

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

DATE: November 19, 2020

TIME: Closed Session – 5:00 P.M.
Special Session – 6:00 P.M.

PLACE: Join Zoom Meeting
<https://us02web.zoom.us/j/3432860852>

Meeting ID: 343 286 0852
One tap mobile
(669) 900-9128, 343 286 0852# US

1. Call to Order Closed Session at 5:00 P.M.

2. Public Comment

Note: This portion of the Agenda allows the public to speak to the Board on the closed session items. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Closed Session Agenda. The three (3) minute time limit may not be transferred to other speakers. The three (3) minute time limit for each speaker may be extended by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners.

3. Move to Closed Session

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential lease of real property on the Samoa Peninsula, Humboldt County, with Assessor's Parcel Numbers, 401-112-021 and 401-111-006 California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Chris Brungardt, RTI Infrastructure, INC. Under negotiation: price and payment terms.
- b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor's Parcel Number 401-111-006 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director. Negotiating party: Simpson Paper Company. Under negotiation: price and payment terms.
- c) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor's Parcel Number 401-112-021 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8.

Agenda for November 19, 2020 Special Board Meeting

District negotiators: Larry Oetker, Executive Director. Negotiating party: Green Cloud Inc. Under negotiation: price and payment terms.

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

5. Pledge of Allegiance

6. Report on Closed Session

7. Public Comment

*Note: This portion of the Agenda allows the public to speak to the Board on the **various issues NOT itemized on this Agenda.** Pursuant to the Brown Act, the Board may not take action on any item that does not appear on the Agenda. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Agenda. Each speaker is limited to speak for a period of three (3) minutes during the PUBLIC COMMENT portion of the Agenda regarding items of special interest to the public NOT appearing on the Agenda that are within the subject matter jurisdiction of the Board of Commissioners. The three (3) minute time limit may not be transferred to other speakers.*

8. Business

a) Consider Approving a Lease Agreement with RTI Infrastructure Inc for a Portion of APN 401-112-021-000 and 401-111-006

Recommendation: Staff recommends that the Board: Authorize the Executive Director to execute all documents associated with the lease agreement with RTI Infrastructure Inc.

Summary: The Harbor District has site control and the ability to lease portions of APN 401-112-021-000 and 401-111-006 to RTI Infrastructure INC for the purpose of establishing, installing, constructing, laying, operating, maintaining, replacing, repairing, removing, accessing, inspecting, and using up to four (4) underground trans-Pacific fiber optic cables.

b) Consider Adopting Resolution 2020-16 A Resolution to Authorize the Purchase of and Acceptance of the Grant Deed for the Purchase of APN 401-111-006 (Beach Property) on the Samoa Peninsula

Recommendation: Staff recommends that the Board: Adopt Resolution 2020-16.

Summary: The Harbor District owns the former pulp mill on the Samoa Peninsula which has an ocean outfall pipe which transverses under APN 401-111-006. Other critical infrastructure has been located on the Beach Property since the 1950s.

9. Future Agenda Items

10. Adjournment

COMMISSIONERS

1st Division

Larry Doss

2nd Division

Greg Dale

3rd Division

Stephen Kullmann

4th Division

Richard Marks

5th Division

Patrick Higgins

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



STAFF REPORT – HARBOR DISTRICT MEETING
November 19, 2020

TO: Honorable Board President and Harbor District Board Members

FROM: Larry Oetker, Executive Director

DATE: November 16, 2020

TITLE: **Consider approving a lease agreement with RTI Infrastructure, Inc. for a portion of APN 401-112-021-000 and 401-111-006**

STAFF RECOMMENDATION: Staff recommends that the Board: Authorize the Executive Director to execute all documents associated with the lease agreement with RTI Infrastructure, Inc.

BACKGROUND: The Harbor District has site control and the ability to lease portions of APN 401-112-021-000 and 401-111-006 to RTI Infrastructure, Inc. for the purpose of establishing, installing, constructing, laying, operating, maintaining, replacing, repairing, removing, accessing, inspecting, and using up to four (4) underground trans-Pacific fiber optic cables.

DISCUSSION: RTI Infrastructure, Inc. is responsible for obtaining all required permits prior to initiating the use. The initial term of the lease will run through March 8, 2046 and the rent will be a one-time payment as follows:

- \$200,000 initial payment which will be deposited into escrow to purchase Beach property from Simpson Paper Company (APN 401-111-006).
- \$425,000 within 45 days of RTI Infrastructure, Inc. receiving discretionary permits for the underground trans-Pacific fiber optic cables.
- \$625,000 within 45 days of the 1st cable landing.
- \$333,000 within 45 days of each additional cable landing

The lease includes two 15-year lease renewal terms with an option fee of a total of \$333,000 for each lease renewal. The lease payments will enable the Harbor District to pay off existing debt, complete some long overdue capital projects, and to fully fund our reserve accounts during the COVID related economic downturn in the economy.

