Check	11/11/2020	21413	Carmel Marina Corporation	-282.39
Bill Pmt -Check	11/11/2020	21414	Carmel Marina Corporation	-1,887.69
Bill Pmt -Check	11/11/2020	21415	Mechanics Bank	0.00

Moss Landing Harbor District
Warrant Listing
As of December 31, 2020

Type	Date	Num	Name	Amount
Bill Pmt -Check	11/11/2020	21416	Mechanics Bank	-423.24
Bill Pmt -Check	11/11/2020	21417	Mechanics Bank	-307.84
Bill Pmt -Check	11/11/2020	21418	Mechanics Bank	-286.68
Check	11/12/2020		Payroll Partners	-136.63
Check	11/13/2020	2958	Ferrante, Vincent	-319.69
Check	11/13/2020	2959	Goulart, James	-114.18
Check	11/13/2020	2960	Jeffries, Russell	-452.53
Check	11/13/2020	2961	Tony Leonardini	-342.56
Check	11/13/2020	2962	Neal Norris	-777.99
Check	11/13/2020	2963	RJ Collier	-634.47
Check	11/13/2020	2964	Dennis Dixon	-109.62
Bill Pmt -Check	11/23/2020	21429	AT&T	-595.27
Bill Pmt -Check	11/23/2020	21419	CalPERS	-5,375.00
Bill Pmt -Check	11/23/2020	21420	Central Coast Systems, Inc.	-1,426.22
Bill Pmt -Check	11/23/2020	21421	Home Depot	-1,842.55
Bill Pmt -Check	11/23/2020	21422	Jarvis, Fay, & Gibson, LLP	-1,740.00
Bill Pmt -Check	11/23/2020	21423	Marc J. Del Piero	-1,900.00
Bill Pmt -Check	11/23/2020	21424	PG&E	-28,295.67
Bill Pmt -Check	11/23/2020	21425	Royal Wholesale Electric	-516.44
Bill Pmt -Check	11/23/2020	21426	Sea Engineering, Inc.	-13,059.60
Bill Pmt -Check	11/23/2020	21427	Valero Marketing and Supply Company	-396.09
Bill Pmt -Check	11/23/2020	21428	Wald, Ruhnke & Dost Architects, LP	-5,016.26
Bill Pmt -Check	11/24/2020	21430	Wendy L. Cumming, CPA	-3,226.25
Bill Pmt -Check	11/24/2020	21431	Monterey Sanitary Supply	-217.42
Check	11/25/2020		Payroll Partners	-124.56
Check	11/25/2020		Union Bank	-805.02
Check	11/27/2020	2965	Neal Norris	-777.99
Check	11/27/2020	2966	RJ Collier	-634.47
Check	11/27/2020	2967	Dennis Dixon	-109.62
Check	12/08/2020		NPC Merchant Pymt Proc	-2,624.37
Check	12/09/2020		Payroll Partners	-124.56
Bill Pmt -Check	12/10/2020	21432	Allied Administrators for Delta Dental	-402.14
Bill Pmt -Check	12/10/2020	21433	AT&T	-318.45
Bill Pmt -Check	12/10/2020	21434	Bayside Oil, Inc.	-1,283.39
Bill Pmt -Check	12/10/2020	21435	Blue Shield of California	-357.20
Bill Pmt -Check	12/10/2020	21436	Byte Technology	-187.50
Bill Pmt -Check	12/10/2020	21437	Carmel Marina Corporation	-1,064.07
Bill Pmt -Check	12/10/2020	21438	Castroville Plumbing & Heating	-22.85
Bill Pmt -Check	12/10/2020	21439	Cintas	-563.15
Bill Pmt -Check	12/10/2020	21440	Corralitos Electric	-6,407.89
Bill Pmt -Check	12/10/2020	21441	Frank Larsen	-1,035.53
Bill Pmt -Check	12/10/2020	21442	Hodges Consulting Services	-425.00
Bill Pmt -Check	12/10/2020	21443	IPFS Corporation	-10,704.35
Bill Pmt -Check	12/10/2020	21444	Johnson Electronics, Inc.	-120.00
Bill Pmt -Check	12/10/2020	21445	MBS Business Systems	-220.44

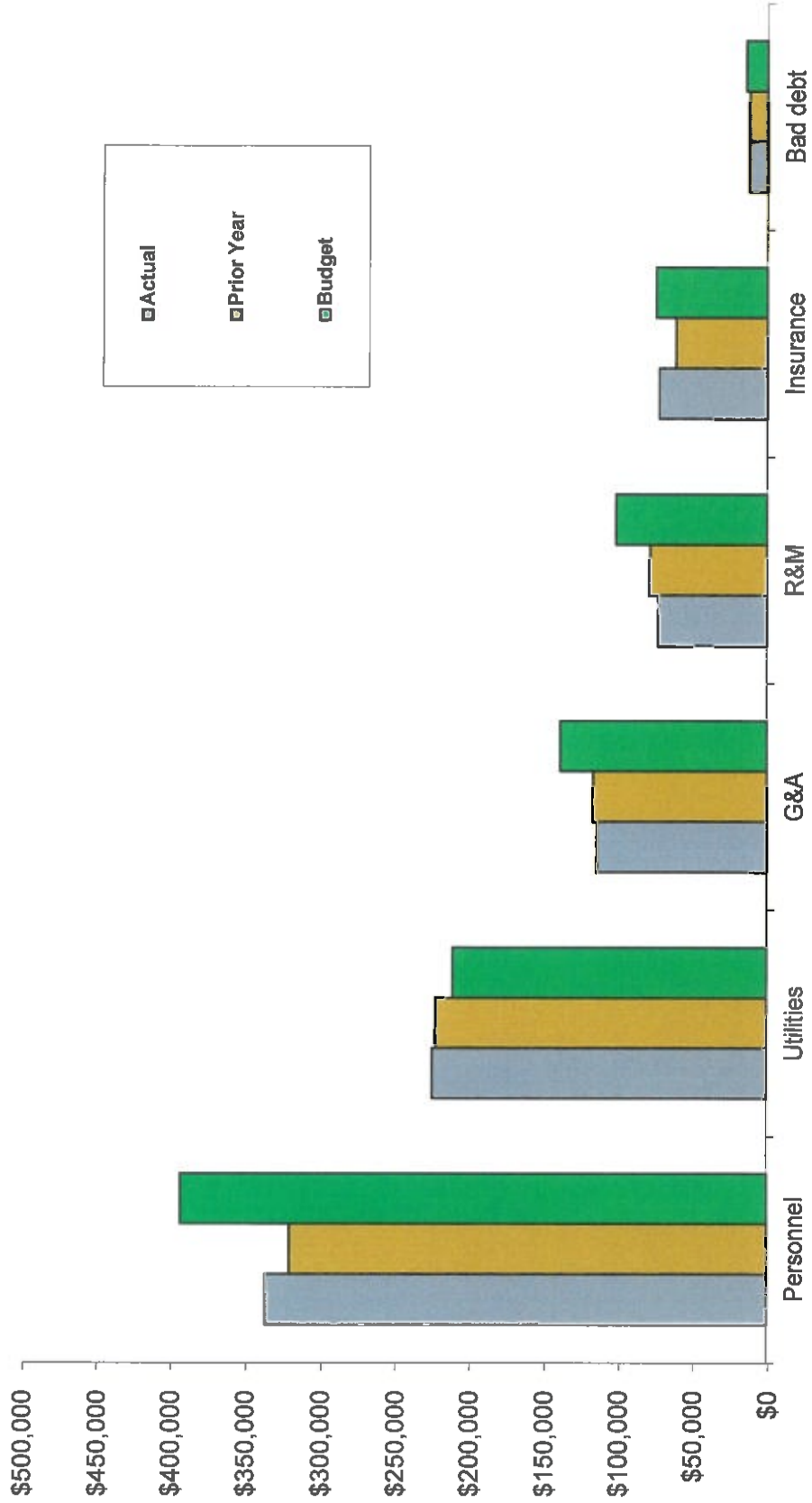
**Moss Landing Harbor District
Warrant Listing
As of December 31, 2020**

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Amount</u>
Bill Pmt -Check	12/10/2020	21446	Mechanics Bank	-290.52
Bill Pmt -Check	12/10/2020	21447	Monterey One Water	-6,809.94
Bill Pmt -Check	12/10/2020	21448	Monterey Sanitary Supply	-739.95
Bill Pmt -Check	12/10/2020	21449	Nautical Software Solution	-3,279.00
Bill Pmt -Check	12/10/2020	21450	Pacific Coast Congress	-265.00
Bill Pmt -Check	12/10/2020	21451	Pajaro/Sunny Mesa C.S.D.	-2,651.65
Bill Pmt -Check	12/10/2020	21452	PG&E	-20,000.00
Bill Pmt -Check	12/10/2020	21453	Redshift	-136.85
Bill Pmt -Check	12/10/2020	21454	Sunrise Express	-51.19
Bill Pmt -Check	12/10/2020	21455	Tommy Razzeca	-300.00
Bill Pmt -Check	12/10/2020	21456	U.S. Bank	-712.00
Bill Pmt -Check	12/10/2020	21457	Unified Building Maintenance	-1,350.00
Bill Pmt -Check	12/10/2020	21458	United Chemicals Company	0.00
Bill Pmt -Check	12/10/2020	21459	VALIC	-1,615.39
Bill Pmt -Check	12/10/2020	21460	Vision Sevice Plan	-197.34
Bill Pmt -Check	12/10/2020	21461	Wilkin's Action Graphics	-557.29
Bill Pmt -Check	12/10/2020	21462	AT&T	-388.08
Bill Pmt -Check	12/10/2020	21463	Carmel Marina Corporation	-282.39
Bill Pmt -Check	12/10/2020	21464	Mechanics Bank	-292.45
Bill Pmt -Check	12/10/2020	21465	Monterey One Water	-538.82
Bill Pmt -Check	12/10/2020	21466	Carmel Marina Corporation	-4,393.32
Bill Pmt -Check	12/10/2020	21467	Mechanics Bank	-449.70
Bill Pmt -Check	12/10/2020	21468	Carmel Marina Corporation	-1,758.12
Bill Pmt -Check	12/10/2020	21469	Carmel Marina Corporation	-1,395.36
Check	12/11/2020	2968	Neal Norris	-777.98
Check	12/11/2020	2969	RJ Collier	-634.47
Check	12/11/2020	2970	Dennis Dixon	-146.29
Check	12/23/2020		Payroll Partners	-136.63
Check	12/24/2020	2971	Ferrante, Vincent	-114.18
Check	12/24/2020	2972	Goulart, James	-114.19
Check	12/24/2020	2973	Jeffries, Russell	-342.56
Check	12/24/2020	2974	Tony Leonardini	-342.56
Check	12/24/2020	2975	Neal Norris	-777.98
Check	12/24/2020	2976	RJ Collier	-634.47
Check	12/24/2020	2977	Dennis Dixon	-127.03
Bill Pmt -Check	12/28/2020	21470	AT&T	-590.84
Bill Pmt -Check	12/28/2020	21471	Byte Technology	-187.50
Bill Pmt -Check	12/28/2020	21472	CAHM & PC	-350.00
Bill Pmt -Check	12/28/2020	21473	CalPERS	-5,375.00
Bill Pmt -Check	12/28/2020	21474	Despard Marine Services	-400.00
Bill Pmt -Check	12/28/2020	21475	Home Depot	-745.58
Bill Pmt -Check	12/28/2020	21476	MBS Business Systems	-220.44
Bill Pmt -Check	12/28/2020	21477	Monterey Sanitary Supply	-311.97
Bill Pmt -Check	12/28/2020	21478	MP Express	-2,222.70
Bill Pmt -Check	12/28/2020	21479	Revel Enviornmental Manufacturing , Inc.	-520.00

Moss Landing Harbor District
Warrant Listing
As of December 31, 2020

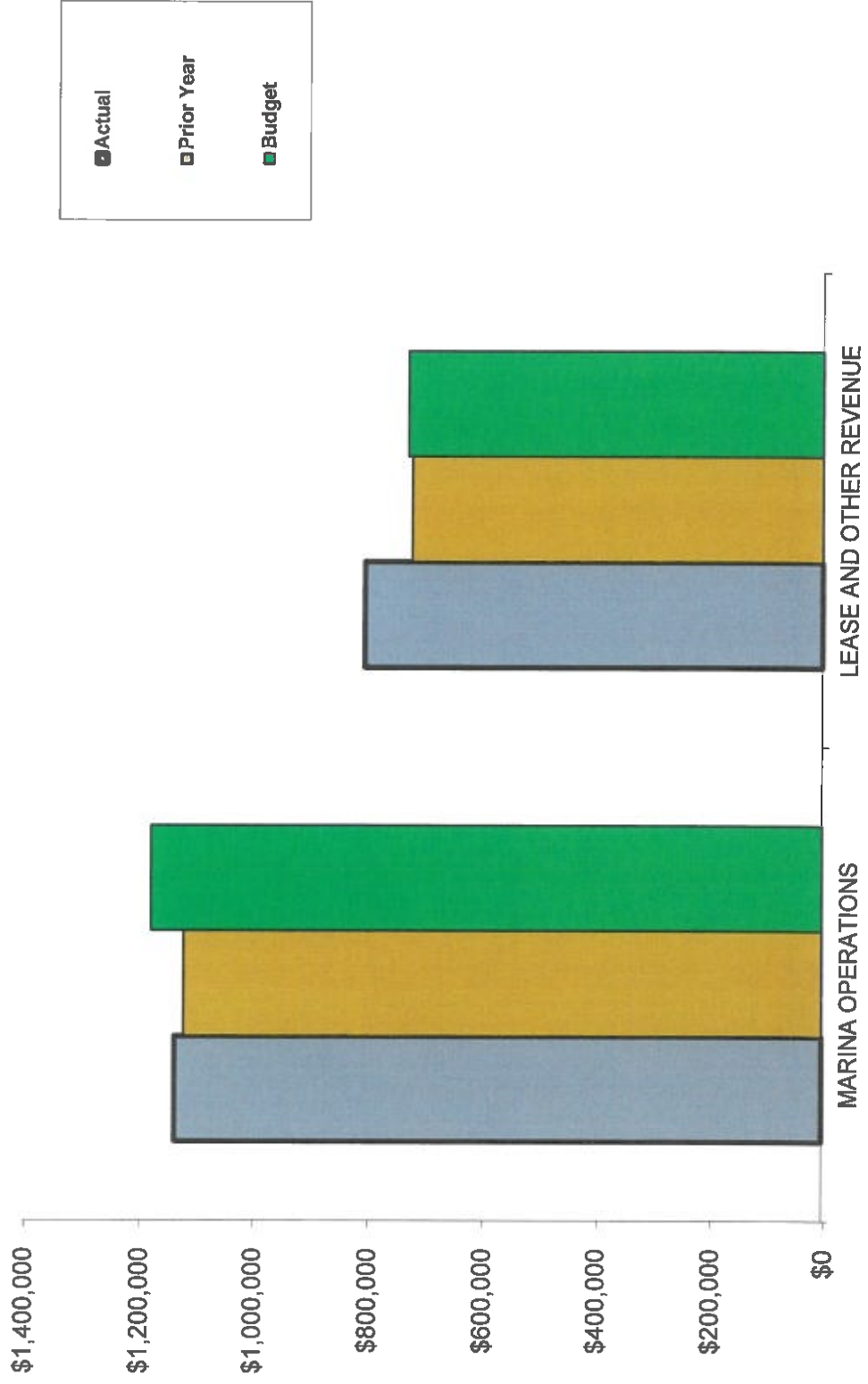
<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Amount</u>
Bill Pmt -Check	12/28/2020	21480	Valero Marketing and Supply Company	-456.45
Bill Pmt -Check	12/28/2020	21481	Verizon Wireless	-112.66
Bill Pmt -Check	12/28/2020	21482	Wald, Ruhnke & Dost Architects, LP	-1,283.63
Bill Pmt -Check	12/28/2020	21483	WASH	-202.08
Bill Pmt -Check	12/28/2020	21484	Wendy L. Cumming, CPA	-2,356.25
Bill Pmt -Check	12/28/2020	21485	AT&T	-399.10
Bill Pmt -Check	12/29/2020	21486	Wald, Ruhnke & Dost Architects, LP	-769.30
Total 1009 · Union - Operating				-236,213.73
TOTAL				-236,213.73

**Operating Expenses
Year to Date Actuals vs. Budget and Prior Year
December 31, 2020**



****Expenses Exclude Dredging, Depreciation and Interest Expenses****

**Marina, Lease and Other Revenue
Year to Date Actual vs. Budget and Prior Year
December 31, 2020**





MINUTES
SPECIAL MEETING
OF THE BOARD OF HARBOR COMMISSIONERS
DECEMBER 9, 2020
MOSS LANDING HARBOR DISTRICT
7881 Sandholdt Road, Moss Landing, CA 95039

Moss Landing Harbor District is inviting you to a Special Meeting of the Board of Harbor Commissioners.

Join Zoom Meeting

<https://us02web.zoom.us/j/85657665934>

Meeting ID: 856 5766 5934

One tap mobile

+16699006833,,85657665934# US (San Jose)

+12532158782,,85657665934# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

Meeting ID: 856 5766 5934

Find your local number: <https://us02web.zoom.us/u/kbqyt8kegE>

A. CLOSED SESSION

A closed session was held immediately prior to the public open meeting to consider the following items:

1. Meet and confer with legal counsel pursuant to Government Code 54956.9(d)(4) deciding whether to initiate litigation.

2. Confer with real property negotiators (District Counsel and GM) pursuant to Government Code 54956.8 regarding 2 matters.

a. North Harbor Building listing

b. Storage lot adjacent to the Santa Cruz Cannery Building located at 7532 Sandholdt Rd.

B. OPEN SESSION CALL TO ORDER - PLEDGE OF ALLEGIANCE – ROLL CALL

The open session was called to order at 7:01pm, after the Pledge of Allegiance Roll was called.

Commissioners present via Zoom:

Russ Jeffries – President
Tony Leonardini – Vice President
Vince Ferrante – Secretary
James Goulart – Commissioner
Liz Soto - Commissioner

Staff present via Zoom:

Tommy Razzeca – General Manager
Mike Rodriguez – District Counsel
Shay Shaw – Administrative Assistant

C. PRESIDENT'S REMARKS

The President announced that the Board met in Closed Session and no decisions were made; direction was given to the General Manager and District Counsel.

D. PUBLIC COMMENTS

Alison Goss of Mahoney and Associates, Richard Bitero, and James Kindall spoke regarding a proposal for use of property in the Moss Landing North Harbor. The proposal included a gas station, market, and café. Board discussion ensued and President Jeffries said the Real Property Committee will meet and discuss the proposal.

E. CONSENT CALENDAR

1. Approval of the October 28, 2020 Regular Meeting Minutes. A motion was made by Commissioner Ferrante, seconded by Commissioner Soto, to approve the October 28, 2020 Regular meeting minutes.

F. FINANCIAL REPORT

2. Financial report month ending October 31, 2020. GM Razzeca gave the highlights. A motion was made by Commissioner Leonardini, seconded by Commissioner Goulart to accept the Financial Report. The motion passed unanimously on a roll-call vote.

G. MANAGERS' REPORTS

The General Manager will make oral or written reports. The Board may take action as deemed necessary. The Managers may present additional reports but the Board may not take action on any item not on this Agenda.

3. Projects Status/Update - written report/no questions
4. Summary of Permits Issued - written report/no questions
5. Meeting Announcements - written report/no questions
6. Liveaboard Report - written report/no questions
7. Slip Income Report - written report/no questions
8. Incident Report - written report/no questions

H. COMMITTEE REPORTS

9. Finance Committee – Ferrante/Soto – nothing to report
10. Elkhorn Slough Advisory Committee – Leonardini – nothing to report
11. Special Districts – Jeffries/Ferrante – nothing to report
12. Budget Committee – Leonardini/Goulart – nothing to report
13. Liveaboard Committee – Goulart/Soto– nothing to report
14. Harbor Improvement Committee – Goulart/Soto – nothing to report
15. Real Property Committee I – Jeffries/Leonardini – President Jeffries, Commissioner Leonardini and General Manager Razzeca attended a Real Property Committee meeting to discuss 4 separate proposed leases of District Property.
16. Real Property Committee II – Ferrante/Goulart– nothing to report

17. Meetings attended by Commissioners at District expense since the last regular meeting of the Board (AB 1234 requirements). Such reports may be oral or written. President Jeffries, Commissioner Leonardini and the General Manager attended a Planning Commission Meeting via Zoom regarding the Moss Landing Community Plan update.

I. SPECIAL PRESENTATION

18. Wendy Cumming MLHD'S CPA provided a status update related to the Districts current fiscal year 20/21 budget.

J. GENERAL MANAGER REPORT AND UPDATE REGARDING ORDINANCE NO. 208

19. The General Manager will provide the Board an update regarding Ordinance No. 208 related to the Passenger Vessel Fee which is not being charged at this time due to the COVID-19 Pandemic. The General Manager will seek direction from the Board

- a. Staff report –GM Razzeca gave the report
- b. Public Comment - None
- c. Board discussion and direction/recommendation - Consensus

K. NEW BUSINESS

20. ITEM- Consider adopting Ordinance No. 211 amending the District Fees and Charges schedule.

- a. Staff report – GM Razzeca gave the report
- b. Public Comment - None
- c. Board discussion – President Jeffries asked who would calculate the 3.5% transaction fee, GM Razzeca responded that the staff would calculate and apply the 3.5% to any credit transaction.
- d. Board Action – motion was made by Commissioner Ferrante, seconded by Commissioner Leonardini to adopt Ordinance No. 211 amending the district fees and charges schedule. The motion passed unanimously on a roll-call vote.

L. COMMISSIONERS COMMENTS AND CONCERNS

Commissioner Leonardini asked if the launch ramps would be closed to recreational traffic due to the recent stay at home order in Monterey County related to COVID-19. President Jeffries asked if staff had spoken to Monterey County health regarding the launch ramps. Gm Razzeca notified the Board that as of now the launch ramps remain open as previously approved by Monterey County Health to all traffic so long as the required protocols such as mask wearing social distancing etc. continued to be followed by ramp users. Commissioner Ferrante mentioned CSDA has free webinars for AB1234, Brown Act, and Sexual Harassment. The dates and times for each webinar can be found on the CSDA website if any commissioner needs take the trainings and submit their certificate to the Harbor admin office.

M. ADJORNMENT

President Jeffries adjourned the meeting at 7:55pm

Respectfully submitted,

ATTEST:

Vince Ferrante, Secretary
Board of Harbor Commissioners

Tommy Razzeca, Deputy Secretary
Board of Harbor Commissioners



BOARD OF HARBOR COMMISSIONERS

Russell Jeffries
Tony Leonardini
Vincent Ferrante
James R. Goulart
Liz Soto

7881 SANDHOLDT ROAD
MOSS LANDING, CA 95039

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**GENERAL MANAGER
HARBOR MASTER**

Tom Razzeca

STAFF REPORT

ITEM NUMBER 03 – PROJECT STATUS
BOARD MEETING JANUARY 27, 2021

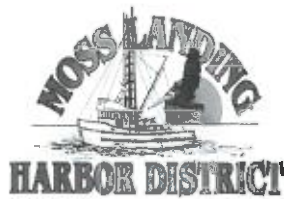
1. Dredge Project: Dredging was needed in the Harbor's Federal Navigation Channel which is completed by the Army Corps of Engineers (ACOE). The General Manager had been in consistent contact with ACOE over the past 2 years in an effort to ensure that this project took place as soon as possible. Harbor staff is happy to report that the ACOE contractor has been dredging since early December and the project was completed in mid January 2021.

2. North Harbor Building Listing: As of December 28, 2020 Mahoney & Associates was given notice that the contract they had with the Harbor District for the listing of the North Harbor Building was expired and at this time their services were no longer required. As of now the Harbor District has no listing agent for the building however staff expects that as the COVID-19 pandemic restrictions loosen in Monterey County and the commercial real estate market starts to pick back up the District will begin exploring options and considering new representation for the building listing.

3. North Harbor Inn Project: The Harbor District has received a proposal related to property in the North Harbor where the Inn would be located and the Real Property Committee is meeting just prior to this regular meeting of the Board to discuss the offer. Once the Board has made a decision and provides direction to staff the GM will proceed accordingly.

5. Cannery Building HVAC and Penthouse Mechanical Room: 3 HVAC units at the Cannery Building are in need of replacement. The units are and have been quickly deteriorating due to the salt air environment here in Moss Landing. In an effort to prevent future units from deteriorating quickly staff is proposing a penthouse mechanical room be built to house the units protecting them from the environment, reducing maintenance and extending the overall life span of the new units. Staff hired Wald Ruhnke & Dost Architects (WRD) to draw up a plan for the penthouse mechanical suite that will be used for permitting and the notice inviting bids for this project. A drawing was recently submitted by WRD however after the GM's review of the plan some changes have been requested. Staff expects the requested changes to be completed fairly soon and once complete staff will begin moving forward with the permitting, public bid and contractor selection process prior to beginning construction.

SERVING COMMERCIAL FISHING AND RECREATIONAL BOATING SINCE 1947



BOARD OF COMMISSIONERS
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 Tony Leonardini
 Vince Ferrante
 James R. Goulart
 Liz Soto

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GENERAL MANAGER
HARBORMASTER
 Tommy Razzeca

STAFF REPORT

ITEM NUMBER 04 – SUMMARY OF PERMITS ISSUED BOARD MEETING OF JANUARY 27, 2021

Permittee	Issue Date	Status	Permit Type	Exp. Date
Elkhorn Slough Research Foundation	01/01/2020	Expired	Facilities Use	01/01/21
Blue Ocean Whale Watch	2/18/2020	Current	Facilities Use	2/18/2021
Whisper Charters	2/28/2020	Current	Facilities Use	2/28/2021
REI Outdoor School	3/24/2020	Current	Facilities Use	3/24/2021
Fast Raft	3/28/2020	Current	Facilities Use	3/28/2021
MBARI-Otter Studies	4/1/2020	Current	Facilities Use	4/1/2021
Kahuna Sportfishing	6/12/2020	Current	Facilities Use	6/12/2021
Venture Quest Kayaking	6/30/2020	Current	Facilities Use	6/30/2021
Kayak Connection	6/30/2020	Current	Facilities Use	6/30/2021
Sanctuary Cruises	6/30/2020	Current	Facilities Use	6/30/2021
Sea Goddess Whale Watching-Tours	6/30/2020	Current	Facilities Use	6/30/2021
Sea Goddess Whale Watching-Souvenirs	6/30/2020	Current	Peddlers	6/30/2021
MBARI-Slough Test Moorings	6/30/2020	Current	Facilities Use	6/30/2021
Elkhorn Slough Safari - Tours	10/19/2020	Current	Facilities Use	10/19/2021
Blue Water Ventures	10/31/2020	Current	Facilities Use	10/31/2021
Wild Fish-Vicki Crow	11/20/2020	Current	Peddlers	11/20/21



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GENERAL MANAGER
HARBORMASTER
Tommy Razzeca

STAFF REPORT

ITEM NUMBER 05 – MEETING ANNOUNCEMENTS
BOARD MEETING OF JANUARY 27, 2021

Monterey County Fish and Game Advisory Commission – Meetings are on the 2nd Tuesday of even months. <http://www.co.monterey.ca.us/bcandc/fishgame.html>

Moss Landing Chamber of Commerce Meetings – Due to COVID-19 and in compliance with the Shelter - in - Place order all meetings are done by E-mail until further notice and will resume regular schedule of every second Wednesday of each month, Moss Landing Harbor District Board Room, 4 p.m.

Monterey Bay Sanctuary Advisory Council Meetings – 2020 - <https://montereybay.noaa.gov>
Currently no meeting dates in 2021 are listed on the MBNMS website.

SERVING COMMERCIAL FISHING AND RECREATIONAL BOATING SINCE 1947



BOARD OF COMMISSIONERS
 Russell Jeffries
 Tony Leonardini
 Vincent Ferrante
 James Goulart
 Liz Soto

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GENERAL MANAGER/HARBOR MASTER
 Tom Razzeca

STAFF REPORT

ITEM NUMBER 06 - LIVEBOARD REPORT BOARD MEETING OF JANUARY 27, 2021

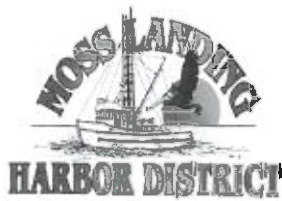
Pursuant to Ordinance Code §6.110 D) 1), attached is the report containing the names of all permitted live aboard vessels and all persons living aboard. The permits for these live boards have automatically renewed through the last day of this month. As of this writing, there are no (0) revocation actions pending.

<u>Name</u>	<u>Vessel</u>
1. Slaymaker P.	Stepping Stone CF 1101 TY
2. Jones, L	Intrepid CF 0292 VE
3. Bohigan, D.	Breezing Up, ON 559013
4. Burns, P.	Tralfamadore, CF 9430 GL
5. Byrnes, K.	Grand Slam, CF 4540 FE
6. Doyle, M	Billikon, CF 3946 TM
7. Cayuela, R.	Rachel Angelet, CF 6969 UB
8. Michael, McVay	Gaviota, CF 4863 FP
9. Hughes, S	Sojourn, on 1067078
10 Cloer, J./Ajuria M.	Laurie, CF 2688 EX
11. Chambers, B.	Pyxis, ON 984193
12. Chaney, Don	Windswept, ON 1094268
13. Clark D.	Seaside Escape CF 4356 HW
14. Degnan, P.	No Name, CF 8344 GT
15. Jimmy Page	Lanitra, CF 7346 SH
16. Elwell, G.	Pearl, ON 557575
17. Faneuf, C.	Ghost Ryder ON 1048498
18. Stanford, M	Baba Bouy, ON 564525
19. Potter, D.	Danu CF 4085 GC
20. Harrington,H.	Isle of View, ON 997142
21. Glovin, D	Aint to shabby CF 7434 SL
22. Stuhr, K.	Sloop Dog, ON 997851
23 Jerred, D.	Westwind, CF8564 GM
24. Groom D	Phoenix, CF 5084 GJ
25. Jones, H.	Laetare, CF 5495 YB

26. Jones, T.
27. Kennedy C. Lahman D.
28. Ayres, Lloyd
29. Knudson L/Knudson A.
30. Malone, RJ
31. Marsee, E, Lynch, C
32. Burnett, Gary
33. Maris, T.
34. Robinson, D.
35. Nieman J
36. Niswonger, R.
37. Nunes, D.
38. Otis, T.
39. Paul, J
40. Schlegelmilch, William
41. Velaquez F
42. Raaphorst, D.
43. Reins, D.
44. Rotger, M.
45. Dyer, B
46. Piro, Daniel
47. Derouin, E
48. Stegmann, R.
49. Peabody, C
50. Salisbury, J.
51. Thomas, B.
52. Tufts, M.
53. Sumner, Aaron
54. Wolinski, Peter
55. Morgan, J
56. Samuelson, T.
57. Andrews, R
58. Riberal, Y
59. Schwontes, N
60. Bowler, J

Sanity, CF 5249 SC
 Aztlan, ON 281903
 Gaviota, CF 4656 GG
 Spellbound, ON 082155
 Francis W, CF 2017 UZ
 Tolly Craft CF 9521 HT
 Zinful CF5419 JG
 Nimble, CF 3730 KB
 Damn Baby CF 9442 EX
 Inia, ON 1074183
 Illusion, CF 0836 TA
 Auoroa, ON 676686
 Blue Moon, CF 1886 GT
 La Wanda CF 5014 FR
 Bull Dog ON 1219673
 Lorraine CF 0533 JL
 Spirit, ON 664971
 Second Paradise, ON 912484
 Raven, ON 241650
 Star of Light ON 1056334
 Gulf Star CF 6082 GL
 Sweet Liberty ON 1052175
 Wild Goose, ON 589319
 Margaret Joie, CF 9503 GM
 Oceanid, CF 4210 GA
 Coho, CF 9974 KK
 Enchantress, CF 0878 SX
 Bellissima CF 4668 FV
 Muffin, ON 1148169
 Ripple, ON 1037076
 Moonstone CF 5122 GX
 Sea Free ON 613387
 Boss Lady, ON 556296
 Luna Sea, ON 1138367
 Myrtle Mae, CF 3187 FN

Total Number Vessels: 60
 Total Number Persons: 64
 Pending Applications -0-



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 Tony Leonardini
 Vince Ferrante
 James R. Goulart
 Liz Soto

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 MOSS LANDING, CA 95039

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GENERAL MANAGER
 HARBORMASTER
 Tommy Razzeca

STAFF REPORT

ITEM NUMBER 7 - SLIP INCOME REPORT BOARD MEETING OF JANUARY 27, 2021

Slip Rates 2020/2021 per linear foot:

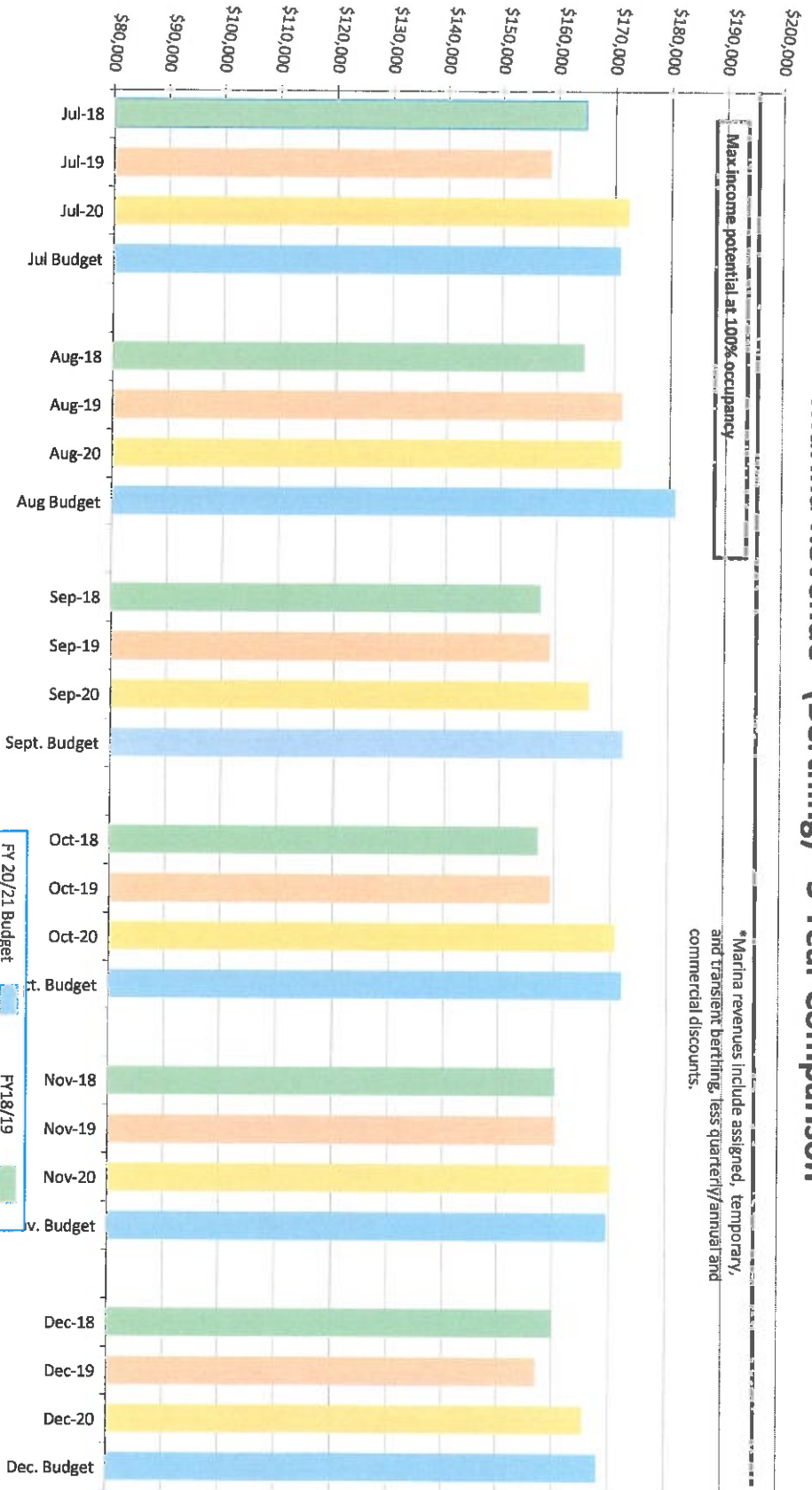
Assigned: \$8.40/ft./month
 Temporary: \$12.50/ft./month
 Transient: \$1.25/ft./day

INCOME

<u>December 2020</u>	<u>December 2019</u>	<u>December 2020 Budget</u>
\$165,441	\$157,124	\$168,019

For the month, slip income is below budget by \$3k, due to lower assigned berthing income. Slip income is higher than prior year by \$8k, due to higher assigned berthing revenue.

Moss Landing Harbor District Marina Revenue* (Berthing) - 3 Year Comparison

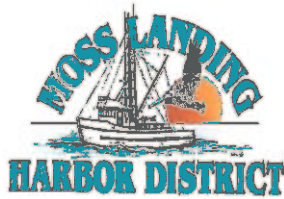


Max income potential at 100% occupancy

*Marina revenues include assigned, temporary, and transient berthing, less quarterly/annual and commercial discounts.

Legend:

- FY 20/21 Budget (Blue)
- FY 18/19 (Green)
- FY 19/20 (Orange)
- FY 20/21 (Yellow)



BOARD OF COMMISSIONERS
Russell Jeffries
Tony Leonardini
Vincent Ferrante
James Goulart
Liz Soto

7881 SANDHOLDT ROAD
MOSS LANDING, CA 95039

TELEPHONE – 831.633.2461
FACSIMILE – 831.633.1201

GENERAL MANAGER/HARBOR MASTER
Tom Razzeca

STAFF REPORT

ITEM NUMBER 08 – INCIDENT REPORT
BOARD MEETING OF JANUARY 27, 2021

12/8/2020 Staff received a report of a vehicle that had been broken into at the North Harbor dirt lot. When staff arrived they found that a total of three vehicles had actually been burglarized. Staff contacted the owners of each vehicle and asked that they each file a report with the Monterey County Sheriff.

12/12/2020 Staff received a report of a vessel on H-dock that had broken loose and was floating free in the Moro Coho Slough area of the South Harbor. Staff responded and was able to secure the vessel and transport it back to its berth. The vessel owner was contacted and replaced the dock lines avoiding future incidents.

01/01/2021 Night Staff found the father of a tenant who had been drinking and had fallen in the South Harbor parking lot. Staff called 911, North County Fire and Paramedics arrived on scene and though the man's injuries were believed to be minor he was ultimately transported for medical treatment.

01/18/2021 Night staff received a report of a vessel in the North Harbor that had broken dock lines and come free during high winds. Staff responded and was able to secure the vessel for the night and maintenance staff was able to transport the vessel back to its berth the following morning. The vessel owner was contacted and new dock lines have been added to secure the vessel.

No further incidents to report as of January 19, 2020.



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GENERAL MANAGER/HARBOR MASTER
Tom Razzeca

STAFF REPORT

**ITEM-18 GENERAL MANAGER UPDATE- TEMPORARY SUSPENSION OF DISTRICT LATE AND PASSENGER VESSEL FEES DURING THE COVID-19 PANDEMIC ORDINANCE NO. 208
BOARD MEETING OF JANUARY 27, 2021**

On April 22, 2020, the Board of Harbor Commissioners adopted Ordinance 208, which, in light of financial hardships created on residents and businesses by COVID-19 related disruptions in employment and business operations, authorized General Manager Razzeca to temporarily suspend the imposition of District Late Fees (for berth rentals, liveaboard fees and dry storage space rental) and Passenger Vessel Fees. The original term of the suspension was from April 22 through May 15, 2020. However, Ordinance 208 also provided General Manager Razzeca with authority to terminate or extend the suspension on an administrative basis, as necessary and without further Board action, based in part on whether National, State or County restrictions on business and employment remain in effect. General Manager Razzeca is to provide a monthly report on the status of this matter and should receive input from the Board.

As of August 5, 2020 late fees on account balances were reinstated however the Passenger Vessel fee has remained suspended. The General Manager recommendation as of the January 27, 2021 regular meeting is the passenger vessel fee remain suspended at least through February 24, 2021 (the next regularly scheduled meeting of the Board), due in large to the fact that COVID-related restrictions imposed by the County and State that have prevented such vessels from operating at full capacity have not been eliminated or significantly altered and in fact have become more restricted over the past months. The Board may provide input on said recommendations, and thereafter, General Manager Razzeca will take appropriate action. Notice of the action will thereafter be disseminated to the Harbor Community.



BOARD OF HARBOR COMMISSIONERS

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**GENERAL MANAGER
HARBOR MASTER**

Tom Razzeca

STAFF REPORT

**ITEM NUMBER 19 – DEEP WATER DESAL LLC. CANNERY BUILDING OFFICE
SPACE LEASE
BOARD MEETING JANUARY 27, 2021**

Deep Water Desal LLC (DWD) has leased office space over the past several years from the Harbor District at our Santa Cruz Cannery Building. The term of the most recent DWD lease ended on December 31st 2020 but has continued on a monthly basis through January 2021.

DWD expressed interest in a new lease for 3 of the previously leased office spaces in the Santa Cruz Cannery Building to begin February 1st 2021 for a total of approximately 702 square feet. The General Manager prepared a draft lease (included with this item for review) for the 3 office spaces with a term of 2 years with a 1 year option and presented the draft lease to the Real Property Committee during a meeting on January 13, 2021.

Staff recommends that the Board approve the DWD 2 year lease with a 1 year option having a term beginning February 1, 2021 consisting of 3 office spaces in the Santa Cruz Cannery Building totaling approximately 702 square feet.

SERVING COMMERCIAL FISHING AND RECREATIONAL BOATING SINCE 1947

LEASE AGREEMENT

“LESSOR”

MOSS LANDING HARBOR DISTRICT,
a Political Subdivision of the State of California

and

BRENT CONSTANTZ, PhD
Individually and
DEEP WATER DESAL LLC.

“LESSEE”

Leased Premises:

A Portion of APN #133-241-018
Santa Cruz Cannery Building (702) sq. ft. mol)

7532 Sandholdt Road,
Moss Landing, CA

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Basic Lease Provisions

The words and figures set forth in Paragraphs A through O, inclusive, are part of the Lease wherever appropriate references if made thereto, unless they are expressly modified elsewhere in this Lease. Certain of the following Paragraphs A through O, are intended only to summarize matters which are addressed more completely in other provisions of this Lease; therefore, in the event of any conflict between the following Paragraphs A through O and any provision of this Lease, the latter shall govern and control.

- A. **Effective Date:** February 1, 2021
- B. **Lessor:** Moss Landing Harbor District, a political subdivision of the State of California
- C. **Lessee:** Brent Constantz, PhD, Deep Water Desal LLC.
- D. **Premises:** The Premises which Lessee leases under this Lease are the following: Santa Cruz Cannery Building located at 7532 Sandholdt Road in Moss Landing Harbor, Moss Landing, California, consisting of an area approximately Seven Hundred Two (702 mol) square feet located adjacent to Bass Way as depicted in Exhibit A.
- E. **Use of Premises:** General office use
- F. **Parking:** Two (2) non-exclusive parking spaces and as available in adjacent lot
- G. **Term:** Two (2) year.
- H. **Option to Renew:** Option to Renew shall be exercised by written notice delivered by Lessee to Lessor not later than six (6) months prior to the end of the term.
- I. **Option to Renew Term:** One (1) [One (1) year] Option subject to reappraisal, payment of new rent plus CPI increases.
- J. **Minimum Rent:** Annual rent of \$14,320.80 payable monthly at \$1,193.40 per month based on \$1.70 per square foot per month for the Cannery Building, adjusted annually based on the CPI. This is a Triple Net lease.
- K. **Security Deposit:** One months rent, increased annually by CPI should option be exercised
- L. **Prepaid Rent:** None
- M. **Late Fee:** Equal to prime plus two percent (2%) of the amount past-due, in addition to an administrative surcharge per the tariff of the District
- N. **Lessor's Address for** Moss Landing Harbor District

Notices:

7881 Sandholdt Road
Moss Landing, CA 95039

**O. Lessee's Address and
Phone Number for
Notices:**

Brent Constantz, PhD
Deep Water Desal LLC.
7532 Sandholdt Road, Suite 6
Moss Landing, CA 95039
831.633.6262

MOSS LANDING HARBOR DISTRICT
L E A S E

This LEASE, made and entered into this 1st day of February 2021, by and between the MOSS LANDING HARBOR DISTRICT, a Political subdivision of the State of California, hereinafter called "LESSOR", and BRENT CONSTANTZ, DEEP WATER DESAL LLC., hereinafter called "LESSEE."

WITNESSETH:

1 LEASE DOCUMENTS

This Lease includes the following documents, which are attached hereto and made a part hereof:

- 1.1 Exhibit A: Drawing depicting leased premises in Santa Cruz Cannery Building.
- 1.2 Exhibit B: General Conditions, dated March 2001
- 1.3 Exhibit C: Moss Landing Harbor District Ordinance Code

2 EFFECTIVE DATE

- 2.1 Cannery Building: The effective date of this lease is the first day January, 2021 subject to the relinquishment of the premises to Lessor by the existing tenant, if any, and the premises being in a tenantable condition, reasonable wear and tear excepted.

3 PROPERTY LEASED

- 3.1 Cannery Building: Lessor hereby leases to Lessee and Lessee hereby rents from Lessor the property located in the Moss Landing Harbor, Moss Landing, County of Monterey, State of California, described as follows: The premises described in Exhibit "A" known as Suites 1, 2 and 3 located in the Santa Cruz Cannery Building, 7532 Sandholdt Road, Moss Landing Harbor, Moss Landing, California, consisting of an area approximately Seven Hundred Two (702 mol) square feet on the upper level of the building located adjacent to Bass Way as previously described.
- 3.2 Lessee may have Two (2) non-exclusive parking spaces consisting of not more than Eight Hundred Fifty Seven (428) square feet on the property adjacent to the Cannery building reserved for Tenant and Tenant's Visitor parking only. These parking spaces are to be used for the sole purpose of parking unoccupied vehicles on site for a limited period of time while the occupants conduct lawful business on the premises. In no event shall any vehicle be parked upon the premises for any period of time while occupied, other than very brief periods during employees lunch or dinner breaks, or as necessary incidental to picking up or dropping off an individual who has lawful business on the premises. There will specifically be no sleeping in vehicles on the premises and no unauthorized overnight parking. Vehicles of more than two axles with a gross weight of 15 tons, abandoned vehicles, boat and other trailers, recreational vehicles, and similar vehicles are specifically

prohibited from parking on the premises. Any use of the premises allowed by Lessee which creates a nuisance will constitute a default under the terms of this agreement and, in addition to any other remedies available to Lessor, Lessee shall have the right to abate the nuisance by removing the nuisance at Lessee's sole cost and expense. Additionally, should Lessor elect not to declare this lease in default, Lessor shall have the right to reduce or eliminate Lessee's use of the premises adjacent to the Cannery Building.

4 RENT

4.1 Amount. Lessee shall pay Lessor without prior notice or demand, deduction, set-off, counterclaim or offset during the Term the rent provided in this Section 4.1 and all other additional sums required to be paid under this Lease, including but not limited to triple net charges, at the address set forth in Section 16. All sums of money required to be paid pursuant to the terms of this Lease are defined as "Rent", whether or not the same are designated as such elsewhere in this Lease, and shall be paid in lawful money of the United States of America.

4.1.1 MINIMUM ANNUAL RENT: Fourteen Thousand Three Hundred Twenty and 80/100 Dollars (\$14,320.80).

4.1.1.1 Cannery Building: Lessee shall pay to Lessor as Minimum Annual Rent \$1.70 per square foot per month for a monthly amount of \$1,193.40, equaling \$14,320.80, per annum, based on a fair value as of January 1, 2021. Monthly installments of Minimum Rent shall be due and payable in advance on the first day of each consecutive month during the Term.