This lease agreement will be of great economic benefit for our region and State as it will allow potential access to modern fast reliable intercontinental communication. We often take for

granted our ability to send emails and videos and for our business and universities to send data intensive information across town or throughout the United States, Asia, Europe, and almost anywhere in the world. However, this is only possible by a complex array of fiber optic infrastructure which the RTI trans-Pacific cable will provide. There will be negative impacts from the project, most importantly to the area fishermen. These impacts will be analyzed as part of the State Lands Commission CEQA Environmental review. The lease area is entirely on land and, therefore the lease area will not impact fishermen.

ATTACHMENTS:

- A. Summary of Material Terms

HUMBOLDT BAY HARBOR, RECREATION,
AND CONSERVATION DISTRICT
Summary of Material Terms

November 16, 2020

PROJECT NAME: RTI Infrastructure, Inc.

PROJECT LOCATION: Redwood Marine Terminal II

LESSEE: RTI Infrastructure, Inc.

LESSOR: Humboldt Bay Harbor, Recreation and Conservation District

PURPOSE: The purpose of this document is to describe the material terms that will be contained in the written Lease Agreement, which will be publicly available when executed by Lessee.

KEY CONDITIONS: The LESSOR and LESEE agree to the following general lease terms:

1. Leased Premises – certain portion of parcels 401-112-021 and 401-111-006, more specifically identified on the attached Exhibit ‘A’
2. Permitted Use – Lessee, after obtaining all related permits, shall install, operate and maintain up to four underground trans-pacific fiber optic cables.
3. Term – The initial term shall run through March 8, 2046 with two (2) successive options to renew for period of Fifteen (15) years each
4. Base Rent for the initial term shall be paid as follows:
 - \$200,000 initial payment which will be deposited into escrow to purchase Beach property from Simpson Paper Company (APN 401-111-006).
 - \$425,000 within 45 days of RTI Infrastructure INC receiving discretionary permits for the underground trans-Pacific fiber optic cables.
 - \$625,000 within 45 days of the 1st cable landing.
 - \$333,000 within 45 days of each additional cable landing
5. Renewal Rent – Rent each renewal period shall be an additional \$333,000.00
6. Commencement Date - Upon the close of escrow of the District’s purchase of the property from Simpson Paper Company (APN 401-111-006). Close of escrow to occur no later than February 28, 2021.

7. All utilities consumed upon the premises shall be paid by Lessee and where feasible, separately metered, otherwise a pro-rata share based upon square footage or use will be allocated monthly.
8. Documentation: Revised lease to be drafted by LESSOR for LESSEE's review and execution.

The LESSOR will:

1. Deliver the Premises as-is
2. Assist Tenant with the Tenant Operations Plan, however, shall have no responsibility for obtaining any permits necessary for Tenant to operate within the premises.

The LESSEE will:

1. Obtain and pay for any and all costs related to all necessary permits.
2. Construct and pay for all Tenant Improvements and shall restore any and all utilities, structures, or otherwise, which may be modified or removed during construction of said Tenant Improvements.
3. Provide adequate insurance and indemnity.

COMMISSIONERS

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STAFF REPORT – HARBOR DISTRICT MEETING
November 19, 2020

TO: Honorable Board President and Harbor District Board Members

FROM: Larry Oetker, Executive Director

DATE: November 16, 2020

TITLE: Consider Adopting Resolution 2020-16 a Resolution to authorize the purchase of and acceptance of the grant deed for the purchase of APN 401-111-006 (Beach Property) on the Samoa Peninsula.

STAFF RECOMMENDATION: Staff recommends that the Board: Adopt Resolution 2020-16.

BACKGROUND: The Harbor District owns the former pulp mill on the Samoa Peninsula which has an ocean outfall pipe which transverses under APN 401-111-006. Other critical infrastructure has been located on the Beach Property since the 1950s.

DISCUSSION: APN 401-111-006 is a narrow strip of land west of New Navy Base Road and east of the Pacific Ocean. With the acquisition of the Beach Property, the Harbor District will have continuous ownership from Humboldt Bay to the Pacific Ocean and then extending 1.5 miles west into the Pacific Ocean. The Beach Property also provides additional opportunities from future public access, dune restoration, and infrastructure.

ATTACHMENTS:

- A. Draft Resolution 2020-16
- B. Location Map

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

RESOLUTION NO. 2020-16

**A RESOLUTION TO AUTHORIZE THE PURCHASE OF AND ACCEPTANCE OF
THE GRANT DEED FOR THE PURCHASE OF APN 401-111-006
(BEACH PROPOERTY) ON THE SAMOA PENINSULA**

WHEREAS, the District may not have deeds or grants conveying an interest in or easement upon real estate accepted for recordation without its consent evidenced by its certificate or resolution of acceptance in accordance with Section 27281 of the Government Code; and

WHEREAS, the public acquisition and management of the Beach Property would provide the District continuous ownership from Humboldt Bay to the Pacific Ocean at the District's Redwood Marine Terminal II property; and

WHEREAS, the Harbor District has easements under the Beach Property which connects to other State Lands Commission leases which go 1.5 miles west into the Pacific Ocean for the District's existing ocean outfall discharge pipe; and

WHEREAS, the Beach Property currently contains existing critical infrastructure to the Humboldt Region including, but not limited, to the District's ocean outfall pipe, as well as, the Humboldt Bay Municipal Water District infrastructure; and

WHEREAS, future additional critical infrastructure, pubic access, public recreational opportunities; dune restoration; and sea level rise adaptation opportunities may be made possible, by the District's ownership of this important property; and

WHEREAS, the Beach Property has open space deed restrictions on the property.