4.1.2 LATE PAYMENT: Lessee hereby acknowledges that late payment by Lessee to Lessor of any amount due under this Lease (including, but not limited to, Minimum Rent) will cause Lessor to incur costs and expenses not contemplated by this Lease, the exact amount of which costs and expenses are extremely difficult and impractical to ascertain. In accordance with Ordinance Code Section 20.010, any amount of money due and unpaid to Lessor ten (10) days after the payment was due shall be subject to a late fee. Such costs and expenses include, but are not limited to, processing and accounting charges and late charges that may be imposed on Lessor under the terms of any note or other obligation secured by a deed of trust or other security instrument covering the Project. Therefore, if Lessee fails to pay any amount under this Lease when due, in addition to the interest for which Section 20.4 provides, a late charge equal to prime plus two percent (2%) of the amount, in addition to an administrative surcharge per the tariff of the Lessor District, shall be assessed to reimburse Lessor for such costs and expenses. Lessor and Lessee agree that this late charge represents a fair and reasonable estimate of the costs and expenses that Lessor will incur by reason of a late payment by Lessee.

4.2 First Partial Month. If the Commencement Date occurs on a day other than the first day of a calendar month:

4.2.1 Minimum Rent for the first partial month shall be prorated on the basis, which the number of days of the Term in such month bears to 30, and as so prorated shall be paid on the Commencement Date.

4.3 PERCENTAGE RENT: Should Lessor approve a use of the premises for retail sales, Lessor shall be entitled to a percentage of each sale based on rates by similar ports on the west coast.

4.3.1 Lease Year. "Lease Year" shall mean that period of twelve (12) or fewer consecutive months which ends on January 31st of each year and which falls within the Term and the period from the last January 31st during the Term to and including the last day of the Term. Each Lease Year shall constitute a separate accounting period for the purpose of computing Percentage Rent, and Gross Sales for any one Lease Year shall not be carried forward or carried back into any other Lease Year.

4.3.2 Records. Should the Lessor approve a use of the premises for retail sales, Lessee shall keep and preserve and shall require its sublessees, licensees and concessionaires to keep and preserve, in Monterey County, for a period of not less than three (3) years after the delivery to Lessor of Lessee's certified statement for the last calendar quarter of each Lease Year, complete, accurate and customary records of all amounts received during each Lease Year in the Premises, whether or not included in Gross Sales. However, in the case of a controversy concerning the amount of Percentage Rent for a Lease Year(s) under this Lease, Lessee shall keep and preserve said records until the controversy has ended. Lessor shall be entitled at reasonable times during business hours, personally or through duly authorized agents, at its own expense, to inspect and make copies of such records, together with any other documents bearing directly on Lessee's Gross Sales under this Lease. Lessee shall, upon the verbal request of Lessor or its agents, produce and make such records and other documents available to Lessor or its agents for the purpose of such inspection and copying.

4.3.3 Audit. Lessor shall be entitled to have an audit made of all amounts received by Lessee from business transacted in the Premises, whether or not included in "Gross Sales", for a prior Lease Year. Lessee shall, upon the verbal request of Lessor or its agents, produce and make the records and other documents to which Section 4.3.1 refers available to Lessor or its agents for the purpose of such audit. If the audit discloses that any statements for the period audited are inaccurate, adjustment shall be made in the following manner upon notice to Lessee: Within ten (10) days after delivery of such notice, Lessee shall pay to Lessor any Minimum Rent then due. If the computation discloses that Lessee overpaid Minimum Rent for such Lease Year, then Lessee shall be entitled to a credit in the amount of such overpayment against the next payment(s) of Rent due under this Lease. If the audit further discloses that Lessee has understated Percentage Rent by three percent (3 %) or more, in addition to payment of any rent paid, Lessee shall immediately pay the cost of the audit.

4.4 Acceptance of Payment. No payment by Lessee or receipt by Lessor of a lesser amount of Minimum Rent or any other amount due under this Lease shall be deemed to be other than on account of the earliest due Rent or payment, nor shall any endorsement or statement on any check or any letter accompanying any such check or payment be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such Rent or payment or pursue any other remedy available under this Lease, at law or in equity. Lessor may accept any partial payment from Lessee without invalidating

any contractual notice required to be given under this Lease (to the extent such contractual notice is required) and without invalidating any notice required to be given pursuant to California CODE OF CIVIL PROCEDURE §1161, as it may be amended from time to time.

4.5 Adjustment of Minimum Rent. The Minimum Rent shall be adjusted every year for inflation. For the purpose of calculating the adjustment to Minimum Rent, the Adjustment Date shall be on January 1st. Each such increase shall be determined as follows:

4.5.1 The basis for computing each increase shall be the United States Department of Labor Consumer Price Index All Urban Consumers, Base 1982 = 100 (CPI-U) for San Francisco, Oakland, San Jose, California ("Index").

4.5.2 At each Adjustment Date, the Minimum Rent payable during the immediately preceding year shall be increased by the amount of any percentage increase in the Index last published for the period January – December of the preceding year as compared with the Index published for the same calendar month of the preceding year. In no event shall the Minimum Rent for any year be reduced below the amount payable during the immediately preceding year.

4.5.3 Lessor shall notify Lessee of each increase in the Minimum Rent, in writing, as soon as reasonably possible following each Adjustment Date. Lessee acknowledges that the amount of each such increase and written notice thereof will not be available until some time after the Adjustment Date. Therefore, Lessee shall continue to make monthly payments to Lessor of Minimum Rent in the amount payable for the Adjustment Period preceding the Adjustment Date until written notice of the newly calculated Minimum Rent is received by Lessee. No later than ten (10) days following receipt by Lessee of such written notice, Lessee shall pay to Lessor the amount of the increase reflected in such written notice for each calendar month from the Adjustment Date to the date of receipt by Lessee of such written notice.

4.5.4 If the Index ceases to be published, then such other source of information shall be used as a basis to determine the rise of the cost of living and the current rental adjustments by reason thereof as the parties shall mutually agree upon, and, in the event the parties cannot agree upon an acceptable basis, then such basis shall be determined by arbitration. Each party hereto shall appoint one arbitrator and such two arbitrators shall appoint a third arbitrator. The decision of the majority of said arbitrators shall be binding upon the parties. The cost of such arbitration, if any, shall be borne equally by Lessor and Lessee.

4.5.5 This is a triple net Lease. In addition to such other sums set forth herein, Lessee shall pay its prorata share of all costs incurred by, and assessments imposed against, Lessor arising out of the land and building of which the leased premises are a part. The prorata share of costs will be based upon the square footage occupied by Lessee as compared to the total square footage of the building.

5 TERM OF LEASE

- 5.1 DURATION: The lease term shall be for a period of One (1) year.
- 5.2 CANCELLATION: If by reason of regulation or other action by governmental or other authority, the Premises should be deemed unsafe or unfit for further use, either absolutely or until such time as structural or other repairs or renovations are accomplished, Lessee shall have the absolute right, at its sole discretion, to repair and restore the damaged premises in accordance with Section 11.1 or to cancel and terminate this Lease without further obligation to Lessor.
- 5.3 HOLDOVER: If Lessee maintains possession of the Premises for any period after the termination of this Lease, known as the "Holdover Period", Lessee shall pay to Lessor a lease payment for the Holdover Period based on the terms of the previous RENT section. Such holdover shall constitute a month-to-month extension of this Lease.

6 OPTION TO RENEW

Subject to satisfaction of the conditions precedent set forth below, Lessee shall have One (1) option to extend the term of the lease for a period of One (1) year, with the exercise of the first option beginning the day after the expiration of the initial term, on the following terms and conditions.

- 6.1 Lessee's Option Term shall be subject to satisfaction of each of the following conditions precedent, which are solely for the benefit of, and may be waived unilaterally by, Lessor: (1) Option shall be exercised by written notice delivered by Lessee to Lessor not later than six (6) months prior to the end of the term; (2) Lessee shall be in occupancy of the leased premises directly, and not through an assignee or sublessee; and (3) the lease shall be in effect and Lessee shall not be in default of any material provision thereof both on the day such written notice is delivered to Lessor and on the last day of the term; provided, however, if Lessee is in default but the cure period has not run, this condition shall be deemed satisfied if Lessee cures the default within the applicable cure period.
- 6.2 In the event the term shall be extended following exercise by Lessee of the Option to Renew, then all terms, covenants and conditions of the lease shall remain in full force and effect during the option renewal period, including a fair market value increase to minimum annual rent as subject to an independent appraisal in the discretion of the Lessor during such renewal period. The independent appraiser shall appraise the leasable premises on comparison with related businesses along the central coast of California. The appraiser shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of an appraiser within fifteen (15) days, then Lessee and Lessor shall each chose an appraiser, each of whom shall agree to select a third appraiser to appraise the premises.

7 USE AND SERVICES

- 7.1 Use: Lessee shall operate and maintain a first-rate and complete facility for the purpose of general office use or other uses compatible with the Monterey County Land Use Plan and subject to Lessor and government agency approval.
- 7.2 Limitations on Use. Lessee's use of the Premises shall be in accordance with section 7.1.
- 7.3 Prohibited Uses: The parties hereto agree that the following acts, occurrences or conduct by Lessee on or from the Premises are strictly prohibited:
- 7.3.1 Engaging in any activity that constitutes a violation of any law.
- 7.3.2 Acts of gambling or the operation of games of chance or devices for gambling purposes unless allowed by Lessor on other properties owned or operated by Lessor.
- 7.4 Compliance with Laws. Except as otherwise provided herein, Lessee shall comply with all Laws and Legal Requirements concerning Premises or Lessee's use of the Premises. Lessee shall obtain and pay for all licenses and permits required for Lessee's occupancy and use of the Premises. Compliance with all laws shall include compliance with all requirements of each regulatory agency, which has jurisdiction over this site including but not limited to the California Regional Water Pollution Control Board.
- 7.5 Waste: Nuisance. Lessee shall not cause, maintain or permit any nuisance in, on, or about the Premises. Lessee shall not commit or suffer to be committed any waste in or about the Premises and shall keep the Premises in first class repair and maintain the same in Good Condition during the Lease Term.

8 BUSINESS RIGHTS AND RESTRICTIONS.

- 8.1 Use. The Premises shall be used solely for the use set forth in the above Section and for no other purpose or use whatsoever.
- 8.2 Restrictions. Lessee shall not, without Lessor's prior written consent, which shall not be unreasonably withheld: (a) conduct any auction or bankruptcy sale; (b) permit anything to be done on the Premises which will in any way obstruct, interfere with or infringe on the rights of other occupants in the Santa Cruz Cannery Building and K-Dock; (c) cause, maintain or permit any nuisance on the Premises or cause or permit any waste to be committed on the Premises; (d) bring or keep on the Premises or permit any act thereon which is prohibited by any law, statute, ordinance or governmental regulation now in force or hereafter enacted or promulgated, or which is prohibited by any standard form of fire insurance policy or standard policy insuring against "all risk" perils; or (e) violate any provision of any

covenants, conditions and restrictions of record affecting the Premises, whether entered into before or after the date of this Lease.

8.3 Hazardous Materials. Lessee hereby makes the following covenants regarding Hazardous Materials:

8.3.1 Lessee shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. §1251, *et seq.*), Resource Conservation & Recovery Act (42 U.S.C. §6901, *et seq.*), Safe Drinking Water Act (42 U.S.C. §3000f, *et seq.*), Toxic Substances Control Act (15 U.S.C. §2601, *et seq.*), the Clean Air Act (42 U.S.C. §7401, *et seq.*), Comprehensive Environmental Response, Compensation and Liability Act 42 U.S.C. 9601~ California HEALTH & SAFETY CODE (§ 25100, *et seq.*; § 39000, *et seq.*), California Safe Drinking Water & Toxic Enforcement Act of 1986 (HEALTH & SAFETY CODE §25249.5, *et seq.*), California WATER CODE (§13000, *et seq.*), and other comparable state and federal laws ("Hazardous Materials Laws"), relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or pollution materials, substances or wastes, including, without limitation, any "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under any laws, ordinances or regulations (collectively, "Hazardous Materials").

8.3.2 Lessee shall, at its own expense, procure, maintain in effect and comply with all conditions of any and all permits, licenses, and other governmental and regulatory approvals required for Lessee's use of the Premises, including, without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the Premises. Except as discharged into the sanitary sewer in strict accordance and conformity with all applicable Hazardous Materials Laws, Lessee shall cause any and all Hazardous Materials removed from the Premises to be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes. Lessee shall in all respects handle, treat, deal with and manage any and all Hazardous Materials in, on, under or about the Premises in total conformity with all applicable Hazardous Materials Laws and prudent industry practices regarding management of such Hazardous Materials. Upon expiration of the Term or earlier termination of this Lease, Lessee shall cause all Hazardous Materials to be removed from the Premises and transported for use, storage or disposal in accordance with and compliance with all applicable Hazardous Materials Laws. Lessee shall not take any remedial action in response to the presence of any Hazardous Materials in or about the Premises, nor enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Premises, without first notifying Lessor of Lessee's intention to do so and affording Lessor ample opportunity to appear, intervene or otherwise appropriately assert and protect Lessor's interest with respect thereto.

8.3.3 Lessee shall immediately notify Lessor in writing of: (i) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened pursuant to any Hazardous Materials Laws; (ii) any claim made or

threatened by any person against Lessee or the Premises relating to damage, contribution, cost recovery compensation, loss or injury resulting from or clarified to result from any Hazardous Materials; and (iii) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Premises or the Project, including any complaints, notices, warnings or asserted violations in connection therewith. Lessee shall also supply to Lessor as promptly as possible, and in any event within five (5) business days after Lessee first receives or sends the same, with copies of all claims, reports, complaints, notices, warnings or asserted violations, relating in any way to the Premises, or Lessee's use thereof. Lessee shall promptly deliver to Lessor copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises.

8.3.4 Lessee shall indemnify, defend (by counsel reasonably acceptable to Lessor), protect, and hold Lessor and each of Lessor's elected and/or appointed officials, employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorneys' fees), or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (i) the presence in, on, under or about the Premises or the Project, or discharge in or from the Premises, of any Hazardous Materials brought or caused to be brought by Lessee into or onto the Premises or the Project; or (ii) Lessee's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials to, in, on, under, about or from the Premises; or (iii) Lessee's failure to comply with any Hazardous Materials Law. Lessee's obligations under this Section shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, cleanup or detoxification or decontamination of the Premises, or the preparation and implementation of any closure, remedial action or other required plans in connection therewith, and shall survive the expiration of the Term or earlier termination of this Lease. For purposes of the release and indemnity provisions of this Section, any acts or omissions of Lessee, or by employees, agents, assignees, subleases, contractors or subcontractors of Lessee or others acting for or on behalf of Lessee (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessee.

9 SIGNS AND ADVERTISING

9.1 Interior: Lessee may, at its own expense, erect and maintain upon the interior areas of the Premises all signs and advertising matter customary and appropriate in the conduct of Lessee's business, subject to (a) Lessor's right to remove any signs or advertising matter which violate Section 8; (b) Lessee's obligation to submit to Lessor and Lessor's right to approve, which approval may be withheld in Lessor's sole, absolute and unfettered discretion, any sign oriented or positioned to be seen from outside the Premises; and (c) Lessee's obtaining all required approvals of any governmental authorities having jurisdiction. Lessee shall not affix or maintain upon the glass panes or supports of the windows or doors, or within twelve (12) inches of the windows or doors, any signs, advertising placards, names, insignia, trademarks, descriptive material or any other such like item or items, except such as shall have first received the written approval of Lessor, which may be withheld in Lessor's sole,

absolute and unfettered discretion, with respect to size, type, color, location, copy, nature, and display qualities.

- 9.2 Exterior: Except for those signs and advertising devices which (a) are provided for in approved plans and specifications or in a scale drawing submitted by Lessee and approved in writing by Lessor, which approval may be withheld in Lessor's sole, absolute and unfettered discretion, and (b) comply with the requirements of all governmental authorities having jurisdiction, Lessee shall not erect, place, paint or maintain on the Premises or the Building any sign, exterior advertising medium or any other object of any kind whatsoever, whether an advertising device or not, visible or audible outside the Building, nor shall Lessee change the color, size, location, composition, wording or design of any sign or advertisement on the Premises or the Building that may have been theretofore approved by Lessor and governmental authorities without the prior written approval of Lessor and said authorities. Lessee shall, at Lessee's sole cost and expense, maintain and keep in good repair all installations, signs and advertising devices which it is permitted by Lessor to install, and shall pay all charges required to keep them in good repair. Lessee's sign must be installed and operating concurrent with Lessee's opening for business. Upon the expiration of the Term or earlier termination of this Lease, Lessor shall, at Lessee's sole cost and expense, remove or cause to be removed Lessee's exterior sign or signs and restore the fascia of the Building outside the Premises to the condition that existed before the installation of Lessee's exterior sign; Lessee shall pay such expense to Lessor within ten (10) days after presentation of a bill therefore.

10 IMPROVEMENTS, REPAIRS AND MAINTENANCE

- 10.1 Lessor's Build-Out: Lessor will provide an office shell, carpeting, walls, doors and hardware using standard-grade materials. Any upgrades will be borne by Lessee.
- 10.2 Lessor's Obligations: Except as to those obligations expressly charged to Lessee, Lessor will keep and maintain the Santa Cruz Cannery Building in tenantable condition and repair, shall maintain the exterior of the building, the heating, ventilation, air conditioning, mechanical and lighting system and costs incurred in so maintaining the Building will be borne by Lessee in accordance with Section 4.5.5.
- 10.3 Lessee Obligation: Lessee shall, at its sole cost and expense, at all times be responsible for keeping the entire leased premises repaired, maintained, replaced, or added to in good order, and in sanitary and safe condition and repair, and in accordance with all governmental requirements and insurance requirements. Lessee shall be responsible for all interior building repairs, including exterior doors. If Lessee refuses or neglects to maintain the leased premises in accordance with the terms of this paragraph, and to the reasonable satisfaction of Lessor as soon as reasonably possible after written demand (except that no written demand shall be required in situations Lessor reasonably determines are emergencies), Lessor may, upon fifteen (15) days prior written notice to Lessee (except that no notice shall be required in situations Lessor reasonably determines are emergencies), perform such repairs without liability to Lessee for any loss or damage that may occur to Lessee's

property or business by reason thereof. Upon the completion of any such repair by Lessor, Lessee shall pay Lessor's costs for making such repairs plus ten percent (10%) for overhead upon presentation of the bill thereof. Such bills shall include interest as described elsewhere in this lease on the cost so reflected from fifteen (15) days after the date of the billing until the date paid by Lessee.

10.4 Alterations:

10.4.1 Lessee shall not make any additions (i.e., improvements that would add to the floor area of the building), alterations, changes or improvements (collectively, "Alterations") in or to the interior or exterior of the leased premises without the prior written consent and approval of Lessor, which may be withheld in Lessor's sole, absolute and unfettered discretion, and which may be conditioned upon Lessee's removing, at Lessee's sole cost and expense at the expiration or earlier termination of this lease, any alteration for which Lessor grants its consent and approval. All Alterations shall conform to all applicable governmental ordinances and regulations, and, except Lessee's trade fixtures, shall become part of the realty upon installation thereof. Lessee shall be liable for any consequential damages as a result of Alterations under this Section. If Lessor is required to review plans for any Alterations, Lessee shall pay to Lessor all costs and expenses incurred by Lessor in connection with such review, plus a fee not to exceed \$300.00 (as adjusted for inflation from the date of this lease in accordance with Section 4.7.1 hereof).

10.4.2 Any and all Alterations shall be subject to conformity with the following requirements:

10.4.2.1 Prior to commencement of any work of Alteration, Lessee shall submit detailed plans and specifications, including working drawings, of the proposed Alteration, which shall be subject to the consent of Lessor.

10.4.2.2 Alterations shall be performed at Lessee's sole cost and expense by a contractor selected by Lessee and approved by Lessor, which approval Lessor may withhold in Lessor's sole, absolute and unfettered discretion, which shall not be unreasonably withheld;

10.4.2.3 In the event Lessor approves the Alteration plan for any proposed Alteration, Lessee shall notify Lessor of commencement of work on such Alteration in writing at least ten (10) days in advance so that Lessor may post notices of non-responsibility in or upon the premise;

10.4.2.4 No work on any proposed Alteration shall be commenced without Lessee having previously obtained all applicable permits and approvals, at Lessee's sole cost and expense, required by governmental authorities;

10.4.2.5 All Alterations shall be performed in a skillful and workmanlike manner, consistent with the best practices and standards of the construction industry, and pursued with diligence through completion, all in accordance with the Alteration plans approved by Lessor.

10.4.2.6 Prior to commencement of work on any Alteration, Lessee shall furnish to Lessor evidence reasonably satisfactory to Lessor that

Lessee's contractor has obtained all insurance reasonably required by Lessor (including, but not limited to, commercial general liability insurance, worker's compensation insurance, builder's risk insurance and course of construction insurance) in amounts of coverage reasonably required by Lessor; and

10.4.2.7 Alterations must be performed in a manner that does not interfere with or adversely affect the conduct of business by other Lessees.

10.4.2.8 At the completion of the Lease, Lessee shall return all improvements in a condition as good as the condition at the beginning of the Lease, normal wear and tear excepted.

11 DAMAGE AND RESTORATION

11.1 Duty to Restore: If the improvements of which the premises are comprised are partially or totally damaged by fire or other casualty so as become partially or totally untenable, regardless of whether such damage is insured against under any policy of insurance against "all-risk" perils then covering the damaged improvements, at Lessor's discretion this lease shall not terminate, and if not terminated, Lessor shall rebuild and restore such improvements with due diligence at Lessor's expense. However, to the extent that Lessee has insurance against the perils causing such damage, as may be required elsewhere in this Lease, then Lessee shall cooperate in procuring such insurance proceeds on Lessor's behalf for use in such rebuilding or restoration.

11.2 No Rent Adjustment: During the period of repair and restoration, Minimum Annual Rent payable by Lessee pursuant to this lease shall not abate or be adjusted, but shall be prorated to the use denied.

12 EMINENT DOMAIN

12.1 If (a) the entire premises is taken or condemned by any competent authority for any public use or purpose during the term of this lease, or (b) a part of the premises is so taken or condemned and Lessee exercises its option to terminate this lease as hereinafter provided, then all damages awarded for such taking shall belong to and be the property of Lessor; provided, however, in the event a separate and specific allowance is made by the condemning authority or by the court based upon (i) the loss of Lessee's business, or (ii) the expense of removing Lessee's equipment, furniture, fixtures and other property from the premise, then such separate and specific allowance shall be the property of Lessee; provided further, Lessee shall have the right to prosecute its claim for any such loss or expense. In either event, this lease shall terminate when Lessee can no longer use the premises in the manner contemplated under this lease, when physical possession of the premises is required by the appropriating or condemning authority, or when legal title to the premises vests in the appropriating or condemning authority, whichever first occurs.

12.2 In the event a part of the premises is appropriated or condemned and (i) the part so taken includes the building or any part thereof, or (ii) such partial taking results in precluding direct access from the premises to all adjacent public streets, then and in

such event, Lessee, at any time either prior to or within a period of sixty (60) days after the date on which possession of the part of the premises so taken is required by the appropriating or condemning authority, may elect to terminate this lease. In the event Lessee fails to exercise any such right to terminate this lease, or in the event a part of the premises is taken or condemned under circumstances under which Lessee has no such right, then in either such event, Lessor, with reasonable promptness, shall make necessary repairs to and alterations of the improvements on the premises for the purpose of restoring the same to an economic architectural unit, susceptible to the same use as that which was in effect immediately prior to such taking and to the extent that may have been necessitated by such appropriation or condemnation. Lessee shall be entitled to an abatement of all rent during the period such repairs and alterations are being made; provided, however, if Lessee operates Lessee's business on the premises during the period such repairs and restorations are being made, Lessee, during such period, will pay rent in the amount provided below.

- 12.3 In the event a part of the premises is appropriated or condemned and Lessee does not exercise its right to terminate this lease or does not have the right as above provided, then this lease shall terminate with respect to that part of the premises so taken. The monthly installments of rent shall be reduced in such event, as of the date when physical possession the part of the premises taken is required by the appropriating or condemning authority, by a proportional amount equal to the proportion that the area of that part so taken bears to the total area of the premises immediately prior to such taking.