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

SECTION 1. The acquisition of the property qualifies for a Categorical Exemption under CEQA per Cal. Code Regs., tit. 14, § 15301, and 15313.

SECTION 2. The legal description for APN's 401-111-006, on the Samoa Peninsula, Humboldt County, California which is attached as Exhibit A is acceptable for recordation on the Certificate of Acceptance.

SECTION 3. The Executive Director is hereby authorized to execute the Certificate of Acceptance; and all other documents associated with this acquisition and expend up to \$206,500 for the acquisition of the real property.

PASSED, APPROVED AND ADOPTED by the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District at a duly called meeting held on the 19th day of November, 2020 by the following polled vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

**Stephen Kullmann, President
Board of Commissioners**

**Patrick Higgins, Secretary
Board of Commissioners**

CERTIFICATE OF SECRETARY

The undersigned, duly qualified and acting Secretary of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, does hereby certify that the attached Resolution is a true and correct copy of RESOLUTION NO. 2020-16 entitled,

**A RESOLUTION TO AUTHORIZE THE PURCHASE OF AND ACCEPTANCE OF
THE GRANT DEED FOR THE PURCHASE OF APN 401-111-006
(BEACH PROPOERTY) ON THE SAMOA PENINSULA**

as regularly adopted at a legally convened meeting of the Board of Commissioners of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, duly held on the 19th day of November 2020; and further, that such Resolution has been fully recorded in the Journal of Proceedings in my office and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of November 2020.

Patrick Higgins, Secretary
Board of Commissioners

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 401-111-006-000

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF HUMBOLDT, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE

THAT PORTION OF SECTION 20 TOWNSHIP 5 NORTH RANGE 1 WEST HUMBOLDT MERIDIAN MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED IN A DEED TO ISIDORE B. MCCORMACK, RECORDED JANUARY 28 1902, IN BOOK 78 OF DEEDS, PAGE 234 HUMBOLDT COUNTY RECORDS, AT THE INTERSECTION WITH THE WEST LINE OF THAT PARCEL OF LAND CONVEYED TO THE COUNTY OF HUMBOLDT BY DEED RECORDED OCTOBER 13, 1972 IN BOOK 1160 OF OFFICIAL RECORDS PAGE 623, HUMBOLDT COUNTY RECORDS;

THENCE NORTHERLY ALONG THE WEST LINE OF SAID PARCEL CONVEYED TO THE COUNTY OF HUMBOLDT, TO THE NORTH LINE OF SAID SECTION 20;

THENCE WESTERLY ALONG SAID NORTH LINE TO THE PACIFIC OCEAN,

THENCE SOUTHERLY ALONG THE PACIFIC OCEAN, TO THE NORTH LINE OF SAID PARCEL CONVEYED TO ISIDORE B. MCCORMACK;

THENCE EASTERLY ALONG SAID NORTH LINE TO THE POINT OF COMMENCEMENT.

BEING THE SAME LANDS DESCRIBED IN LOT LINE ADJUSTMENT AND CERTIFICATE OF SUBDIVISION COMPLIANCE RECORDED APRIL 26, 1999 AS INSTRUMENT NO. 1999-12521-3, HUMBOLDT COUNTY OFFICIAL RECORDS.

PARCEL TWO

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND ALL RIGHTS INCIDENTAL THERETO, 50 FEET IN WIDTH, LYING WESTERLY OF AND ADJACENT TO THE WEST LINE OF NEW NAVY BASE ROAD, BEING THAT PARCEL OF LAND CONVEYED TO THE COUNTY OF HUMBOLDT BY DEED RECORDED OCTOBER 13, 1972 IN BOOK 1160 OFFICIAL RECORDS, PAGE 623, HUMBOLDT COUNTY RECORDS, THE EAST LINE OF SAID EASEMENT BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE PUBLIC ACCESS POINT ON THE WEST LINE OF SAID NEW NAVY BASE ROAD, WHICH IS OPPOSITE THE ENTRANCE TO LP DRIVE AT STATION 431+00 OF NEW NAVY BASE ROAD, IN LOT 5 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 1 WEST, HUMBOLDT MERIDIAN;

THENCE RUNNING SOUTHERLY, ALONG SAID WEST LINE, TO THE SOUTH LINE OF SECTION 17, TOWNSHIP 5 NORTH, RANGE 1 WEST, HUMBOLDT MERIDIAN.

BEING THE SAME AS RESERVED IN THE DEED TO SAMOA PACIFIC GROUP, LLC RECORDED SEPTEMBER 25, 2001 AS INSTRUMENT NO. 2001-24109-10, HUMBOLDT COUNTY OFFICIAL RECORDS.

EXHIBIT A
Approximate Location of the Property



Approximate location of Property shown with blue colored border.