13 UTILITIES

Lessee shall contract directly and open separate accounts with the supplier of all utilities (including, but not limited to, water, gas, electricity, telephone and sewer service fees) and shall pay all hook-up fees and deposits for meters, if any. Commencing with the delivery of possession of the leased premises to Lessee by Lessor, Lessee shall pay, when due and before delinquency, directly to the supplier of the utilities to the leased premises, for all such utility consumed at the leased premise. In no event shall Lessor be responsible for damages to Lessee occasioned by the interruption of utilities services to Lessee or the leased premises, nor shall rent be offset as a result of any such interruption. Cable lines for internet access will be separately metered to the extent possible; otherwise, Lessee shall cooperate in whatever method is deemed necessary to determine Lessee's accurate use therefor and Lessee shall pay for the same as above set forth if possible; otherwise in accordance with Section 4.5.5.

14 PROPERTY, LIABILITY AND OTHER INSURANCE:

Lessee shall not carry any stock of goods or do anything in or about the leased premises that will in any way tend to increase insurance rates for the leased premises. In no event shall Lessee conduct or engage in any activities that would invalidate any insurance coverage thereon. Lessee shall pay on demand any increase in premiums that may be charged because of Lessee's use or activities or vacating or otherwise failing to occupy the leased premises, but this provision shall not be deemed to limit in any respect Lessee's obligation under this lease.

14.1 PUBLIC LIABILITY AND PROPERTY INSURANCE:

Lessee shall, at all times, at its sole expense, maintain during the entire term of this Lease, Public Liability and Property Damage Liability Insurance covering all claims for damages for bodily injury, death and property damages arising from Lessee's operation of business and occupation of the premises. The property damage insurance shall cover damage or destruction of any property, other than that which is owned, leased, or in the care, custody, or control of Lessee with the limit applying to any once accident, disaster, or claim. Single limit insurance coverage shall reflect a sum total coverage of public liability and property damage combined in the amount of not less than Two Million Dollars (\$2,000,000). Limits of not less than One Million Dollars (\$1,000,000) for personal injuries including accidental death for any one occurrence, and property damage in and amount not less the One Million Dollars (\$1,000,000) for any once occurrence.

14.2 LIABILITY INSURANCE:

Lessee shall, at all times, at its sole expense, maintain in full force a policy or policies of comprehensive or commercial general liability insurance issued by one or more insurance carriers insuring against liability for injury to or death of persons and loss of or damage to property occurring in or on the premises. Said liability insurance shall be in an amount of not less than \$1,000,000 combined single limit for bodily and personal injury and property damage, which amount shall be adjusted upward (but not downward) periodically based on insurance industry-recommended changes in coverage. In addition, Lessee shall pay for and shall maintain in full force and effect blanket contractual liability insurance to cover all of the indemnity obligations of Lessee under this lease. Lessee shall deliver appropriate evidence to Lessor as proof that adequate insurance is in force. Lessee's insurance carrier shall be required to provide Lessor with notice of any termination of such insurance policies immediately.

14.3 FIRE INSURANCE AND EXTENDED COVERAGE

Lessee shall, at Lessee's sole cost and expense, obtain and maintain in full force and effect at all times a standard policy insuring the leased premises, trade fixtures, equipment, and other personal property located in the premises and used by Lessee in connection with its business against "all risk" perils (also known as "special cause of loss") in an amount equal to the full replacement cost (without deduction for depreciation) of the leased premises and such equipment and personal property. Such policy shall name Lessor as a loss payee and include a standard form of lender's loss payable endorsement, issued to the holder or holders of mortgage or deed of trust secured in whole or in part by the legal parcel on which premises is located. Such policy shall not be subject to cancellation or change in coverage except upon at least thirty (30) days prior written notice to Lessor. Such policy, a duly executed evidence of property insurance (in the form of I.S.O. accord 27) or other insurance industry-recognized certificate evidencing such policy shall be deposited with Lessor at the commencement of the effectiveness of this Section and not less than thirty (30) days prior to the expiration of the term of such coverage.

14.4 WORKERS' COMPENSATION

Lessee shall at all times maintain Workers' Compensation Insurance covering all persons employed in connection with the work and with respect to death or bodily injury claims that could be assessed against Lessor or the leased premises.

14.5 BLANKET INSURANCE

Each party shall be entitled to fulfill its insurance obligations under this lease by maintaining a so-called "Blanket" policy or policies of insurance in such form as to provide by specified endorsement (such as a so-called "per location aggregate limit" endorsement) coverage not less than that which is required under this lease for the particular property or interest referred to in this lease.

14.6 GENERAL REQUIREMENTS

All of the insurance policies obtained by Lessee pursuant to the requirements of this Lease shall name District, its elected and/or appointed officials, employees, and agents as Additional Insured and provide that such policies shall be primary and specify that thirty (30) days' written notice must be given to Lessor (Moss Landing Harbor District) of any cancellations or changes in the policies. The notice shall be sent by certified or registered mail and shall be deemed effective the date delivered to the General Manager of Lessor as evidence by a properly validated return receipt.

14.6.1 All policies of insurance required to be carried under this lease shall be written by companies satisfactory to Lessor, licensed to do business in California, and rated A:VII or better by the A.M. Best Company ("Best"), or the equivalent of such rating if Best does not rate the company.

14.6.2 Lessee shall provide Lessor with Certificates of Insurance showing the required coverage and containing a specific contractual liability endorsement extending Lessee's coverage to include its Lease with Lessor. Lessee shall furnish Lessor with binders representing all insurance required by this Lease prior to the commencement of lease terms.

14.6.3 Lessor shall retain the right at any time to review the coverage, form and the amount of the insurance required hereby. If, in the opinion of Lessor, the insurance provisions in this Lease do not provide adequate protection for Lessor and for members of the public using the demised premises, Lessor may require Lessee to provide adequate protection. Lessor's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

14.6.4 If Lessee fails or refuses to procure or to maintain insurance required by this Lease or fails or refuses to furnish Lessor with required proof that the insurance has been procured and is in full force and effect and paid for, Lessor shall have the right, but not the obligation, upon five (5) days written notice to Lessee, to procure and maintain said insurance. The premiums paid by the Lessor shall bear interest at the legal rate then in effect in the State of California from the date when the premium is paid by Lessor.

14.6.5 Lessor shall notify Lessee in writing of changes in the insurance requirements and, if Lessee does not deposit the Certificates of Insurance with Lessor incorporating such changes within sixty (60) days of receipt of such notices, this Lease shall be deemed in default without further notice to Lessee and Lessor shall be entitled to all self-help, administrative legal remedies allowed by law.

14.6.6 The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder or to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policies or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury or loss caused by negligence or neglect connected with this Lease or with use or occupancy of the demised premises.

15 INDEMNITY

15.1 Indemnity: Lessee shall indemnify, protect, defend and save Lessor harmless from and against any and all liens, claims, demands, actions, causes of action, obligations, penalties, charges, liabilities, damages, losses, costs or expenses, including reasonable attorney's fees for the defense thereof, of whatsoever kind and nature, arising from or connected with (i) the conduct or management of the business conducted by Lessee on the premises; (ii) Lessee's use of computers on the premises, including loss of electric power; (iii) the use or occupancy of the premises; (iv) any breach or default on the part of Lessee in the performance of any covenant or agreement on the part of Lessee to be performed pursuant to the terms of this lease; (v) violations of or non-compliance with any governmental requirements or insurance requirements to be observed, obeyed and complied with by Lessee under the terms of this lease; or (vi) any acts or omissions of Lessee, or any person upon the premises by license or invitation of Lessee or of any person or entity deriving his, her or its right to occupy the premises or any part thereof from, by or through Lessee.

15.2 Waiver: All property kept, stored, or maintained on the premises shall be so kept, stored, or maintained at the sole risk of Lessee; and except in the case of Lessor's willful misconduct, Lessor shall not be liable for loss or damage to such property. Lessee waives all claims against Lessor, for damages to persons or property sustained by Lessee or by any other person or firm resulting from any occurrence in the premises or by reason of any equipment located in or on the premises becoming out of repair, or through the acts or omissions of any persons present in the premises or renting or occupying any part of the premises, or for loss or damages resulting to Lessee or its property from burst, stopped or leaking sewers, pipes, conduits, or plumbing fixtures, or for interruption of any utility services, or from any failure of or defect in any electric line, circuit or facility, or any other type of improvement or service on or furnished to the premises or resulting from any accident in, on, or about the premises.

16 SECURITY DEPOSIT:

16.1 AMOUNT

On the execution of this Lease, Lessee shall deposit with Lessor a refundable security deposit in the equivalent amount of one month's rent, as security for the full and faithful performance by Lessee of the terms, conditions and covenants of this Lease to be performed by Lessee. The type of security deposit shall be in accordance with that specified in the General Conditions. Security Deposit shall not constitute payment of last month's rent. Said security deposit shall be increased annually in accordance with Paragraph 4.7.1 through 4.7.4. of this Lease in order that said security deposit shall always reflect current rent.

16.2 DEFAULT OF RENT

If at any time during the term hereof, Lessee shall be in default in the payment of rent herein reserved or any portion thereof, or any other sums expressly constituting rent hereunder, Lessor may appropriate and apply any portion of the security deposit reasonably necessary to remedy any such default in rent, or any steps required to effect such remedy. If at any time during the term hereof, Lessee should fail to repair any damage to the premises leased to him, occasioned by the Lessee or his agents, servants or employees through want of ordinary care, or a greater degree of culpability, for a period beyond thirty (30) days after written demand to make such repairs served on Lessee by Lessor, than the Lessor may appropriate and apply any portion of the security deposit as may be reasonably necessary to fund the repair.

16.3 TERMINATION OF TENANCY

If upon cancellation of this lease, Lessee does not leave the leased premises in broom clean condition, excepting reasonable wear and tear, then Lessor may appropriate and apply any portion of the security deposit, after any lawful deductions as above, to the cost(s) in cleaning and repairing the leased premises to a reasonably clean condition. Lessor shall then return to Lessee the remaining unused portion of the security deposit two (2) weeks after termination of the tenancy directed to the address left by Lessee specifically for such purpose or otherwise directed to Lessee's last known address.

Should Lessor actually resort to any monies contained within the security deposit under any of the above applicable provisions, Lessee agrees to pay to Lessor the amount for which resort to the security was had, and necessary to restore the security deposit to the original sum required hereunder within thirty (30) days after written demand for such by Lessor.

17 NOTICES AND PAYMENTS

All notices and communications required under this Lease shall be in writing, and all notices and payments shall be made as follows:

17.1 All payments and notices to Lessor shall be given or mailed to:

General Manager
Moss Landing Harbor District
7881 Sandholdt Road
Moss Landing, CA 95039

17.2 All payments and notices to Lessee shall be given or mailed to:

Brent Constantz, PhD.
Deep Water Desal LLC.
7532 Sandholdt Road
Moss Landing, CA 95039

17.3 To Encumbrance Holder (which may change from time to time, but at the time of execution of this Lease, is the U.S. Economic Development Agency) at such address and to such person as it shall designate to Lessor in writing, if required.

17.4 Any party may designate a different address by giving notice as set forth in this Article.

17.5 All notices and communications referred to herein shall be deemed given on the fifth day following mailing if given in accordance with this Article.

17.6 If Lessee is not a resident of the State of California or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, Lessee shall file with Lessor a designation of natural person residing in the State of California, giving the name, residence and business address as the agent of Lessee for the service of process in any court action between Lessee or Encumbrance Holder and Lessor, arising out of or based on this Lease, and delivery to such agent of written notice or a copy of any process in such action shall constitute a valid service upon Lessee.

18 POSSESSORY INTEREST TAXES, TAXES, ASSESSMENTS, FEES AND LIENS

18.1 Pursuant to California Revenue and Taxation Code Section 107.6, Lessee is hereby advised that this Lease creates a possessory interest subject to property taxation and, as the party in whom the possessory interest is vested, Lessee will be subject to payment of taxes levied on said interest.

18.2 Lessee shall pay promptly all taxes and assessments of any kind whatsoever assessed or levied for or upon the leased premises, including taxes and assessments assessed or levied upon any machines, appliances, property, property interest, possessory interest, or improvement of any kind erected, installed, maintained upon, or used in connection with the leased premises. Lessee shall also pay promptly any taxes levied upon the business or other activities of Lessee, upon or in connection with the leased premises. Furthermore, Lessee shall promptly pay any fees imposed by law for any licenses or permits for any business or activity of Lessee upon the leased premises.

18.2.1 The payment of any such taxes, fees, or charges shall not constitute cause for modification of rent payable to Lessor.

18.3 LIENS:

Neither the Lessee nor anyone claiming through the Lessee shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Lessee agrees to give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid.

19 ESTOPPEL CERTIFICATE

Lessee shall execute and deliver to Lessor, within ten (10) days after receipt of Lessor's request, any estoppel certificate or other statement to be furnished to any prospective purchaser of or any lender against the Premises. Such estoppel certificate shall acknowledge and certify each of the following matters, to the extent each may be true: that the Lease is in effect and not subject to any rental offsets, claims or defenses to its enforcement; the commencement and termination dates of the Term; that Lessee is paying rent on a current basis; that the improvements required to be furnished under the Lease have been completed in all respects; that the Lease constitutes the entire agreement between Lessee and Lessor relating to the Premises; that Lessee has accepted the Premises and is in possession thereof; that the Lease has not been modified, altered or amended except in specified respects by specified instruments; and that Lessee has no notice of any prior assignment, hypothecation or pledge of rents or the Lease. Lessee shall also, upon request of Lessor, certify and agree for the benefit of any lender against the Premises or the Building ("Lender"), or any trustee, that Lessee will not look to such Lender or Trustee as being liable for any act or omission of Lessor; as being obligated to cure any defaults of Lessor under the Lease which occurred prior to the time Lender or Trustee, its successors or assigns, acquired Lessor's interest in the Premises by foreclosure or otherwise; as being bound by any payment of rent or additional rent by Lessee to Lessor for more than one month in advance; or as being bound by Lessor to any amendment or modification of the Lease without Lender's or Trustee's written consent.

20 DEFAULT

20.1 Notice and Remedies: In the event Lessee fails to pay rent or to perform any of Lessee's other obligations under this lease, or any part of this lease, when due or called for under this lease, Lessee shall be in default. Lessee shall have a period of three (3) days after service of written notice by Lessor specifying the nature of Lessee's default within which to cure such default, provided that if the nature of a non-monetary default is such that it cannot be fully cured within said three (3) day period, Lessee shall have such additional time as may be reasonably necessary to cure such default so long as Lessee proceeds promptly after service of Lessor's notice and proceeds diligently at all times to complete said cure. Lessee agrees that a notice served in accordance with the provisions of California CODE OF CIVIL PROCEDURE § 1161, as it may from time to time be amended, will constitute compliance with the notice requirements of this Section. If Lessee fails to cure any such default in a timely manner, Lessee shall be in breach of this lease, and Lessor with or without further notice or demand of any kind may, at its option:

20.1.1 Upon court order, may terminate Lessee's right to possession of the premises at any time. No act by Lessor other than giving notice of termination to

Lessee shall terminate this lease. Acts of maintenance, efforts to relet the premises or the appointment of a receiver on Lessor's initiative to protect Lessor's interest under this lease shall not constitute a termination of Lessee's right to possession. On termination, Lessor shall have the right to recover from Lessee:

- 20.1.1.1 The worth of the time of the award of the unpaid rent that had been earned at the time of termination of this lease.
- 20.1.1.2 The worth at the time of the award of the amount by which the unpaid rent that would have been earned after the date of termination of this lease until the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided.
- 20.1.1.3 The worth at the time of the award of the amount by which unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided.
- 20.1.1.4 Any other amount, including court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's default.

The phrase "worth at the time of the award" as used in the clauses (a) and (b) is to be computed by allowing interest at the rate of ten percent (10%) per annum. The same phrase as used in clause (c) above is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

20.1.2 Lessor may exercise the remedy provided in California CIVIL CODE § 1951.4, i.e., Lessor may continue this lease in full force and effect, and collect rent as it becomes due, so long as Lessor does not terminate Lessee's right to possession pursuant to Section 20.1.1. During the period Lessee is in default, Lessor may enter the premises and relet them, or any part of them, to third parties for Lessee's account. Lessee shall be liable immediately to Lessor for all costs Lessor incurs in reletting the premises, including broker's commissions, expenses of remodeling the premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining term of this lease. Lessee shall pay to Lessor the rent due under this lease on the dates the rent is due, less the rent Lessor receives from any reletting. No act by Lessor allowed by this subsection will terminate this lease unless Lessor notifies Lessee in writing that Lessor elects to terminate this lease. After Lessee's default and for so long as Lessor does not terminate Lessee's right to possession of the premises, if Lessee obtains Lessor's consent, Lessee will have the right to assign or sublet its interest in this lease, but Lessee will not be released from liability. If Lessor elects to relet the premises as provided in this subsection, rent that Lessor receives from reletting will be applied to the payment of: (i) first, any indebtedness from Lessee to Lessor other than rent due from Lessee; (ii) second, all costs, including for maintenance, incurred by Lessor in reletting; (iii) third, rent due and unpaid under this lease. After deducting the payments referred to in this subsection, any sum remaining from the rent Lessor receives from reletting will be held by Lessor and applied to payment of future rent as rent becomes due under this lease. If, on the date rent is due under this lease, the rent received from the reletting is less than the rent due on that date, Lessee will pay to Lessor, in addition to the remaining rent due, all costs, including maintenance, Lessor incurred in reletting which remain after applying the rent received from the reletting.

20.1.3 Lessor may, after expiration of any applicable cure period, unless there is an emergency, correct or remedy any failure of Lessee not timely cured. The reasonable cost paid by Lessor to correct or remedy any such default will immediately become due and payable to Lessor as additional rent.

20.2 Notice of Termination: No re-entry or reletting of the premises shall be construed as an election by Lessor to terminate Lessee's right to possession of this lease unless a written notice of such intention is given by Lessor to Lessee; and notwithstanding any such reletting without such termination, Lessor may at any time thereafter elect to terminate Lessee's right to possession and this lease in the event that at such time Lessee remains in default under this lease.

20.3 Waiver of Notice; Performance by Lessor Upon Lessee's Default. Notwithstanding any provision of this Section: (a) if Lessee is required to comply with any governmental requirement, Lessee shall not be entitled to notice of default from Lessor or any right to cure beyond the period within which such compliance may be required by such governmental requirement; or (b) with respect to provisions of this lease which expressly provide that this lease may be terminated effective on service of notice, Lessee shall be entitled to a right to cure only if a right to cure is required by law; or (c) if in Lessor's reasonable business judgment the continuation of any default by Lessee for the full period of notice provided for in this Section will jeopardize the premises or the rights of Lessor, Lessor may, with or without notice,

elect to perform those acts with respect to which Lessee is in default for the account and at the expense of Lessee. If by reason of such default by Lessee, Lessor is compelled to pay or elects to apply any sum of money, including, but without limitation, reasonable attorney's fees, such sum or sums so paid by Lessor, with interest thereon from the date of such payment at the rate provided in this lease, shall be due from Lessee to Lessor on the first day of the month next following such payment by Lessor.

- 20.4 Interest. Any amount owed to Lessor under the terms and provisions of this lease which is not paid when due shall bear interest at the rate provided below from the date the same becomes due and payable by the terms and provisions of this lease until paid, unless otherwise specifically provided in this lease. The interest rate that shall apply shall be the highest rate allowed by applicable law.
- 20.5 Other remedies. Nothing contained in this lease shall limit Lessor to the remedies set forth in this Section. Upon Lessee's breach, Lessor shall be entitled to exercise any right or remedy then provided by law, including, but not without limitation, the right to obtain injunctive relief and the right to recover all damages caused by Lessee's breach in the performance of any of its obligations under this lease.
- 20.6 Each term and each provision in this Lease to be kept, observed, or performed by Lessee shall be construed to be both a covenant and a condition.

21 INSOLVENCY

If at any time during the term there is filed by or against Lessee in any court pursuant to any statute either of the United States or of any state a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or if a receiver or trustee takes possession of any of the assets of Lessee, or if the leasehold interest under this Lease passes to a receiver, or if Lessee makes an assignment for the benefit of creditors or petitions for or enters into an arrangement (any of which are referred to herein as "a bankruptcy event"), then the following provisions shall apply:

- 21.1 Neither this Lease, nor any interest in this Lease, nor any estate created hereby, shall pass by operation of law under any state or federal insolvency or bankruptcy act to any trustee, receiver, assignee for the benefit of creditors or any other person whatsoever without the prior written consent of Lessor, which may be withheld in Lessor's discretion, but which shall not be unreasonably withheld. Any purported transfer in violation of the provisions of this Section shall constitute a breach of this Lease, regardless of Lessee's compliance with the other provisions of this Lease; and Lessor at its option by written notice to Lessee may exercise all rights and remedies provided for in Section 20, including the termination of this Lease, effective on service of such notice without the necessity of further notice.
- 21.2 Any receiver, trustee in bankruptcy or Lessee as debtor in possession ("debtor") to which Lessee's interest under this Lease is transferred with Lessor's consent under Section 21.1 immediately preceding shall, within the time permitted under the

applicable statute, either expressly assume or reject this Lease following the entry of an "Order for Relief".

21.3 In the event of an assumption of this Lease by a debtor, receiver or trustee, such debtor, receiver or trustee shall immediately after such assumption (i) cure any default of Lessee or provide adequate assurances that defaults of Lessee will be promptly cured; and (ii) compensate Lessor for actual pecuniary loss or provide adequate assurances that compensation will be made for actual pecuniary loss; and (iii) provide adequate assurance of future performance. For the purpose of this Subsection, adequate assurance of future performance of all obligations under this Lease shall include, but is not limited to:

21.3.1 Written assurance that Rent and any other consideration due under this Lease shall first be paid before any other of Lessee's costs of operation of its business in the Premises are paid; and

21.3.2 Written agreement that assumption of this Lease will not result in a breach of any provision of this Lease or the Declaration, including, but not limited to, any provision relating to use or exclusivity in this or any other Lease or in the Declaration or agreement relating to the Premises, or if such a breach is caused, the debtor, receiver or trustee will indemnify, protect, defend and hold harmless Lessor against any loss, cost, damage or liability (including costs of suit and attorneys' fees) occasioned by such breach.

21.4 Where a default exists under this Lease, the debtor, trustee or receiver may not require Lessor to provide services or supplies incidental to the Lease before its assumption by such debtor, trustee or receiver, unless Lessor is compensated under the terms of this Lease for such services and supplies provided before the assumption of this Lease.

21.5 The debtor, receiver or trustee may only assign this Lease if adequate assurance of future performance by the assignee is provided, whether or not there has been a default under this Lease. Any consideration paid by any assignee in excess of the Minimum Rent reserved in this Lease shall be the sole property of, and be paid to, Lessor. Upon assignment by the debtor, trustee or receiver, the obligations of this Lease shall be deemed to have been assumed by the assignee, and the assignee shall execute an assumption agreement on request of Lessor.

21.6 Lessor shall be entitled to the fair market value for the Premises and the services provided by Lessor (but in no event less than the Minimum Rent reserved in this Lease) subsequent to the commencement of a bankruptcy event.

21.7 To the extent such remedies are permitted by law, Lessor specifically reserves any and all remedies available to Lessor in Section 20 of this Lease or at law or in equity with respect to a bankruptcy event by Lessee,

22 REMEDIES CUMULATIVE.

The various rights, elections and remedies of Lessor and Lessee contained in this Lease shall be cumulative, and no one of them shall be construed as exclusive of any of the others, or of any right, priority or remedy allowed or provided for by law.

23 ATTORNEY'S FEES.

If either party files any action or brings any proceeding against the other party arising out of this Lease or for the declaration of any rights under this Lease, the prevailing party therein shall be entitled to recover from the other party all costs and expenses, including reasonable attorney's fees, incurred by the prevailing party as determined by the court. If either party ("secondary party") without its fault is made a party to litigation instituted by or against the other party ("primary party"), the primary party shall pay to the secondary party all costs and expenses, including reasonable attorney's fees, incurred by the secondary party in connection therewith.

24 WAIVER OF DEFAULT

The waiver by either party of any default in the performance by the other of any covenant contained in this Lease shall not be construed to be a waiver of any preceding or subsequent default of the same or any other covenant contained in this Lease. The subsequent acceptance of Rent or other amounts under this Lease by Lessor shall not constitute or be deemed to constitute a waiver of any preceding default other than the failure of Lessee to pay the particular Rent or other amount or portion thereof so accepted, regardless of Lessor's knowledge of such Preceding default at the time of acceptance of such Rent or other amount. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

25 NO PARTNERSHIP

Neither Lessor nor Lessee shall in any way or for any purpose be deemed a partner, joint venture or member of any joint enterprise with the other.

26 SUBTENANCIES.

The voluntary or other surrender of this Lease by Lessee or a mutual cancellation of this Lease shall not effect a merger and shall, at Lessor's option, terminate all existing subtenancies or operate as an assignment to Lessor of any or all of such subtenancies.

27 SUCCESSORS.

This Lease shall be binding upon and shall inure to the benefit of Lessor and Lessee and their respective successors. The term "successors" is used in this Lease in its broadest possible meaning and includes, but is not limited to, every person succeeding to any interest in this Lease or the Premises of Lessor or Lessee, whether such succession results from the act or omission of such party. Every covenant and condition of this Lease shall be binding upon all permitted assignees, sublessees, licensees and concessionaires of Lessee.

28 REMOVAL OF LESSEE'S PROPERTY

Upon expiration of the Term of this Lease or upon any earlier termination thereof, Lessee shall remove at its own expense all of Lessee's equipment, merchandise and personal property (collectively called "Lessee's property") which were installed by Lessee or any sublessee, concessionaire or licensee in or upon the Premises. In the event of any injury or damage to the Premises or to any portion of the Project resulting from the removal of Lessee's property, Lessee shall promptly pay to Lessor the cost of repairing such injury or damage. Lessee shall complete such removal before the time provided in this lease unless prevented from so doing by a delaying cause; or Lessor may, at Lessor's option, retain any or all of Lessee's property, and title to Lessee's property shall thereupon vest in Lessor without the execution of documents of sale or conveyance by Lessee, or Lessor may remove any or all items of Lessee's property from the Premises and dispose of them in any manner Lessor sees fit, and Lessee shall pay upon demand to Lessor the actual expense of such removal and disposition together with interest from the date of payment by Lessor until repayment by Lessee.

29 EFFECT OF CONVEYANCE.

If during the Term of this Lease, Lessor conveys its interest in the Premises or this Lease, then from and after the effective date of such conveyance, Lessor shall be released and discharged from any and all further obligations and responsibilities under this Lease except those already accrued of which Lessor has notice at the time of conveyance. Release of security deposit shall be in accordance with Section 16 of this lease.

30 LESSOR'S DEFAULT; NOTICE TO LENDER.

- 30.1 Lessor's Default. In the event Lessor fails to perform any of its material obligations under this Lease, then Lessor shall be in default. Lessor shall commence promptly to cure such default immediately after receipt of written notice from Lessee specifying the nature of such default and shall complete such cure within thirty (30) days thereafter, provided that if the nature of such default is such that it cannot be cured within said thirty (30) day period, Lessor shall have such additional time as may be reasonably necessary to complete its performance so long as Lessor has proceeded with diligence after receipt of Lessee's notice and is then proceeding with diligence to cure such default.

30.2 Notice to Lender. Whenever Lessee serves notice on Lessor of Lessor's default, written notice shall also be served at the same time upon the mortgagee under any first or second mortgage or beneficiary under any first or second deed of trust. Such mortgagee or beneficiary shall have the periods of time within which to cure Lessor's defaults as are provided in this lease which periods shall commence to run ten (10) days after the commencement of the periods within which Lessor must cure its defaults. In this connection any representative of the mortgagee or beneficiary shall have the right to enter upon the Premises for the purpose of curing Lessor's default. Such mortgagee or beneficiary shall notify Lessor and Lessee in the manner provided by this lease at the address of such mortgagee or beneficiary to which such notice shall be sent, and the agreements of Lessee are subject to prior receipt of such notice. If the nature of the default is such that the mortgage's or beneficiary's possession is required to cure the default, then Lessee will not terminate the Lease so long as such mortgagee or beneficiary commences proceedings to obtain possession of the Premises within the period of time afforded to the mortgagee or beneficiary to cure such default, and once the mortgagee or beneficiary has obtained possession, diligently proceeds to cure the default. Nothing contained in this Lease shall be construed to impose any obligation on any mortgagee or beneficiary to cure any default by Lessor under the Lease.

31 INTERPRETATION.

31.1 The captions by which the Sections of this Lease are identified are for convenience only and shall not affect the interpretation of this Lease. Wherever the context so requires, the singular number shall include the plural, the plural shall refer to the singular, the neuter gender shall include the masculine and feminine genders. If there is more than one signatory hereto as Lessee, the liability of such signatories shall be joint and several. If any provision of this Lease shall be held to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in effect and shall in no way be impaired thereby. The lease shall be the presiding document and where the lease remains silent or requires further interpretation, the general conditions shall prevail.

32 ENTIRE INSTRUMENT.

It is understood that there are no oral agreements between the parties affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, correspondence, arrangements, brochures, agreements and understandings, if any, between the parties or their representatives or displayed by Lessor to Lessee with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. This Lease cannot be modified in any respect except by writing signed and entered into by Lessor and Lessee. This Lease Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. The lease amount may be adjusted at each renewal period to fair market value determined by independent appraisals if requested by either party.

33 EASEMENTS.

This Lease is made expressly subject to:

33.1 Any conditions, covenants, conditions and restrictions and/or easements of record on the Premises and/or the Project: and

33.2 Any easements for utilities or ingress and egress that now or hereafter may be placed of record by Lessor for purposes of the common benefit of the occupants of the Project. Lessee agrees to execute such documents necessary to subordinate its interest hereunder to such easements, provided such easements will not affect adversely Lessee's use of the Premises.

34 SALE BY LESSOR.

The Premises or Lessor's interest under this Lease (or both) may be freely sold or assigned by Lessor and, in the event of any such sale or assignment, the covenants and obligations of Lessor herein shall be binding on each successive "Lessor" and its successors and assigns, only during their respective periods of ownership.

35 PAYMENTS.

Except as otherwise expressly stated, each payment required to be made hereunder shall be in addition to, and not in substitution for, other payments to be made by Lessee.

36 NO OFFER.

The preparation and submission of a draft of this Lease by either party to the other shall not constitute an offer, nor shall either party be bound to any terms of this Lease or the entirety of the Lease itself until both parties have signed a final document and an original document signed by both parties has been received by each party. Until such time as the parties are bound as described in the previous sentence, either party is free to terminate negotiations with no obligation to the other.

37 DISPUTED SUMS

Under the terms of this Lease, numerous charges are and may be due from Lessee to Lessor, including, without limitation, personal property taxes, insurance payments and other items of a similar nature, including, but not limited to, advances made by Lessor, at Lessor's option, with respect to Lessee's default. In the event that at any time during the Term there is a bona fide dispute between the parties concerning the amount due for any of such charges claimed by Lessor to be due, the amount demanded by Lessor shall be paid by Lessee until resolution of the dispute between the parties or by litigation. Failure by Lessee to pay the disputed sums until resolution shall constitute default under the terms of this Lease.

38 ASSIGNABILITY/SUBLETTING:

Lessee may not assign or sublease any interest in the Premises without the prior written consent of Lessor, which shall not be unreasonably withheld. The General Conditions referred to in Section 1.5 of this lease state specifically the conditions for assignment, subletting and hypothecation.

39 RIGHT OF ACCESS

Upon reasonable prior written notice given to Lessee no less than twenty-four (24) hours in advance (except that no notice shall be required in situations Lessor determines are emergencies), Lessor and its authorized agents and representatives shall be entitled to enter the premises at all reasonable times for the purpose of: inspecting the premises, making repairs which Lessor is entitled to make under this lease, curing a default of Lessee, posting any notice provided by law that relieves Lessor from responsibility for the acts of Lessee, exhibiting the premises to prospective buyers, lessees or lenders, and posting ordinary signs advertising the premises for sale or for lease during the last one hundred eight (180) days of the term, as it may be extended. For the foregoing purposes, Lessor may erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing that the entrance to the building shall not be unreasonably blocked thereby, and further providing that the business of Lessee shall not be interfered with unreasonably. Lessee hereby waives any claim for damages or abatement of rent or for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the premises, and any other loss occasioned by Lessor's entry and actions pursuant to this Section, except to the extent caused by the willful misconduct of Lessor or Lessor's agents. Lessor shall have the right to use any and all means which Lessor may deem proper in an emergency to obtain entry to the premise without liability to Lessee, except for any failure to exercise due care for Lessee's property, and any entry to building obtained by Lessor by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the premises or an eviction of Lessee from the premises or any portion thereof.

40 DELAYING CAUSES

If either party is delayed in the performance of any covenant of this lease because of any of the following causes (referred to elsewhere in this lease as a "delaying cause"): action of the elements, war, riot, labor dispute, inability to procure or general shortage of labor or material in the normal channels of trade, delay in transportation, delay in inspections, governmental action or moratorium or any other cause beyond the reasonable control of the party so obligated, whether similar or dissimilar to the foregoing, financial inability exempted, then such performance shall be excused for the period of delay and the period for such performance shall be extended for a period equivalent to the period of such delay, except that the foregoing shall in no way affect Lessee's obligation to pay minimum annual rent payable under this lease or the length of the term.

41 SEVERABILITY

If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

42 NON-DISCRIMINATION

Lessee shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, religion, age, sex, sexual orientation, or disability. Lessee shall comply with the Civil Rights Act of 1964 (42 USC 2000d), Section 112 of Public Law 92-65, Age

Discrimination Act of 1975 (42 USC 6102) and Section 504 of the Rehabilitation Act of 1973 (26 USC 794).

43 SUBORDINATION

This Lease is subordinate to any mortgage that now exists, or may be given later by Lessor, with respect to the Premises.

44 GOVERNING LAW

This Lease shall be construed in accordance with the laws of the State of California.

**BRENT CONSTANTZ, PHD, individually
and DEEP WATER DESAL.LLC.
LESSEE**

**MOSS LANDING HARBOR DISTRICT,
LESSOR**

By: Brent Constantz

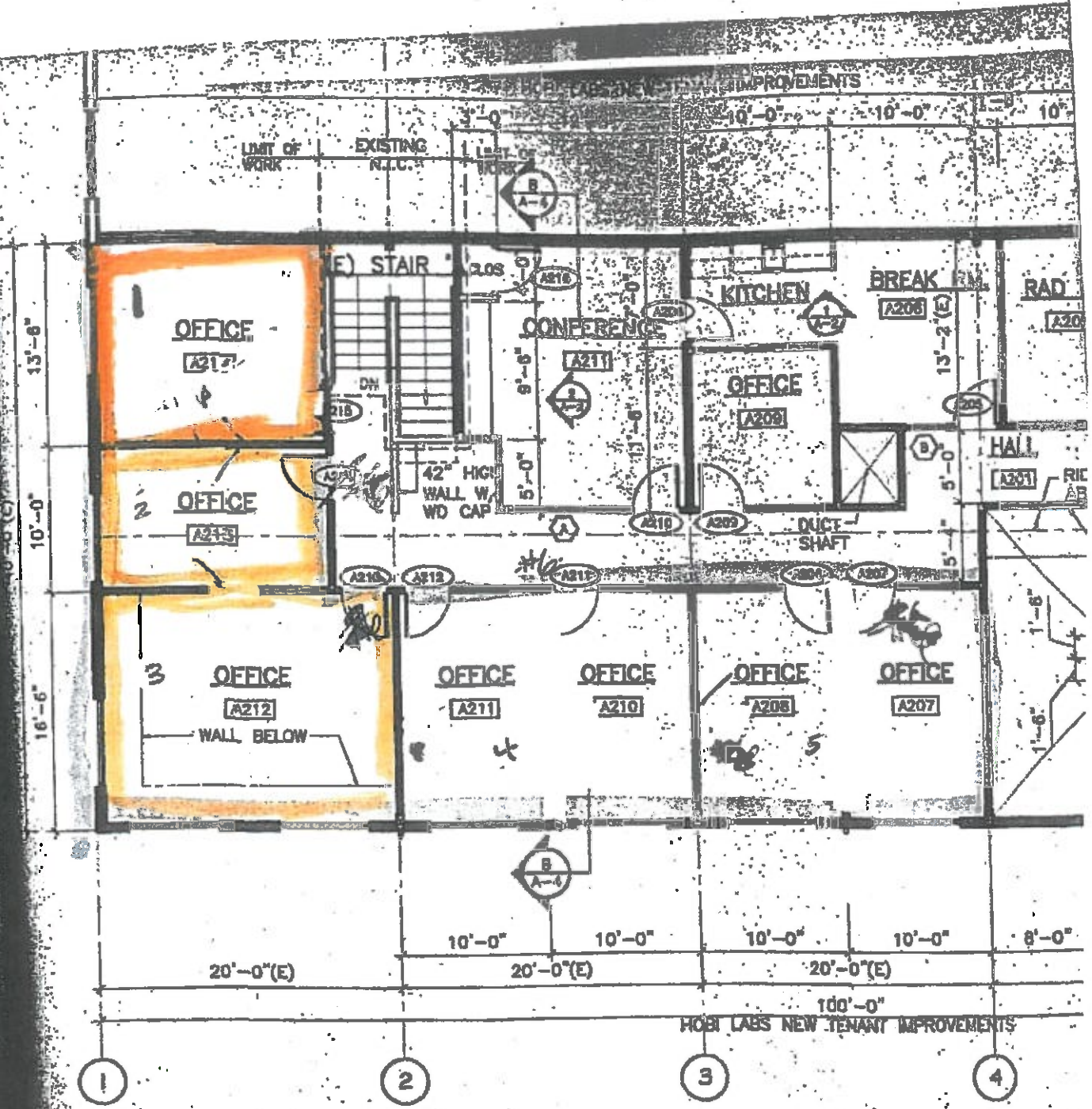
By: Tommy Razzeca
General Manager

Dated:

Dated:

Deep water 2/1/2021

EXHIBIT
A



SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"



BOARD OF HARBOR COMMISSIONERS

Russell Jeffries
Tony Leonardini
Vincent Ferrante
James R. Goulart
Liz Soto

7881 SANDHOLDT ROAD
MOSS LANDING, CA 95039

TELEPHONE – 831.633.5417
FACSIMILE – 831.633.4537



**GENERAL MANAGER
HARBOR MASTER**

Tom Razzeca

STAFF REPORT

**ITEM NUMBER 20 – LUSAMERICA FOODS INC. CANNERY BUILDING OFFICE
SPACE LEASE
BOARD MEETING JANUARY 27, 2021**

Lusamerica Foods Inc. came to the Harbor District back in July of 2019 requesting leased space at Kdock for fish offloading operations and office space in the Santa Cruz Cannery Building. At that time the Harbor District had vacant space located on Kdock which Lusamerica Foods Inc. ultimately leased for a 30 year term with an additional 10 year option but no office space was available.

In December of 2020 a tenant of the Cannery Building had a lease expiring as of January 1, 2021 and requested a new lease with the District but was interested in giving up 2 office spaces (664 square feet) from their pervious lease. Knowing that Lusamerica Foods Inc. had been waiting for office space to come available in the building the GM contacted them and found that they were interested in a long term lease of the 2 offices spaces.

Lusamerica Foods Inc. has requested a lease of the 2 available office spaces at the Santa Cruz Cannery Building totaling 664 square feet with a term that matches that of the remaining term of their existing Kdock lease which is 29 years 6 months with an additional 10 year option. The General Manager met with the Real Property Committee on January 13, 2021 and reviewed the proposed lease (included with this item for review).

Staff recommends that the Board review the Lusamerica Foods Inc. draft lease and consider approval of the 29 year and 6 month term with one 10 year option consisting of 2 office spaces at the Santa Cruz Cannery Building totaling approximately 664 square feet.

SERVING COMMERCIAL FISHING AND RECREATIONAL BOATING SINCE 1947

LEASE AGREEMENT

“LESSOR”

MOSS LANDING HARBOR DISTRICT,
a Political Subdivision of the State of California

and

Lusamerica Foods Inc.

“LESSEE”

Leased Premises:

A Portion of APN #133-241-018
Santa Cruz Cannery Building (664) sq. ft. mol)

7532 Sandholdt Road,
Moss Landing, CA

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Basic Lease Provisions

The words and figures set forth in Paragraphs A through O, inclusive, are part of the Lease wherever appropriate references if made thereto, unless they are expressly modified elsewhere in this Lease. Certain of the following Paragraphs A through O, are intended only to summarize matters which are addressed more completely in other provisions of this Lease; therefore, in the event of any conflict between the following Paragraphs A through O and any provision of this Lease, the latter shall govern and control.

- A. **Effective Date:** February 1, 2021
- B. **Lessor:** Moss Landing Harbor District, a political subdivision of the State of California
- C. **Lessee:** Lusamerica Foods Inc.
- D. **Premises:** The Premises which Lessee leases under this Lease are the following: Santa Cruz Cannery Building located at 7532 Sandholdt Road in Moss Landing Harbor, Moss Landing, California, consisting of an area approximately Six Hundred Sixty Four (664 mol) square feet located adjacent to Bass Way as depicted in Exhibit A.
- E. **Use of Premises:** General office use
- F. **Parking:** Two (2) non-exclusive parking spaces and as available in adjacent lot
- G. **Term:** Twenty nine years and 6 months (29 yrs and 6 months).
- H. **Option to Renew:** Option to Renew shall be exercised by written notice delivered by Lessee to Lessor not later than six (6) months prior to the end of the term.
- I. **Option to Renew Term:** One (1) Ten Year (1) year] Option subject to reappraisal, payment of new rent plus CPI increases.
- J. **Minimum Rent:** Annual rent of \$13,545.60 payable monthly at \$1,128.80 per month based on \$1.70 per square foot per month for the Cannery Building, adjusted annually based on the CPI. This is a Triple Net lease.
- K. **Security Deposit:** One months rent, increased annually by CPI should option be exercised
- L. **Prepaid Rent:** None
- M. **Late Fee:** Equal to prime plus two percent (2%) of the amount past-due, in addition to an administrative surcharge per the tariff of the District
- N. **Lessor's Address for** Moss Landing Harbor District

Notices:

7881 Sandholdt Road
Moss Landing, CA 95039

**O. Lessee's Address and
Phone Number for
Notices:**

Fernando Frederico
Lusamerica Foods Inc.
16480 Railroad Avenue
Morgan Hill, CA 95037
(408) 778-7200

MOSS LANDING HARBOR DISTRICT
L E A S E

This LEASE, made and entered into this 1st day of February 2021, by and between the MOSS LANDING HARBOR DISTRICT, a Political subdivision of the State of California, hereinafter called "LESSOR", LUSAMERICA FOODS INC., a California Corporation, hereinafter called "LESSEE."

WITNESSETH:

1 LEASE DOCUMENTS

This Lease includes the following documents, which are attached hereto and made a part hereof:

- 1.1 Exhibit A: Drawing depicting leased premises in Santa Cruz Cannery Building.
- 1.2 Exhibit B: General Conditions, dated March 2001
- 1.3 Exhibit C: Moss Landing Harbor District Ordinance Code

2 EFFECTIVE DATE

- 2.1 Cannery Building: The effective date of this lease is the first day February, 2021 subject to the relinquishment of the premises to Lessor by the existing tenant, if any, and the premises being in a tenantable condition, reasonable wear and tear excepted.

3 PROPERTY LEASED

- 3.1 Cannery Building: Lessor hereby leases to Lessee and Lessee hereby rents from Lessor the property located in the Moss Landing Harbor, Moss Landing, County of Monterey, State of California, described as follows: The premises described in Exhibit "A" known as Suites 4 and 5 located in the Santa Cruz Cannery Building, 7532 Sandholdt Road, Moss Landing Harbor, Moss Landing, California, consisting of an area approximately Seven Hundred Two (664 mol) square feet on the upper level of the building located adjacent to Bass Way as previously described.
- 3.2 Lessee may have Two (2) non-exclusive parking spaces consisting of not more than Eight Hundred Fifty Seven (428) square feet on the property adjacent to the Cannery building reserved for Tenant and Tenant's Visitor parking only. These parking spaces are to be used for the sole purpose of parking unoccupied vehicles on site for a limited period of time while the occupants conduct lawful business on the premises. In no event shall any vehicle be parked upon the premises for any period of time while occupied, other than very brief periods during employees lunch or dinner breaks, or as necessary incidental to picking up or dropping off an individual who has lawful business on the premises. There will specifically be no sleeping in vehicles on the premises and no unauthorized overnight parking. Vehicles of more than two axles with a gross weight of 15 tons, abandoned vehicles, boat and other trailers, recreational vehicles, and similar vehicles are specifically

prohibited from parking on the premises. Any use of the premises allowed by Lessee which creates a nuisance will constitute a default under the terms of this agreement and, in addition to any other remedies available to Lessor, Lessee shall have the right to abate the nuisance by removing the nuisance at Lessee's sole cost and expense. Additionally, should Lessor elect not to declare this lease in default, Lessor shall have the right to reduce or eliminate Lessee's use of the premises adjacent to the Cannery Building.

4 RENT

4.1 Amount. Lessee shall pay Lessor without prior notice or demand, deduction, set-off, counterclaim or offset during the Term the rent provided in this Section 4.1 and all other additional sums required to be paid under this Lease, including but not limited to triple net charges, at the address set forth in Section 16. All sums of money required to be paid pursuant to the terms of this Lease are defined as "Rent", whether or not the same are designated as such elsewhere in this Lease, and shall be paid in lawful money of the United States of America.

4.1.1 MINIMUM ANNUAL RENT: Thirteen Thousand Five Hundred Forty Five and 80/100 Dollars (\$13,545.80).

4.1.1.1 Cannery Building: Lessee shall pay to Lessor as Minimum Annual Rent \$1.70 per square foot per month for a monthly amount of \$1,128.80, equaling \$13,545.80, per annum, based on a fair value as of January 1, 2021. Monthly installments of Minimum Rent shall be due and payable in advance on the first day of each consecutive month during the Term.

4.1.2 LATE PAYMENT: Lessee hereby acknowledges that late payment by Lessee to Lessor of any amount due under this Lease (including, but not limited to, Minimum Rent) will cause Lessor to incur costs and expenses not contemplated by this Lease, the exact amount of which costs and expenses are extremely difficult and impractical to ascertain. In accordance with Ordinance Code Section 20.010, any amount of money due and unpaid to Lessor ten (10) days after the payment was due shall be subject to a late fee. Such costs and expenses include, but are not limited to, processing and accounting charges and late charges that may be imposed on Lessor under the terms of any note or other obligation secured by a deed of trust or other security instrument covering the Project. Therefore, if Lessee fails to pay any amount under this Lease when due, in addition to the interest for which Section 20.4 provides, a late charge equal to prime plus two percent (2%) of the amount, in addition to an administrative surcharge per the tariff of the Lessor District, shall be assessed to reimburse Lessor for such costs and expenses. Lessor and Lessee agree that this late charge represents a fair and reasonable estimate of the costs and expenses that Lessor will incur by reason of a late payment by Lessee.

4.2 First Partial Month. If the Commencement Date occurs on a day other than the first day of a calendar month:

4.2.1 Minimum Rent for the first partial month shall be prorated on the basis, which the number of days of the Term in such month bears to 30, and as so prorated shall be paid on the Commencement Date.

4.3 PERCENTAGE RENT: Should Lessor approve a use of the premises for retail sales, Lessor shall be entitled to a percentage of each sale based on rates by similar ports on the west coast.

4.3.1 Lease Year. "Lease Year" shall mean that period of twelve (12) or fewer consecutive months which ends on January 31st of each year and which falls within the Term and the period from the last January 31st during the Term to and including the last day of the Term. Each Lease Year shall constitute a separate accounting period for the purpose of computing Percentage Rent, and Gross Sales for any one Lease Year shall not be carried forward or carried back into any other Lease Year.

4.3.2 Records. Should the Lessor approve a use of the premises for retail sales, Lessee shall keep and preserve and shall require its sublessees, licensees and concessionaires to keep and preserve, in Monterey County, for a period of not less than three (3) years after the delivery to Lessor of Lessee's certified statement for the last calendar quarter of each Lease Year, complete, accurate and customary records of all amounts received during each Lease Year in the Premises, whether or not included in Gross Sales. However, in the case of a controversy concerning the amount of Percentage Rent for a Lease Year(s) under this Lease, Lessee shall keep and preserve said records until the controversy has ended. Lessor shall be entitled at reasonable times during business hours, personally or through duly authorized agents, at its own expense, to inspect and make copies of such records, together with any other documents bearing directly on Lessee's Gross Sales under this Lease. Lessee shall, upon the verbal request of Lessor or its agents, produce and make such records and other documents available to Lessor or its agents for the purpose of such inspection and copying.

4.3.3 Audit. Lessor shall be entitled to have an audit made of all amounts received by Lessee from business transacted in the Premises, whether or not included in "Gross Sales", for a prior Lease Year. Lessee shall, upon the verbal request of Lessor or its agents, produce and make the records and other documents to which Section 4.3.1 refers available to Lessor or its agents for the purpose of such audit. If the audit discloses that any statements for the period audited are inaccurate, adjustment shall be made in the following manner upon notice to Lessee: Within ten (10) days after delivery of such notice, Lessee shall pay to Lessor any Minimum Rent then due. If the computation discloses that Lessee overpaid Minimum Rent for such Lease Year, then Lessee shall be entitled to a credit in the amount of such overpayment against the next payment(s) of Rent due under this Lease. If the audit further discloses that Lessee has understated Percentage Rent by three percent (3 %) or more, in addition to payment of any rent paid, Lessee shall immediately pay the cost of the audit.

4.4 Acceptance of Payment. No payment by Lessee or receipt by Lessor of a lesser amount of Minimum Rent or any other amount due under this Lease shall be deemed to be other than on account of the earliest due Rent or payment, nor shall any endorsement or statement on any check or any letter accompanying any such check or payment be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such Rent or payment or pursue any other remedy available under this Lease, at law or in equity. Lessor may accept any partial payment from Lessee without invalidating

any contractual notice required to be given under this Lease (to the extent such contractual notice is required) and without invalidating any notice required to be given pursuant to California CODE OF CIVIL PROCEDURE §1161, as it may be amended from time to time.

4.5 Adjustment of Minimum Rent. The Minimum Rent shall be adjusted every year for inflation. For the purpose of calculating the adjustment to Minimum Rent, the Adjustment Date shall be on January 1st. Each such increase shall be determined as follows:

4.5.1 The basis for computing each increase shall be the United States Department of Labor Consumer Price Index All Urban Consumers, Base 1982 = 100 (CPI-U) for San Francisco, Oakland, San Jose, California ("Index").

4.5.2 At each Adjustment Date, the Minimum Rent payable during the immediately preceding year shall be increased by the amount of any percentage increase in the Index last published for the period January – December of the preceding year as compared with the Index published for the same calendar month of the preceding year. In no event shall the Minimum Rent for any year be reduced below the amount payable during the immediately preceding year.

4.5.3 Lessor shall notify Lessee of each increase in the Minimum Rent, in writing, as soon as reasonably possible following each Adjustment Date. Lessee acknowledges that the amount of each such increase and written notice thereof will not be available until some time after the Adjustment Date. Therefore, Lessee shall continue to make monthly payments to Lessor of Minimum Rent in the amount payable for the Adjustment Period preceding the Adjustment Date until written notice of the newly calculated Minimum Rent is received by Lessee. No later than ten (10) days following receipt by Lessee of such written notice, Lessee shall pay to Lessor the amount of the increase reflected in such written notice for each calendar month from the Adjustment Date to the date of receipt by Lessee of such written notice.

4.5.4 If the Index ceases to be published, then such other source of information shall be used as a basis to determine the rise of the cost of living and the current rental adjustments by reason thereof as the parties shall mutually agree upon, and, in the event the parties cannot agree upon an acceptable basis, then such basis shall be determined by arbitration. Each party hereto shall appoint one arbitrator and such two arbitrators shall appoint a third arbitrator. The decision of the majority of said arbitrators shall be binding upon the parties. The cost of such arbitration, if any, shall be borne equally by Lessor and Lessee.

4.5.5 This is a triple net Lease. In addition to such other sums set forth herein, Lessee shall pay its prorata share of all costs incurred by, and assessments imposed against, Lessor arising out of the land and building of which the leased premises are a part. The prorata share of costs will be based upon the square footage occupied by Lessee as compared to the total square footage of the building.

4.6 Periodic Adjustment of Rent: The annual rent in effect during the tenth and twentieth year of the term of this Lease, and during the thirtieth year if Lessee decides to exercise its ten-year option, shall be adjusted to reflect the current fair market rental value of comparable property within the District or like property in other similar Harbor Districts, taking into account all other specific provisions of this Section 4 which shall remain in effect. Such value shall be determined by agreement of the Lessor and Lessee within thirty (30) days from the date negotiations commence, or in the absence of such agreement, by one independent appraiser jointly selected by Lessor and Lessee. If the Parties are unable to agree to the value or on a single appraiser, each party shall select an appraiser, and the two appraisers shall work together to determine the value of the property, which determination shall be binding on the Parties. Any appraiser appointed under this provision shall be qualified by training and experience, disinterested and independent and shall be a member in good standing of the American Institute of Real Estate Appraisers or its successor, and all appraisals shall be rendered in writing and signed by the appraiser making the report. All reasonable costs, fees and expenses of the appraiser shall be borne equally by Lessor and Lessee.

5 TERM OF LEASE

- 5.1 **DURATION**: The lease term shall be for a period of Twenty Nine Years and Six Months (29 years and 6 months).
- 5.2 **CANCELATION**: The Parties recognize that the term of the lease, with or without the exercise of the option provided in Section 6, may extend beyond the useful life of the Cannery Building, as determined in the sole discretion of the Lessor. In the event Lessor determines it no longer desires to lease space in the Cannery Building, due to the age of the building and the related cost of renovations or repairs necessary to maintain ongoing rental use, Lessor shall have the right to cancel and terminate this Lease upon providing Lessee with twelve (12) months' notice. Upon receipt of said notice, Lessee shall have the right to terminate its tenancy prior to the expiration of said 12 month period without penalty or further obligation to pay rent.
- 5.3 **HOLDOVER**: If Lessee maintains possession of the Premises for any period after the termination of this Lease, known as the "Holdover Period", Lessee shall pay to Lessor a lease payment for the Holdover Period based on the terms of the previous RENT section. Such holdover shall constitute a month-to-month extension of this Lease.

6 OPTION TO RENEW

Subject to satisfaction of the conditions precedent set forth below, Lessee shall have One (1) option to extend the term of the lease for a period of Ten (10) years, with the exercise of the first option beginning the day after the expiration of the initial term, on the following terms and conditions.

- 6.1 Lessee's Option Term shall be subject to satisfaction of each of the following conditions precedent, which are solely for the benefit of, and may be waived unilaterally by, Lessor: (1) Option shall be exercised by written notice delivered by Lessee to Lessor not later than six (6) months prior to the end of the term; (2) Lessee shall be in occupancy of the leased premises directly, and not through an assignee or sublessee; and (3) the lease shall be in effect and Lessee shall not be in default of any material provision thereof both on the day such written notice is delivered to Lessor and on the last day of the term; provided, however, if Lessee is in default but the cure period has not run, this condition shall be deemed satisfied if Lessee cures the default within the applicable cure period.
- 6.2 In the event the term shall be extended following exercise by Lessee of the Option to Renew, then all terms, covenants and conditions of the lease shall remain in full force and effect during the option renewal period, including a fair market value increase to minimum annual rent as subject to an independent appraisal in the discretion of the Lessor during such renewal period. The independent appraiser shall appraise the leasable premises on comparison with related businesses along the central coast of California. The appraiser shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of an appraiser within fifteen (15) days, then Lessee and Lessor shall each chose an appraiser, each of whom shall agree to select a third appraiser to appraise the premises.

7 USE AND SERVICES

- 7.1 Use: Lessee shall operate and maintain a first-rate and complete facility for the purpose of general office use or other uses compatible with the Monterey County Land Use Plan and subject to Lessor and government agency approval.
- 7.2 Limitations on Use. Lessee's use of the Premises shall be in accordance with section 7.1.
- 7.3 Prohibited Uses: The parties hereto agree that the following acts, occurrences or conduct by Lessee on or from the Premises are strictly prohibited:
 - 7.3.1 Engaging in any activity that constitutes a violation of any law.
 - 7.3.2 Acts of gambling or the operation of games of chance or devices for gambling purposes unless allowed by Lessor on other properties owned or operated by Lessor.

- 7.4 Compliance with Laws. Except as otherwise provided herein, Lessee shall comply will all Laws and Legal Requirements concerning Premises or Lessee's use of the Premises. Lessee shall obtain and pay for all licenses and permits required for Lessee's occupancy and use of the Premises. Compliance with all laws shall include compliance with all requirements of each regulatory agency, which has jurisdiction over this site including but not limited to the California Regional Water Pollution Control Board.
- 7.5 Waste: Nuisance. Lessee shall not cause, maintain or permit any nuisance in, on, or about the Premises. Lessee shall not commit or suffer to be committed any waste in or about the Premises and shall keep the Premises in first class repair and maintain the same in Good Condition during the Lease Term.

8 BUSINESS RIGHTS AND RESTRICTIONS.

- 8.1 Use. The Premises shall be used solely for the use set forth in the above Section and for no other purpose or use whatsoever.
- 8.2 Restrictions. Lessee shall not, without Lessor's prior written consent, which shall not be unreasonably withheld: (a) conduct any auction or bankruptcy sale; (b) permit anything to be done on the Premises which will in any way obstruct, interfere with or infringe on the rights of other occupants in the Santa Cruz Cannery Building and K-Dock; (c) cause, maintain or permit any nuisance on the Premises or cause or permit any waste to be committed on the Premises; (d) bring or keep on the Premises or permit any act thereon which is prohibited by any law, statute, ordinance or governmental regulation now in force or hereafter enacted or promulgated, or which is prohibited by any standard form of fire insurance policy or standard policy insuring against "all risk" perils; or (e) violate any provision of any covenants, conditions and restrictions of record affecting the Premises, whether entered into before or after the date of this Lease.

8.3 Hazardous Materials. Lessee hereby makes the following covenants regarding Hazardous Materials:

8.3.1 Lessee shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. §1251, *et seq.*), Resource Conservation & Recovery Act (42 U.S.C. §6901, *et seq.*), Safe Drinking Water Act (42 U.S.C. §3000f, *et seq.*), Toxic Substances Control Act (15 U.S.C. §2601, *et seq.*), the Clean Air Act (42 U.S.C. §7401, *et seq.*), Comprehensive Environmental Response, Compensation and Liability Act 42 U.S.C. 9601~ California HEALTH & SAFETY CODE (§ 25100, *et seq.*; § 39000, *et seq.*), California Safe Drinking Water & Toxic Enforcement Act of 1986 (HEALTH & SAFETY CODE §25249.5, *et seq.*), California WATER CODE (§13000, *et seq.*), and other comparable state and federal laws ("Hazardous Materials Laws"), relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or pollution materials, substances or wastes, including, without limitation, any "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under any laws, ordinances or regulations (collectively, "Hazardous Materials").

8.3.2 Lessee shall, at its own expense, procure, maintain in effect and comply with all conditions of any and all permits, licenses, and other governmental and regulatory approvals required for Lessee's use of the Premises, including, without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the Premises. Except as discharged into the sanitary sewer in strict accordance and conformity with all applicable Hazardous Materials Laws, Lessee shall cause any and all Hazardous Materials removed from the Premises to be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes. Lessee shall in all respects handle, treat, deal with and manage any and all Hazardous Materials in, on, under or about the Premises in total conformity with all applicable Hazardous Materials Laws and prudent industry practices regarding management of such Hazardous Materials. Upon expiration of the Term or earlier termination of this Lease, Lessee shall cause all Hazardous Materials to be removed from the Premises and transported for use, storage or disposal in accordance with and compliance with all applicable Hazardous Materials Laws. Lessee shall not take any remedial action in response to the presence of any Hazardous Materials in or about the Premises, nor enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Premises, without first notifying Lessor of Lessee's intention to do so and affording Lessor ample opportunity to appear, intervene or otherwise appropriately assert and protect Lessor's interest with respect thereto.

8.3.3 Lessee shall immediately notify Lessor in writing of: (i) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened pursuant to any Hazardous Materials Laws; (ii) any claim made or threatened by any person against Lessee or the Premises relating to damage, contribution, cost recovery compensation, loss or injury resulting from or clarified to result from any Hazardous Materials; and (iii) any reports made to any environmental

agency arising out of or in connection with any Hazardous Materials in or removed from the Premises or the Project, including any complaints, notices, warnings or asserted violations in connection therewith. Lessee shall also supply to Lessor as promptly as possible, and in any event within five (5) business days after Lessee first receives or sends the same, with copies of all claims, reports, complaints, notices, warnings or asserted violations, relating in any way to the Premises, or Lessee's use thereof. Lessee shall promptly deliver to Lessor copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises.

8.3.4 Lessee shall indemnify, defend (by counsel reasonably acceptable to Lessor), protect, and hold Lessor and each of Lessor's elected and/or appointed officials, employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorneys' fees), or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (i) the presence in, on, under or about the Premises or the Project, or discharge in or from the Premises, of any Hazardous Materials brought or caused to be brought by Lessee into or onto the Premises or the Project; or (ii) Lessee's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials to, in, on, under, about or from the Premises; or (iii) Lessee's failure to comply with any Hazardous Materials Law. Lessee's obligations under this Section shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, cleanup or detoxification or decontamination of the Premises, or the preparation and implementation of any closure, remedial action or other required plans in connection therewith, and shall survive the expiration of the Term or earlier termination of this Lease. For purposes of the release and indemnity provisions of this Section, any acts or omissions of Lessee, or by employees, agents, assignees, subleases, contractors or subcontractors of Lessee or others acting for or on behalf of Lessee (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessee.

9 SIGNS AND ADVERTISING

9.1 Interior: Lessee may, at its own expense, erect and maintain upon the interior areas of the Premises all signs and advertising matter customary and appropriate in the conduct of Lessee's business, subject to (a) Lessor's right to remove any signs or advertising matter which violate Section 8; (b) Lessee's obligation to submit to Lessor and Lessor's right to approve, which approval may be withheld in Lessor's sole, absolute and unfettered discretion, any sign oriented or positioned to be seen from outside the Premises; and (c) Lessee's obtaining all required approvals of any governmental authorities having jurisdiction. Lessee shall not affix or maintain upon the glass panes or supports of the windows or doors, or within twelve (12) inches of the windows or doors, any signs, advertising placards, names, insignia, trademarks, descriptive material or any other such like item or items, except such as shall have first received the written approval of Lessor, which may be withheld in Lessor's sole, absolute and unfettered discretion, with respect to size, type, color, location, copy, nature, and display qualities.

9.2 Exterior: Except for those signs and advertising devices which (a) are provided for in approved plans and specifications or in a scale drawing submitted by Lessee and approved in writing by Lessor, which approval may be withheld in Lessor's sole, absolute and unfettered discretion, and (b) comply with the requirements of all governmental authorities having jurisdiction, Lessee shall not erect, place, paint or maintain on the Premises or the Building any sign, exterior advertising medium or any other object of any kind whatsoever, whether an advertising device or not, visible or audible outside the Building, nor shall Lessee change the color, size, location, composition, wording or design of any sign or advertisement on the Premises or the Building that may have been theretofore approved by Lessor and governmental authorities without the prior written approval of Lessor and said authorities. Lessee shall, at Lessee's sole cost and expense, maintain and keep in good repair all installations, signs and advertising devices which it is permitted by Lessor to install, and shall pay all charges required to keep them in good repair. Lessee's sign must be installed and operating concurrent with Lessee's opening for business. Upon the expiration of the Term or earlier termination of this Lease, Lessor shall, at Lessee's sole cost and expense, remove or cause to be removed Lessee's exterior sign or signs and restore the fascia of the Building outside the Premises to the condition that existed before the installation of Lessee's exterior sign; Lessee shall pay such expense to Lessor within ten (10) days after presentation of a bill therefore.

10 IMPROVEMENTS, REPAIRS AND MAINTENANCE

10.1 Lessor's Build-Out: Lessor will provide an office shell, carpeting, walls, doors and hardware using standard-grade materials. Any upgrades will be borne by Lessee.

10.2 Lessor's Obligations: Except as to those obligations expressly charged to Lessee, Lessor will keep and maintain the Santa Cruz Cannery Building in tenantable condition and repair, shall maintain the exterior of the building, the heating, ventilation, air conditioning, mechanical and lighting system and costs incurred in so maintaining the Building will be borne by Lessee in accordance with Section 4.5.5.

10.3 Lessee Obligation: Lessee shall, at its sole cost and expense, at all times be responsible for keeping the entire leased premises repaired, maintained, replaced, or added to in good order, and in sanitary and safe condition and repair, and in accordance with all governmental requirements and insurance requirements. Lessee shall be responsible for all interior building repairs, including exterior doors. If Lessee refuses or neglects to maintain the leased premises in accordance with the terms of this paragraph, and to the reasonable satisfaction of Lessor as soon as reasonably possible after written demand (except that no written demand shall be required in situations Lessor reasonably determines are emergencies), Lessor may, upon fifteen (15) days prior written notice to Lessee (except that no notice shall be required in situations Lessor reasonably determines are emergencies), perform such repairs without liability to Lessee for any loss or damage that may occur to Lessee's property or business by reason thereof. Upon the completion of any such repair by Lessor, Lessee shall pay Lessor's costs for making such repairs plus ten percent (10%) for overhead upon presentation of the bill thereof. Such bills shall include

interest as described elsewhere in this lease on the cost so reflected from fifteen (15) days after the date of the billing until the date paid by Lessee.

10.4 Alterations:

10.4.1 Lessee shall not make any additions (i.e., improvements that would add to the floor area of the building), alterations, changes or improvements (collectively, "Alterations") in or to the interior or exterior of the leased premises without the prior written consent and approval of Lessor, which may be withheld in Lessor's sole, absolute and unfettered discretion, and which may be conditioned upon Lessee's removing, at Lessee's sole cost and expense at the expiration or earlier termination of this lease, any alteration for which Lessor grants its consent and approval. All Alterations shall conform to all applicable governmental ordinances and regulations, and, except Lessee's trade fixtures, shall become part of the realty upon installation thereof. Lessee shall be liable for any consequential damages as a result of Alterations under this Section. If Lessor is required to review plans for any Alterations, Lessee shall pay to Lessor all costs and expenses incurred by Lessor in connection with such review, plus a fee not to exceed \$300.00 (as adjusted for inflation from the date of this lease in accordance with Section 4.7.1 hereof).

10.4.2 Any and all Alterations shall be subject to conformity with the following requirements:

10.4.2.1 Prior to commencement of any work of Alteration, Lessee shall submit detailed plans and specifications, including working drawings, of the proposed Alteration, which shall be subject to the consent of Lessor.

10.4.2.2 Alterations shall be performed at Lessee's sole cost and expense by a contractor selected by Lessee and approved by Lessor, which approval Lessor may withhold in Lessor's sole, absolute and unfettered discretion, which shall not be unreasonably withheld;

10.4.2.3 In the event Lessor approves the Alteration plan for any proposed Alteration, Lessee shall notify Lessor of commencement of work on such Alteration in writing at least ten (10) days in advance so that Lessor may post notices of non-responsibility in or upon the premise;

10.4.2.4 No work on any proposed Alteration shall be commenced without Lessee having previously obtained all applicable permits and approvals, at Lessee's sole cost and expense, required by governmental authorities;

10.4.2.5 All Alterations shall be performed in a skillful and workmanlike manner, consistent with the best practices and standards of the construction industry, and pursued with diligence through completion, all in accordance with the Alteration plans approved by Lessor.

10.4.2.6 Prior to commencement of work on any Alteration, Lessee shall furnish to Lessor evidence reasonably satisfactory to Lessor that Lessee's contractor has obtained all insurance reasonably required by Lessor (including, but not limited to, commercial general liability insurance, worker's

compensation insurance, builder's risk insurance and course of construction insurance) in amounts of coverage reasonably required by Lessor; and

10.4.2.7 Alterations must be performed in a manner that does not interfere with or adversely affect the conduct of business by other Lessees.

10.4.2.8 At the completion of the Lease, Lessee shall return all improvements in a condition as good as the condition at the beginning of the Lease, normal wear and tear excepted.

11 DAMAGE AND RESTORATION

11.1 Duty to Restore: If the improvements of which the premises are comprised are partially or totally damaged by fire or other casualty so as to become partially or totally untenantable, regardless of whether such damage is insured against under any policy of insurance against "all-risk" perils then covering the damaged improvements, at Lessor's discretion this lease shall not terminate, and if not terminated, Lessor shall rebuild and restore such improvements with due diligence at Lessor's expense. However, to the extent that Lessee has insurance against the perils causing such damage, as may be required elsewhere in this Lease, then Lessee shall cooperate in procuring such insurance proceeds on Lessor's behalf for use in such rebuilding or restoration.

11.2 No Rent Adjustment: During the period of repair and restoration, Minimum Annual Rent payable by Lessee pursuant to this lease shall not abate or be adjusted, but shall be prorated to the use denied.

12 EMINENT DOMAIN

12.1 If (a) the entire premises is taken or condemned by any competent authority for any public use or purpose during the term of this lease, or (b) a part of the premises is so taken or condemned and Lessee exercises its option to terminate this lease as hereinafter provided, then all damages awarded for such taking shall belong to and be the property of Lessor; provided, however, in the event a separate and specific allowance is made by the condemning authority or by the court based upon (i) the loss of Lessee's business, or (ii) the expense of removing Lessee's equipment, furniture, fixtures and other property from the premises, then such separate and specific allowance shall be the property of Lessee; provided further, Lessee shall have the right to prosecute its claim for any such loss or expense. In either event, this lease shall terminate when Lessee can no longer use the premises in the manner contemplated under this lease, when physical possession of the premises is required by the appropriating or condemning authority, or when legal title to the premises vests in the appropriating or condemning authority, whichever first occurs.

12.2 In the event a part of the premises is appropriated or condemned and (i) the part so taken includes the building or any part thereof, or (ii) such partial taking results in precluding direct access from the premises to all adjacent public streets, then and in such event, Lessee, at any time either prior to or within a period of sixty (60) days after the date on which possession of the part of the premises so taken is required

by the appropriating or condemning authority, may elect to terminate this lease. In the event Lessee fails to exercise any such right to terminate this lease, or in the event a part of the premises is taken or condemned under circumstances under which Lessee has no such right, then in either such event, Lessor, with reasonable promptness, shall make necessary repairs to and alterations of the improvements on the premises for the purpose of restoring the same to an economic architectural unit, susceptible to the same use as that which was in effect immediately prior to such taking and to the extent that may have been necessitated by such appropriation or condemnation. Lessee shall be entitled to an abatement of all rent during the period such repairs and alterations are being made; provided, however, if Lessee operates Lessee's business on the premises during the period such repairs and restorations are being made, Lessee, during such period, will pay rent in the amount provided below.

12.3 In the event a part of the premises is appropriated or condemned and Lessee does not exercise its right to terminate this lease or does not have the right as above provided, then this lease shall terminate with respect to that part of the premises so taken. The monthly installments of rent shall be reduced in such event, as of the date when physical possession the part of the premises taken is required by the appropriating or condemning authority, by a proportional amount equal to the proportion that the area of that part so taken bears to the total area of the premises immediately prior to such taking.

13 UTILITIES

Lessee shall contract directly and open separate accounts with the supplier of all utilities (including, but not limited to, water, gas, electricity, telephone and sewer service fees) and shall pay all hook-up fees and deposits for meters, if any. Commencing with the delivery of possession of the leased premises to Lessee by Lessor, Lessee shall pay, when due and before delinquency, directly to the supplier of the utilities to the leased premises, for all such utility consumed at the leased premise. In no event shall Lessor be responsible for damages to Lessee occasioned by the interruption of utilities services to Lessee or the leased premises, nor shall rent be offset as a result of any such interruption. Cable lines for internet access will be separately metered to the extent possible; otherwise, Lessee shall cooperate in whatever method is deemed necessary to determine Lessee's accurate use therefor and Lessee shall pay for the same as above set forth if possible; otherwise in accordance with Section 4.5.5.

14 PROPERTY, LIABILITY AND OTHER INSURANCE:

Lessee shall not carry any stock of goods or do anything in or about the leased premises that will in any way tend to increase insurance rates for the leased premises. In no event shall Lessee conduct or engage in any activities that would invalidate any insurance coverage thereon. Lessee shall pay on demand any increase in premiums that may be charged because of Lessee's use or activities or vacating or otherwise failing to occupy the leased premises, but this provision shall not be deemed to limit in any respect Lessee's obligation under this lease.

14.1 PUBLIC LIABILITY AND PROPERTY INSURANCE:

Lessee shall, at all times, at its sole expense, maintain during the entire term of this Lease, Public Liability and Property Damage Liability Insurance covering all claims for damages for bodily injury, death and property damages arising from Lessee's operation of business and occupation of the premises. The property damage insurance shall cover damage or destruction of any property, other than that which is owned, leased, or in the care, custody, or control of Lessee with the limit applying to any once accident, disaster, or claim. Single limit insurance coverage shall reflect a sum total coverage of public liability and property damage combined in the amount of not less than Two Million Dollars (\$2,000,000). Limits of not less than One Million Dollars (\$1,000,000) for personal injuries including accidental death for any one occurrence, and property damage in and amount not less the One Million Dollars (\$1,000,000) for any once occurrence.

14.2 LIABILITY INSURANCE:

Lessee shall, at all times, at its sole expense, maintain in full force a policy or policies of comprehensive or commercial general liability insurance issued by one or more insurance carriers insuring against liability for injury to or death of persons and loss of or damage to property occurring in or on the premises. Said liability insurance shall be in an amount of not less than \$1,000,000 combined single limit for bodily and personal injury and property damage, which amount shall be adjusted upward (but not downward) periodically based on insurance industry-recommended changes in coverage. In addition, Lessee shall pay for and shall maintain in full force and effect blanket contractual liability insurance to cover all of the indemnity obligations of Lessee under this lease. Lessee shall deliver appropriate evidence to Lessor as proof that adequate insurance is in force. Lessee's insurance carrier shall be required to provide Lessor with notice of any termination of such insurance policies immediately.

14.3 FIRE INSURANCE AND EXTENDED COVERAGE

Lessee shall, at Lessee's sole cost and expense, obtain and maintain in full force and effect at all times a standard policy insuring the leased premises, trade fixtures, equipment, and other personal property located in the premises and used by Lessee in connection with its business against "all risk" perils (also known as "special cause of loss") in an amount equal to the full replacement cost (without deduction for depreciation) of the leased premises and such equipment and personal property. Such policy shall name Lessor as a loss payee and include a standard form of lender's loss payable endorsement, issued to the holder or holders of mortgage or deed of trust secured in whole or in part by the legal parcel on which premises is located. Such policy shall not be subject to cancellation or change in coverage except upon at least thirty (30) days prior written notice to Lessor. Such policy, a duly executed evidence of property insurance (in the form of I.S.O. accord 27) or other insurance industry-recognized certificate evidencing such policy shall be deposited with Lessor at the commencement of the effectiveness of this Section and not less than thirty (30) days prior to the expiration of the term of such coverage.

14.4 WORKERS' COMPENSATION

Lessee shall at all times maintain Workers' Compensation Insurance covering all persons employed in connection with the work and with respect to death or bodily injury claims that could be assessed against Lessor or the leased premises.

14.5 BLANKET INSURANCE

Each party shall be entitled to fulfill its insurance obligations under this lease by maintaining a so-called "Blanket" policy or policies of insurance in such form as to provide by specified endorsement (such as a so-called "per location aggregate limit" endorsement) coverage not less than that which is required under this lease for the particular property or interest referred to in this lease.

14.6 GENERAL REQUIREMENTS

All of the insurance policies obtained by Lessee pursuant to the requirements of this Lease shall name District, its elected and/or appointed officials, employees, and agents as Additional Insured and provide that such policies shall be primary and specify that thirty (30) days' written notice must be given to Lessor (Moss Landing Harbor District) of any cancellations or changes in the policies. The notice shall be sent by certified or registered mail and shall be deemed effective the date delivered to the General Manager of Lessor as evidence by a properly validated return receipt.

14.6.1 All policies of insurance required to be carried under this lease shall be written by companies satisfactory to Lessor, licensed to do business in California, and rated A:VII or better by the A.M. Best Company ("Best"), or the equivalent of such rating if Best does not rate the company.

14.6.2 Lessee shall provide Lessor with Certificates of Insurance showing the required coverage and containing a specific contractual liability endorsement extending Lessee's coverage to include its Lease with Lessor. Lessee shall furnish Lessor with binders representing all insurance required by this Lease prior to the commencement of lease terms.

14.6.3 Lessor shall retain the right at any time to review the coverage, form and the amount of the insurance required hereby. If, in the opinion of Lessor, the insurance provisions in this Lease do not provide adequate protection for Lessor and for members of the public using the demised premises, Lessor may require Lessee to provide adequate protection. Lessor's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

14.6.4 If Lessee fails or refuses to procure or to maintain insurance required by this Lease or fails or refuses to furnish Lessor with required proof that the insurance has been procured and is in full force and effect and paid for, Lessor shall have the right, but not the obligation, upon five (5) days written notice to Lessee, to procure and maintain said insurance. The premiums paid by the Lessor shall bear interest at the legal rate then in effect in the State of California from the date when the premium is paid by Lessor.

14.6.5 Lessor shall notify Lessee in writing of changes in the insurance requirements and, if Lessee does not deposit the Certificates of Insurance with Lessor incorporating such changes within sixty (60) days of receipt of such notices, this Lease shall be deemed in default without further notice to Lessee and Lessor shall be entitled to all self-help, administrative legal remedies allowed by law.

14.6.6 The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder or to fulfill the indemnification provisions and requirements of this Lease. Notwithstanding said policies or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury or loss caused by negligence or neglect connected with this Lease or with use or occupancy of the demised premises.

15 INDEMNITY

15.1 Indemnity: Lessee shall indemnify, protect, defend and save Lessor harmless from and against any and all liens, claims, demands, actions, causes of action, obligations, penalties, charges, liabilities, damages, losses, costs or expenses, including reasonable attorney's fees for the defense thereof, of whatsoever kind and nature, arising from or connected with (i) the conduct or management of the business conducted by Lessee on the premises; (ii) Lessee's use of computers on the premises, including loss of electric power; (iii) the use or occupancy of the premises; (iv) any breach or default on the part of Lessee in the performance of any covenant or agreement on the part of Lessee to be performed pursuant to the terms of this lease; (v) violations of or non-compliance with any governmental requirements or insurance requirements to be observed, obeyed and complied with by Lessee under the terms of this lease; or (vi) any acts or omissions of Lessee, or any person upon the premises by license or invitation of Lessee or of any person or entity deriving his, her or its right to occupy the premises or any part thereof from, by or through Lessee.

15.2 Waiver: All property kept, stored, or maintained on the premises shall be so kept, stored, or maintained at the sole risk of Lessee; and except in the case of Lessor's willful misconduct, Lessor shall not be liable for loss or damage to such property. Lessee waives all claims against Lessor, for damages to persons or property sustained by Lessee or by any other person or firm resulting from any occurrence in the premises or by reason of any equipment located in or on the premises becoming out of repair, or through the acts or omissions of any persons present in the premises or renting or occupying any part of the premises, or for loss or damages resulting to Lessee or its property from burst, stopped or leaking sewers, pipes, conduits, or plumbing fixtures, or for interruption of any utility services, or from any failure of or defect in any electric line, circuit or facility, or any other type of improvement or service on or furnished to the premises or resulting from any accident in, on, or about the premises.

16 SECURITY DEPOSIT:

16.1 AMOUNT

On the execution of this Lease, Lessee shall deposit with Lessor a refundable security deposit in the equivalent amount of one month's rent, as security for the full and faithful performance by Lessee of the terms, conditions and covenants of this Lease to be performed by Lessee. The type of security deposit shall be in accordance with that specified in the General Conditions. Security Deposit shall not constitute payment of last month's rent. Said security deposit shall be increased annually in accordance with Paragraph 4.7.1 through 4.7.4. of this Lease in order that said security deposit shall always reflect current rent.

16.2 DEFAULT OF RENT

If at any time during the term hereof, Lessee shall be in default in the payment of rent herein reserved or any portion thereof, or any other sums expressly constituting rent hereunder, Lessor may appropriate and apply any portion of the security deposit reasonably necessary to remedy any such default in rent, or any steps required to effect such remedy. If at any time during the term hereof, Lessee should fail to repair any damage to the premises leased to him, occasioned by the Lessee or his agents, servants or employees through want of ordinary care, or a greater degree of culpability, for a period beyond thirty (30) days after written demand to make such repairs served on Lessee by Lessor, than the Lessor may appropriate and apply any portion of the security deposit as may be reasonably necessary to fund the repair.

16.3 TERMINATION OF TENANCY

If upon cancellation of this lease, Lessee does not leave the leased premises in broom clean condition, excepting reasonable wear and tear, then Lessor may appropriate and apply any portion of the security deposit, after any lawful deductions as above, to the cost(s) in cleaning and repairing the leased premises to a reasonably clean condition. Lessor shall then return to Lessee the remaining unused portion of the security deposit two (2) weeks after termination of the tenancy directed to the address left by Lessee specifically for such purpose or otherwise directed to Lessee's last known address.

Should Lessor actually resort to any monies contained within the security deposit under any of the above applicable provisions, Lessee agrees to pay to Lessor the amount for which resort to the security was had, and necessary to restore the security deposit to the original sum required hereunder within thirty (30) days after written demand for such by Lessor.

17 NOTICES AND PAYMENTS

All notices and communications required under this Lease shall be in writing, and all notices and payments shall be made as follows:

17.1 All payments and notices to Lessor shall be given or mailed to:

General Manager
Moss Landing Harbor District
7881 Sandholdt Road
Moss Landing, CA 95039

17.2 All payments and notices to Lessee shall be given or mailed to:

Fernando Frederico
Lusamerica Foods Inc.
16480 Railroad Avenue
Morgan Hill, CA 95037

5039 To Encumbrance Holder (which may change from time to time, but at the time of execution of this Lease, is the U.S. Economic Development Agency) at such address and to such person as it shall designate to Lessor in writing, if required.

17.3 Any party may designate a different address by giving notice as set forth in this Article.

17.4 All notices and communications referred to herein shall be deemed given on the fifth day following mailing if given in accordance with this Article.

17.5 If Lessee is not a resident of the State of California or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, Lessee shall file with Lessor a designation of natural person residing in the State of California, giving the name, residence and business address as the agent of Lessee for the service of process in any court action between Lessee or Encumbrance Holder and Lessor, arising out of or based on this Lease, and delivery to such agent of written notice or a copy of any process in such action shall constitute a valid service upon Lessee.

18 POSSESSORY INTEREST TAXES, TAXES, ASSESSMENTS, FEES AND LIENS

18.1 Pursuant to California Revenue and Taxation Code Section 107.6, Lessee is hereby advised that this Lease creates a possessory interest subject to property taxation and, as the party in whom the possessory interest is vested, Lessee will be subject to payment of taxes levied on said interest.

18.2 Lessee shall pay promptly all taxes and assessments of any kind whatsoever assessed or levied for or upon the leased premises, including taxes and assessments assessed or levied upon any machines, appliances, property, property interest, possessory interest, or improvement of any kind erected, installed, maintained upon, or used in connection with the leased premises. Lessee shall also pay promptly any taxes levied upon the business or other activities of Lessee, upon or in connection with the leased premises. Furthermore, Lessee shall promptly pay any fees imposed by law for any licenses or permits for any business or activity of Lessee upon the leased premises.

18.2.1 The payment of any such taxes, fees, or charges shall not constitute cause for modification of rent payable to Lessor.

18.3 LIENS:

Neither the Lessee nor anyone claiming through the Lessee shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Lessee agrees to give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid.

19 ESTOPPEL CERTIFICATE

Lessee shall execute and deliver to Lessor, within ten (10) days after receipt of Lessor's request, any estoppel certificate or other statement to be furnished to any prospective purchaser of or any lender against the Premises. Such estoppel certificate shall acknowledge and certify each of the following matters, to the extent each may be true: that the Lease is in effect and not subject to any rental offsets, claims or defenses to its enforcement; the commencement and termination dates of the Term; that Lessee is paying rent on a current basis; that the improvements required to be furnished under the Lease have been completed in all respects; that the Lease constitutes the entire agreement between Lessee and Lessor relating to the Premises; that Lessee has accepted the Premises and is in possession thereof; that the Lease has not been modified, altered or amended except in specified respects by specified instruments; and that Lessee has no notice of any prior assignment, hypothecation or pledge of rents or the Lease. Lessee shall also, upon request of Lessor, certify and agree for the benefit of any lender against the Premises or the Building ("Lender"), or any trustee, that Lessee will not look to such Lender or Trustee as being liable for any act or omission of Lessor; as being obligated to cure any defaults of Lessor under the Lease which occurred prior to the time Lender or Trustee, its successors or assigns, acquired Lessor's interest in the Premises by foreclosure or otherwise; as being bound by any payment of rent or additional rent by Lessee to Lessor for more than one month in advance; or as being bound by Lessor to any amendment or modification of the Lease without Lender's or Trustee's written consent.

20 DEFAULT

20.1 Notice and Remedies: In the event Lessee fails to pay rent or to perform any of Lessee's other obligations under this lease, or any part of this lease, when due or called for under this lease, Lessee shall be in default. Lessee shall have a period of three (3) days after service of written notice by Lessor specifying the nature of Lessee's default within which to cure such default, provided that if the nature of a non-monetary default is such that it cannot be fully cured within said three (3) day period, Lessee shall have such additional time as may be reasonably necessary to cure such default so long as Lessee proceeds promptly after service of Lessor's notice and proceeds diligently at all times to complete said cure. Lessee agrees that a notice served in accordance with the provisions of California CODE OF CIVIL PROCEDURE § 1161, as it may from time to time be amended, will constitute compliance with the notice requirements of this Section. If Lessee fails to cure any such default in a timely manner, Lessee shall be in breach of this lease, and Lessor with or without further notice or demand of any kind may, at its option:

20.1.1 Upon court order, may terminate Lessee's right to possession of the premises at any time. No act by Lessor other than giving notice of termination to

Lessee shall terminate this lease. Acts of maintenance, efforts to relet the premises or the appointment of a receiver on Lessor's initiative to protect Lessor's interest under this lease shall not constitute a termination of Lessee's right to possession. On termination, Lessor shall have the right to recover from Lessee:

- 20.1.1.1 The worth of the time of the award of the unpaid rent that had been earned at the time of termination of this lease.
- 20.1.1.2 The worth at the time of the award of the amount by which the unpaid rent that would have been earned after the date of termination of this lease until the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided.
- 20.1.1.3 The worth at the time of the award of the amount by which unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided.
- 20.1.1.4 Any other amount, including court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's default.

The phrase "worth at the time of the award" as used in the clauses (a) and (b) is to be computed by allowing interest at the rate of ten percent (10%) per annum. The same phrase as used in clause (c) above is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

20.1.2 Lessor may exercise the remedy provided in California CIVIL CODE § 1951.4, i.e., Lessor may continue this lease in full force and effect, and collect rent as it becomes due, so long as Lessor does not terminate Lessee's right to possession pursuant to Section 20.1.1. During the period Lessee is in default, Lessor may enter the premises and relet them, or any part of them, to third parties for Lessee's account. Lessee shall be liable immediately to Lessor for all costs Lessor incurs in reletting the premises, including broker's commissions, expenses of remodeling the premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining term of this lease. Lessee shall pay to Lessor the rent due under this lease on the dates the rent is due, less the rent Lessor receives from any reletting. No act by Lessor allowed by this subsection will terminate this lease unless Lessor notifies Lessee in writing that Lessor elects to terminate this lease. After Lessee's default and for so long as Lessor does not terminate Lessee's right to possession of the premises, if Lessee obtains Lessor's consent, Lessee will have the right to assign or sublet its interest in this lease, but Lessee will not be released from liability. If Lessor elects to relet the premises as provided in this subsection, rent that Lessor receives from reletting will be applied to the payment of: (i) first, any indebtedness from Lessee to Lessor other than rent due from Lessee; (ii) second, all costs, including for maintenance, incurred by Lessor in reletting; (iii) third, rent due and unpaid under this lease. After deducting the payments referred to in this subsection, any sum remaining from the rent Lessor receives from reletting will be held by Lessor and applied to payment of future rent as rent becomes due under this lease. If, on the date rent is due under this lease, the rent received from the reletting is less than the rent due on that date, Lessee will pay to Lessor, in addition to the remaining rent due, all costs, including maintenance, Lessor incurred in reletting which remain after applying the rent received from the reletting.

20.1.3 Lessor may, after expiration of any applicable cure period, unless there is an emergency, correct or remedy any failure of Lessee not timely cured. The reasonable cost paid by Lessor to correct or remedy any such default will immediately become due and payable to Lessor as additional rent.

20.2 Notice of Termination: No re-entry or reletting of the premises shall be construed as an election by Lessor to terminate Lessee's right to possession of this lease unless a written notice of such intention is given by Lessor to Lessee; and notwithstanding any such reletting without such termination, Lessor may at any time thereafter elect to terminate Lessee's right to possession and this lease in the event that at such time Lessee remains in default under this lease.

20.3 Waiver of Notice; Performance by Lessor Upon Lessee's Default. Notwithstanding any provision of this Section: (a) if Lessee is required to comply with any governmental requirement, Lessee shall not be entitled to notice of default from Lessor or any right to cure beyond the period within which such compliance may be required by such governmental requirement; or (b) with respect to provisions of this lease which expressly provide that this lease may be terminated effective on service of notice, Lessee shall be entitled to a right to cure only if a right to cure is required by law; or (c) if in Lessor's reasonable business judgment the continuation of any default by Lessee for the full period of notice provided for in this Section will jeopardize the premises or the rights of Lessor, Lessor may, with or without notice,

elect to perform those acts with respect to which Lessee is in default for the account and at the expense of Lessee. If by reason of such default by Lessee, Lessor is compelled to pay or elects to apply any sum of money, including, but without limitation, reasonable attorney's fees, such sum or sums so paid by Lessor, with interest thereon from the date of such payment at the rate provided in this lease, shall be due from Lessee to Lessor on the first day of the month next following such payment by Lessor.

- 20.4 Interest. Any amount owed to Lessor under the terms and provisions of this lease which is not paid when due shall bear interest at the rate provided below from the date the same becomes due and payable by the terms and provisions of this lease until paid, unless otherwise specifically provided in this lease. The interest rate that shall apply shall be the highest rate allowed by applicable law.
- 20.5 Other remedies. Nothing contained in this lease shall limit Lessor to the remedies set forth in this Section. Upon Lessee's breach, Lessor shall be entitled to exercise any right or remedy then provided by law, including, but not without limitation, the right to obtain injunctive relief and the right to recover all damages caused by Lessee's breach in the performance of any of its obligations under this lease.
- 20.6 Each term and each provision in this Lease to be kept, observed, or performed by Lessee shall be construed to be both a covenant and a condition.

21 INSOLVENCY

If at any time during the term there is filed by or against Lessee in any court pursuant to any statute either of the United States or of any state a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or if a receiver or trustee takes possession of any of the assets of Lessee, or if the leasehold interest under this Lease passes to a receiver, or if Lessee makes an assignment for the benefit of creditors or petitions for or enters into an arrangement (any of which are referred to herein as "a bankruptcy event"), then the following provisions shall apply:

- 21.1 Neither this Lease, nor any interest in this Lease, nor any estate created hereby, shall pass by operation of law under any state or federal insolvency or bankruptcy act to any trustee, receiver, assignee for the benefit of creditors or any other person whatsoever without the prior written consent of Lessor, which may be withheld in Lessor's discretion, but which shall not be unreasonably withheld. Any purported transfer in violation of the provisions of this Section shall constitute a breach of this Lease, regardless of Lessee's compliance with the other provisions of this Lease; and Lessor at its option by written notice to Lessee may exercise all rights and remedies provided for in Section 20, including the termination of this Lease, effective on service of such notice without the necessity of further notice.
- 21.2 Any receiver, trustee in bankruptcy or Lessee as debtor in possession ("debtor") to which Lessee's interest under this Lease is transferred with Lessor's consent under Section 21.1 immediately preceding shall, within the time permitted under the

applicable statute, either expressly assume or reject this Lease following the entry of an "Order for Relief".

21.3 In the event of an assumption of this Lease by a debtor, receiver or trustee, such debtor, receiver or trustee shall immediately after such assumption (i) cure any default of Lessee or provide adequate assurances that defaults of Lessee will be promptly cured; and (ii) compensate Lessor for actual pecuniary loss or provide adequate assurances that compensation will be made for actual pecuniary loss; and (iii) provide adequate assurance of future performance. For the purpose of this Subsection, adequate assurance of future performance of all obligations under this Lease shall include, but is not limited to:

21.3.1 Written assurance that Rent and any other consideration due under this Lease shall first be paid before any other of Lessee's costs of operation of its business in the Premises are paid; and

21.3.2 Written agreement that assumption of this Lease will not result in a breach of any provision of this Lease or the Declaration, including, but not limited to, any provision relating to use or exclusivity in this or any other Lease or in the Declaration or agreement relating to the Premises, or if such a breach is caused, the debtor, receiver or trustee will indemnify, protect, defend and hold harmless Lessor against any loss, cost, damage or liability (including costs of suit and attorneys' fees) occasioned by such breach.

21.4 Where a default exists under this Lease, the debtor, trustee or receiver may not require Lessor to provide services or supplies incidental to the Lease before its assumption by such debtor, trustee or receiver, unless Lessor is compensated under the terms of this Lease for such services and supplies provided before the assumption of this Lease.

21.5 The debtor, receiver or trustee may only assign this Lease if adequate assurance of future performance by the assignee is provided, whether or not there has been a default under this Lease. Any consideration paid by any assignee in excess of the Minimum Rent reserved in this Lease shall be the sole property of, and be paid to, Lessor. Upon assignment by the debtor, trustee or receiver, the obligations of this Lease shall be deemed to have been assumed by the assignee, and the assignee shall execute an assumption agreement on request of Lessor.

21.6 Lessor shall be entitled to the fair market value for the Premises and the services provided by Lessor (but in no event less than the Minimum Rent reserved in this Lease) subsequent to the commencement of a bankruptcy event.

21.7 To the extent such remedies are permitted by law, Lessor specifically reserves any and all remedies available to Lessor in Section 20 of this Lease or at law or in equity with respect to a bankruptcy event by Lessee,

22 REMEDIES CUMULATIVE.

The various rights, elections and remedies of Lessor and Lessee contained in this Lease shall be cumulative, and no one of them shall be construed as exclusive of any of the others, or of any right, priority or remedy allowed or provided for by law.

23 ATTORNEY'S FEES.

If either party files any action or brings any proceeding against the other party arising out of this Lease or for the declaration of any rights under this Lease, the prevailing party therein shall be entitled to recover from the other party all costs and expenses, including reasonable attorney's fees, incurred by the prevailing party as determined by the court. If either party ("secondary party") without its fault is made a party to litigation instituted by or against the other party ("primary party"), the primary party shall pay to the secondary party all costs and expenses, including reasonable attorney's fees, incurred by the secondary party in connection therewith.

24 WAIVER OF DEFAULT

The waiver by either party of any default in the performance by the other of any covenant contained in this Lease shall not be construed to be a waiver of any preceding or subsequent default of the same or any other covenant contained in this Lease. The subsequent acceptance of Rent or other amounts under this Lease by Lessor shall not constitute or be deemed to constitute a waiver of any preceding default other than the failure of Lessee to pay the particular Rent or other amount or portion thereof so accepted, regardless of Lessor's knowledge of such Preceding default at the time of acceptance of such Rent or other amount. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

25 NO PARTNERSHIP

Neither Lessor nor Lessee shall in any way or for any purpose be deemed a partner, joint venture or member of any joint enterprise with the other.

26 SUBTENANCIES.

The voluntary or other surrender of this Lease by Lessee or a mutual cancellation of this Lease shall not effect a merger and shall, at Lessor's option, terminate all existing subtenancies or operate as an assignment to Lessor of any or all of such subtenancies.

27 SUCCESSORS.

This Lease shall be binding upon and shall inure to the benefit of Lessor and Lessee and their respective successors. The term "successors" is used in this Lease in its broadest possible meaning and includes, but is not limited to, every person succeeding to any interest in this Lease or the Premises of Lessor or Lessee, whether such succession results from the act or omission of such party. Every covenant and condition of this Lease shall be binding upon all permitted assignees, sublessees, licensees and concessionaires of Lessee.

28 REMOVAL OF LESSEE'S PROPERTY

Upon expiration of the Term of this Lease or upon any earlier termination thereof, Lessee shall remove at its own expense all of Lessee's equipment, merchandise and personal property (collectively called "Lessee's property") which were installed by Lessee or any sublessee, concessionaire or licensee in or upon the Premises. In the event of any injury or damage to the Premises or to any portion of the Project resulting from the removal of Lessee's property, Lessee shall promptly pay to Lessor the cost of repairing such injury or damage. Lessee shall complete such removal before the time provided in this lease unless prevented from so doing by a delaying cause; or Lessor may, at Lessor's option, retain any or all of Lessee's property, and title to Lessee's property shall thereupon vest in Lessor without the execution of documents of sale or conveyance by Lessee, or Lessor may remove any or all items of Lessee's property from the Premises and dispose of them in any manner Lessor sees fit, and Lessee shall pay upon demand to Lessor the actual expense of such removal and disposition together with interest from the date of payment by Lessor until repayment by Lessee.

29 EFFECT OF CONVEYANCE.

If during the Term of this Lease, Lessor conveys its interest in the Premises or this Lease, then from and after the effective date of such conveyance, Lessor shall be released and discharged from any and all further obligations and responsibilities under this Lease except those already accrued of which Lessor has notice at the time of conveyance. Release of security deposit shall be in accordance with Section 16 of this lease.

30 LESSOR'S DEFAULT; NOTICE TO LENDER.

- 30.1 Lessor's Default. In the event Lessor fails to perform any of its material obligations under this Lease, then Lessor shall be in default. Lessor shall commence promptly to cure such default immediately after receipt of written notice from Lessee specifying the nature of such default and shall complete such cure within thirty (30) days thereafter, provided that if the nature of such default is such that it cannot be cured within said thirty (30) day period, Lessor shall have such additional time as may be reasonably necessary to complete its performance so long as Lessor has proceeded with diligence after receipt of Lessee's notice and is then proceeding with diligence to cure such default.

30.2 Notice to Lender. Whenever Lessee serves notice on Lessor of Lessor's default, written notice shall also be served at the same time upon the mortgagee under any first or second mortgage or beneficiary under any first or second deed of trust. Such mortgagee or beneficiary shall have the periods of time within which to cure Lessor's defaults as are provided in this lease which periods shall commence to run ten (10) days after the commencement of the periods within which Lessor must cure its defaults. In this connection any representative of the mortgagee or beneficiary shall have the right to enter upon the Premises for the purpose of curing Lessor's default. Such mortgagee or beneficiary shall notify Lessor and Lessee in the manner provided by this lease at the address of such mortgagee or beneficiary to which such notice shall be sent, and the agreements of Lessee are subject to prior receipt of such notice. If the nature of the default is such that the mortgagee's or beneficiary's possession is required to cure the default, then Lessee will not terminate the Lease so long as such mortgagee or beneficiary commences proceedings to obtain possession of the Premises within the period of time afforded to the mortgagee or beneficiary to cure such default, and once the mortgagee or beneficiary has obtained possession, diligently proceeds to cure the default. Nothing contained in this Lease shall be construed to impose any obligation on any mortgagee or beneficiary to cure any default by Lessor under the Lease.

31 INTERPRETATION.

31.1 The captions by which the Sections of this Lease are identified are for convenience only and shall not affect the interpretation of this Lease. Wherever the context so requires, the singular number shall include the plural, the plural shall refer to the singular, the neuter gender shall include the masculine and feminine genders. If there is more than one signatory hereto as Lessee, the liability of such signatories shall be joint and several. If any provision of this Lease shall be held to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in effect and shall in no way be impaired thereby. The lease shall be the presiding document and where the lease remains silent or requires further interpretation, the general conditions shall prevail.

32 ENTIRE INSTRUMENT.

It is understood that there are no oral agreements between the parties affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, correspondence, arrangements, brochures, agreements and understandings, if any, between the parties or their representatives or displayed by Lessor to Lessee with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. This Lease cannot be modified in any respect except by writing signed and entered into by Lessor and Lessee. This Lease Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. The lease amount may be adjusted at each renewal period to fair market value determined by independent appraisals if requested by either party.

33 EASEMENTS.

This Lease is made expressly subject to:

33.1 Any conditions, covenants, conditions and restrictions and/or easements of record on the Premises and/or the Project: and

33.2 Any easements for utilities or ingress and egress that now or hereafter may be placed of record by Lessor for purposes of the common benefit of the occupants of the Project. Lessee agrees to execute such documents necessary to subordinate its interest hereunder to such easements, provided such easements will not affect adversely Lessee's use of the Premises.

34 SALE BY LESSOR.

The Premises or Lessor's interest under this Lease (or both) may be freely sold or assigned by Lessor and, in the event of any such sale or assignment, the covenants and obligations of Lessor herein shall be binding on each successive "Lessor" and its successors and assigns, only during their respective periods of ownership.

35 PAYMENTS.

Except as otherwise expressly stated, each payment required to be made hereunder shall be in addition to, and not in substitution for, other payments to be made by Lessee.

36 NO OFFER.

The preparation and submission of a draft of this Lease by either party to the other shall not constitute an offer, nor shall either party be bound to any terms of this Lease or the entirety of the Lease itself until both parties have signed a final document and an original document signed by both parties has been received by each party. Until such time as the parties are bound as described in the previous sentence, either party is free to terminate negotiations with no obligation to the other.

37 DISPUTED SUMS

Under the terms of this Lease, numerous charges are and may be due from Lessee to Lessor, including, without limitation, personal property taxes, insurance payments and other items of a similar nature, including, but not limited to, advances made by Lessor, at Lessor's option, with respect to Lessee's default. In the event that at any time during the Term there is a bona fide dispute between the parties concerning the amount due for any of such charges claimed by Lessor to be due, the amount demanded by Lessor shall be paid by Lessee until resolution of the dispute between the parties or by litigation. Failure by Lessee to pay the disputed sums until resolution shall constitute default under the terms of this Lease.

38 ASSIGNABILITY/SUBLETTING:

Lessee may not assign or sublease any interest in the Premises without the prior written consent of Lessor, which shall not be unreasonably withheld. The General Conditions referred to in Section 1.5 of this lease state specifically the conditions for assignment, subletting and hypothecation.

39 RIGHT OF ACCESS

Upon reasonable prior written notice given to Lessee no less than twenty-four (24) hours in advance (except that no notice shall be required in situations Lessor determines are emergencies), Lessor and its authorized agents and representatives shall be entitled to enter the premises at all reasonable times for the purpose of: inspecting the premises, making repairs which Lessor is entitled to make under this lease, curing a default of Lessee, posting any notice provided by law that relieves Lessor from responsibility for the acts of Lessee, exhibiting the premises to prospective buyers, lessees or lenders, and posting ordinary signs advertising the premises for sale or for lease during the last one hundred eight (180) days of the term, as it may be extended. For the foregoing purposes, Lessor may erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing that the entrance to the building shall not be unreasonably blocked thereby, and further providing that the business of Lessee shall not be interfered with unreasonably. Lessee hereby waives any claim for damages or abatement of rent or for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the premises, and any other loss occasioned by Lessor's entry and actions pursuant to this Section, except to the extent caused by the willful misconduct of Lessor or Lessor's agents. Lessor shall have the right to use any and all means which Lessor may deem proper in an emergency to obtain entry to the premise without liability to Lessee, except for any failure to exercise due care for Lessee's property, and any entry to building obtained by Lessor by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the premises or an eviction of Lessee from the premises or any portion thereof.

40 DELAYING CAUSES

If either party is delayed in the performance of any covenant of this lease because of any of the following causes (referred to elsewhere in this lease as a "delaying cause"): action of the elements, war, riot, labor dispute, inability to procure or general shortage of labor or material in the normal channels of trade, delay in transportation, delay in inspections, governmental action or moratorium or any other cause beyond the reasonable control of the party so obligated, whether similar or dissimilar to the foregoing, financial inability exempted, then such performance shall be excused for the period of delay and the period for such performance shall be extended for a period equivalent to the period of such delay, except that the foregoing shall in no way affect Lessee's obligation to pay minimum annual rent payable under this lease or the length of the term.

41 SEVERABILITY

If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

42 NON-DISCRIMINATION

Lessee shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, religion, age, sex, sexual orientation, or disability. Lessee shall comply with the Civil Rights Act of 1964 (42 USC 2000d), Section 112 of Public Law 92-65, Age

Discrimination Act of 1975 (42 USC 6102) and Section 504 of the Rehabilitation Act of 1973 (26 USC 794).

43 SUBORDINATION

This Lease is subordinate to any mortgage that now exists, or may be given later by Lessor, with respect to the Premises.

44 GOVERNING LAW

This Lease shall be construed in accordance with the laws of the State of California.

Fernando Frederico, Lusamerica Foods Inc.
LESSEE

**MOSS LANDING HARBOR DISTRICT,
LESSOR**

By: Fernando Frederico

By: Tommy Razzeca
General Manager

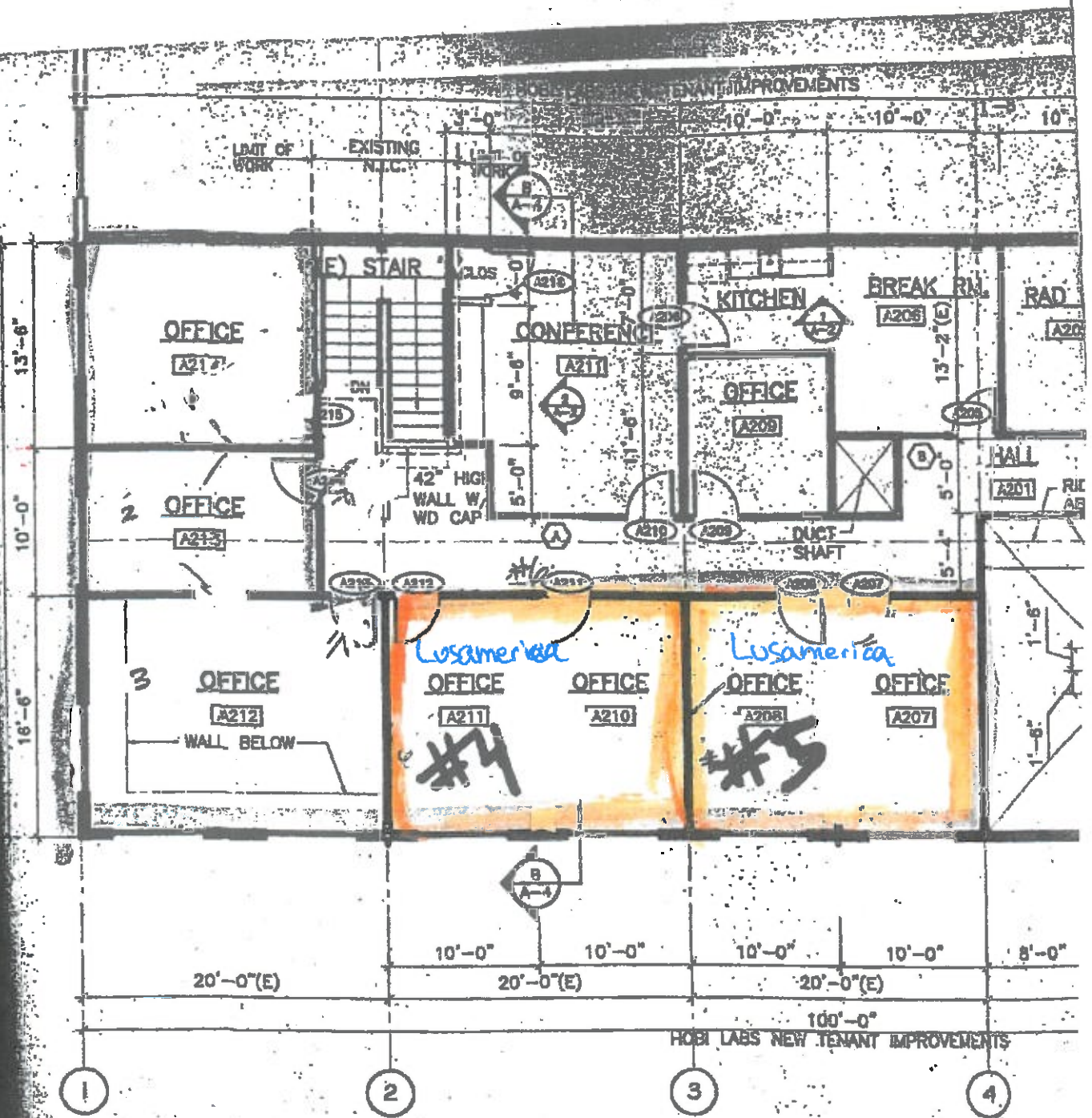
Dated:

Dated:

LUSAmerica Foods Inc. 2/1/2021

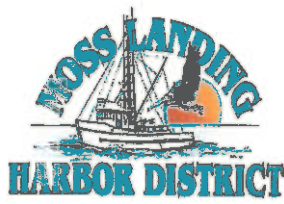
EXHIBIT

A



SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"



BOARD OF COMMISSIONERS
Russell Jeffries
Tony Leonardini
Vincent Ferrante
James Goulart
Liz Soto

7881 SANDHOLDT ROAD
MOSS LANDING, CA 95039

TELEPHONE – 831.633.2461
FACSIMILE – 831.633.1201

GENERAL MANAGER/HARBOR MASTER
Tom Razzeca

STAFF REPORT

ITEM NUMBER 21 – MBARI SPECIAL ACTIVITY USE PERMIT BOARD MEETING OF JANUARY 27, 2021

The Monterey Bay Aquarium Research Institute (MBARI) has been working on permitting for development projects on property they own in Moss Landing. During the process for a Coastal Development Permit (CDP) MBARI found that the California Coastal Commission (CCC) is likely to require that they complete a restoration project which includes the removal of nonnative ice plant from a small area of District owned property near Moss Landing State Beach.

At the regular meeting of the Board June 24, 2020 the Board approved a permit allowing MBARI to complete the ice plant removal, however the term of the permit will expire as of January 31 2021 and MBARI has yet to receive their CDP from the CCC and therefore has yet to complete the ice plant removal.

MBARI contacted the GM in early January 2021 requesting an extension to the permit term allowing them the time needed to complete the ice plant removal on District property but because the board originally approved the lease with a term to expire in January 31, 2021 the GM needs Board approval to extend the term of the permit.

Staff recommends that the Board approve an extension to the term of the MBARI Special Activity Use Permit through December 31, 2021 to allow them the time needed to complete the removal of nonnative ice plant from Harbor District property.

SERVING COMMERCIAL FISHING AND RECREATIONAL BOATING SINCE 1947



Moss Landing Harbor District

7881 Sandholdt Road
Moss Landing, CA 95039-0010
(831) 633-3417, Fax (831) 633-4937

SPECIAL ACTIVITIES USE PERMIT

**No application will be processed until payment of the Application Fee
If Permit qualifies for issuance, no Permit will be issued until payment of the Permit Fee
NOTE: All Special Activity Permits Must be Approved by the MLHD Board**

Section I - Applicant Information

Name	Monterey Bay Aquarium Research Institute
Mailing Address	7700 Sandholdt Road
City, State, Zip Code	Moss Landing, CA 95039
Telephone Number	(831) 775-1902 (Mike Kelly)

Section II - Permittee Information

Name of Individual or Organization	Monterey Bay Aquarium Research Institute
Mailing Address	7700 Sandholdt Road
City, State, Zip Code	Moss Landing, CA 95039
Telephone Number	(831) 775-1902 (Mike Kelly)
Fax Number	(831) 775-1620
E-Mail Address	mkelly@mbari.org

Section III - Activity Information

Date(s) of Activity	Within approximately 6 months.
Specific Description of Activity (Attach additional pages if necessary)	Ice plant removal from areas indicated in attached document.
Specific Location of Activity	Northwest end of Sandholdt Road, adjacent to MBARI property.
Number of Persons, Vessels, Vehicles	TBD

Starting and Ending Time	Day time hours
Location of Assembly Areas (if Any)	MBARI property at end of Sandholdt Road
Other Information	<p>If approved, MBARI will complete this action as part of a dune restoration plan, which is expected to be a condition of a permit which may be issued by the California Coastal Commission in the coming months.</p> <p>Regarding the ice plant removal, our contractor will be Rana Creek. If authorized by MLHD and the CCC, ice plant removal would be done by hand using appropriate tools (e.g., serrated harvesting knife to cut the strands as they are pulled, etc.) to extract the plants. Pulled plants are loaded onto a cart and then loaded into a dumpster to be stored on MBARI's property while other ice plant removal is occurring on MBARI's properties.</p>

Section IV - Fee

Special Activities Permit Application Fee (§ 20.100)	\$250.00
CEQA Review (§20.240)	Not required
Special Activity Permit Fee	\$250.00

I hereby certify that the information contained in this application is true and accurate to the best of my knowledge. I further certify that I will faithfully comply with all Conditions of Permit that are required by the District and that I will assure that the permitted Activity is carried out in full compliance with all statutes, regulations, rules and ordinances of the District, and any other entity that may have jurisdiction over the Activity or the site.

APPLICANT


 Digitally signed by
 Basilio Martinez
 Date: 2020.06.17
 08:31:17 -07'00'

*You may qualify for a fee discount. Please refer to the District Ordinance Code and/or contact the Harbor at 831.633.2481.

Permit

Date of Permit - *6/25/2020*





I, Tommy Razzeca, General Manager of the Moss Landing Harbor District, certify that I have reviewed the information contained in the above application and have found such activity to be Categorical Exempt from the provisions of CEQA under Article 19, Class 23 of the CEQA Guidelines.

The activity as described above in Section III is permitted. The following conditions are imposed as a condition of permit:

- Permittee is required to remove all garbage, trash, litter and debris associated with its use of facility.
- Permittee shall remove from within the District boundaries any instruments, pipes, flags, and any other materials that may have been placed purposefully or accidentally pursuant to this Permit upon the earlier of the expiration of the permit, request by MLHD, or completion of the project for which this Permit was issued. The placement of any instrument, pipe, flag or other item by Permittee within the District's boundaries is conditioned, among other things, upon Permittee placing on the item using weather-proof, fade-proof and indelible writing material the contact information for Permittee, the date of placement of the item, and the expiration date of the permit under which the item was placed within the District's boundaries, all in legible lettering. Permittee is to monitor such item(s) to ensure that the identifying information is legible at all times. Any items not so identified will be subject to immediate removal by MLHD.
- Permittee shall provide District with emergency contact instructions associated with permitted use. Permittee shall provide a list of persons and organizations to contact in an emergency, along with the method of contact.
- **Permittee shall provide District with a Certificate of insurance providing evidence of comprehensive liability and property damage coverage in the amount of one million dollars (\$1,000,000) for each accident/incident and one million dollars (\$1,000,000) in the aggregate. The Certificate shall name the Moss Landing Harbor District, its elected officials, officers, agents and employees as additional insured. The underlying policy shall remain in full force during the entire term of the use of District facilities. The District shall be notified at least 10 days prior to the policy being cancelled.**
- Permittee to embark/disembark all passengers from a location determined by Harbormaster. Permittee shall obey all instructions of District or law enforcement personnel. Permittee is not allowed to land anywhere other than at authorized location.
- Permittee shall comply with all applicable rules and regulations and obtain all licenses and permits required by its activity including, but not limited to, the California Department of Fish and Game and with the Moss Landing Harbor District Ordinances as the same may change from time to time.
- Neither permittee nor permittees' activities shall interfere with navigation of vessels in any waters under the Districts' jurisdiction.
- Neither permittee nor permittees' activities shall interfere with the Districts' dredging, pile driving or other construction activities.
- **ALL VEHICLES MUST PURCHASE AND DISPLAY PARKING PERMITS.**



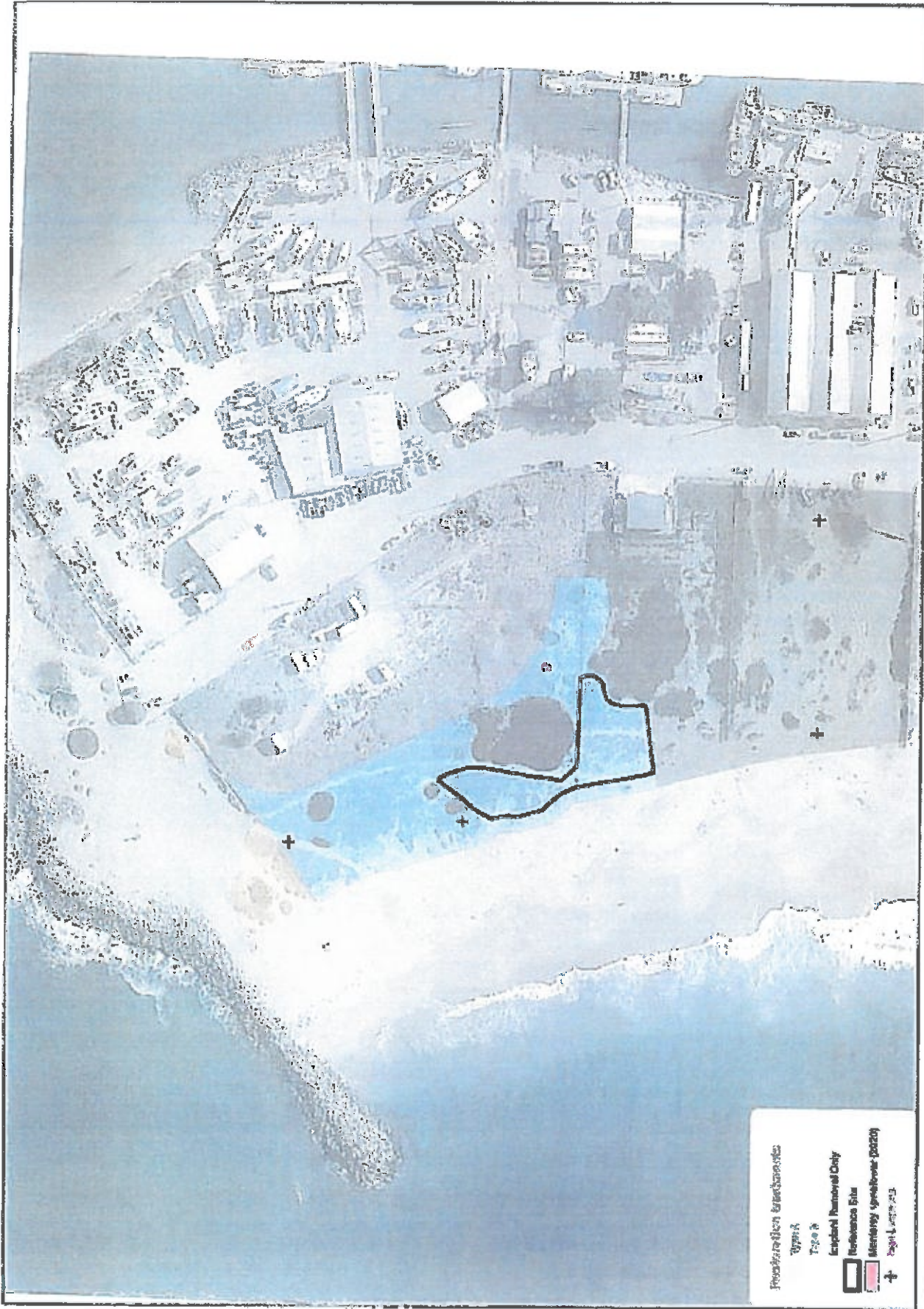
MOSS LANDING HARBOR DISTRICT

6/25/2020



**Tommy Razzeca
General Manager**





MBARI - GARNER & DAVI DUNE RESTORATION AREAS
(APPROXIMATE, FOR ILLUSTRATION ONLY)

Proposed/Existing Structures
 Type A
 Type B
 Exposed Natural Dune
 Restoration Plan
 Identifying Symbol/Marker (Dotted)
 Spot Location

