

**PORT OF BROOKINGS HARBOR**  
**Board of Commissioners**  
**Special Meeting Agenda**  
Port Office  
16340 Lower Harbor Rd, Suite 103  
Brookings OR 97415

**Thursday, October 26, 2017 • 6:00 pm**

**Agenda**

- |   |               |
|---|---------------|
| 1. Call to Order and Roll Call                      |               |
| 2. Pledge of Allegiance                             |               |
| 3. Approval of Agenda                               |               |
| 4. Approval of Minutes                              | <b>Page #</b> |
| a. Special Meeting – Wednesday, September 27, 2017  | 1             |
| b. Special Meeting – Friday, September 29, 2017     | 3             |
| 5. Agenda Related Public Comments *                 |               |
| 6. Old Business                                     |               |
| a. None   |               |
| 7. New Business                                     |               |
| a. Natural Hazards Mitigation Plan Kick-Off Meeting | 6             |
| b. Port Public Hoist                                | 41            |
| 8. Non-Agenda Related Public Comments *             |               |
| 9. Adjournment                                      |               |

\* Limited to a maximum of three minutes per person. A “Public Comment Request”, located near the entrance, must be completed and turned into the Chairman prior to the beginning of the meeting.

*FULL MEETING PACKET AVAILABLE AT [www.portofbrookingsharbor.com](http://www.portofbrookingsharbor.com)*

Port of Brookings Harbor Board of Commissioners  
Special Meeting Minutes  
Wednesday, September 27, 2017, 5:30 p.m.  
Port of Brookings Harbor Office: 16340 Lower Harbor Rd, Brookings OR, 97415

**1. Call to Order and Roll Call:**

President Angi Christian called the meeting to order at 5:30 pm.

Commissioners Present: Position 1 Secretary Andy Martin, Position 2 Treasure Roger Thompson, Position 3 Commissioner Roy Davis, Position 4 Vice President Jan Barbas, Position 5 President Angi Christian.

Staff Present: Port Manager Gary Dehlinger.

**2. Pledge of Allegiance:**

The board and public performed the pledge of allegiance.

**3. Approval of Agenda:**

*Treas. Thompson made the motion to approve the agenda as written.  
Seconded by Sec. Martin. Voting Yes: Unanimous.*

**4. Agenda Related Public Comments:**

No agenda related public comments.

**5. Old Business:**

**a. BC Fisheries Bare Ground Lease Amendment:**

*Vice Pres. Barbas made the motion to accept the BC Fisheries Bare Ground Lease Amendment and signature authority to Pres. Christian and another Commissioners. Seconded by Treas. Thompson. Voting Yes: Unanimous*

**6. New Business:**

**a. None**

**7. Executive Session – pursuant to ORS 192.660(2)(f)(h):**

**a. Small Claims Notice received from Gary Klein and Leroy Blodgett:**

Board went into executive session at 5:32 pm, and came out of executive session at 5:44 pm.

*Vice Pres. Barbas made the motion to direct Mr. Dehlinger to file a motion on matter of the shillelagh boat requesting a jury trial and denying the claim. Seconded by Treas. Thompson. Voting Yes: Unanimous*

8. **Non-Agenda Related Public Comments:**

No non-agenda related public comments.

9. **Adjournment:**

The meeting was unanimously adjourned at 5:46 p.m.

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Port Commissioner

**1. Call to Order and Roll Call:**

President Angi Christian called the meeting to order at 5:00 pm.

Commissioners Present: Position 2 Treasure Roger Thompson, Position 3 Commissioner Roy Davis, Position 4 Vice President Jan Barbas, Position 5 President Angi Christian. Position 1 Secretary Andy Martin was absent.

Staff Present: Port Manager Gary Dehlinger and Administrative Assistant Danielle Shepard.

**2. Pledge of Allegiance:**

The board and public performed the pledge of allegiance.

**3. Approval of Agenda:**

*Treas. Thompson made the motion to approve the agenda as amended and under New Business and in Port Quarterly Newsletter. Seconded by Vice Pres. Barbas. Voting Yes: Unanimous.*

**4. Agenda Related Public Comments:**

No agenda related public comments.

**5. Old Business:**

**a. Bell and Whistle Proposal:**

Mr. Dehlinger reminded the board that at the last meeting they wanted to table this item to see if Mainbrace was going to move out, which they are going to do either the 15 or 16. Owner of Bell and Whistle Coffee Shop, Misty Crawford, handed out a document informing the board of what she is thinking about doing. Vice Pres. Barbas suggested to allow Mr. Dehlinger sometime to review this list and let the board know what's involved or set a threshold under which we can go forward, and over which he would need to get back to us. Treas. Thompson suggested to give her one month's free rent and she pays for all expenses requested. The board asked if she had a business plan, which Mrs. Crawford replied yes but doesn't want to provide that due to not wanting to share certain details and if she can't do it here she will be doing it elsewhere. Mr. Dehlinger suggested to fix the HVAC system, and be responsible for putting up walls between the two suits and anything that she wants done to the two suits would be on her, and suggested to give her one month free rent, which would be supporting the economic development at the port. Barbas suggested if this goes forward to make this lease match the same amount of time that her other lease is. Board requested to have a minimal business plan, and have Mrs. Crawford meeting with Mr. Dehlinger regarding her requests, and possibly talk about this at the next regular meeting in October. Mr. Dehlinger requested for approval for the Port office to relocate.

*Treas. Thompson made the motion to allow the Port Office to relocate to the Chamber Building. Seconded by Comm. Davis. Voting Yes: Unanimous*

**b. Chetco Seafood (Catalyst Proposal):**

Board received a new proposal from Catalyst seafood as requested in the Sept 19 meeting, and Mr. Dehlinger figured out that they are paying approximately \$.05 a square foot and has about 20,000 square feet of ground space. The board agreed to counteroffer this proposal. Pres. Christian suggested to ask \$2,500 for the building, go to a ground lease at \$.07 cents, and in 2 years have the land appraised and can buy it at the appraised value. Can allow an extension of 6 months to get his finances in order but if he doesn't buy the land then we have to start over with the lease. Vice Pres. Barbas reminded the board that the current contract required Chetco Seafood to maintain the building, and some of the money that they are putting into it should have been done all along. Also, doesn't believe that \$2,500 is enough for the building. Suggested a lease with some kind of sale term at the end, and instead of \$.07 cents suggested \$.10. Vice Pres. Barbas proposed to put a lease in place with an option to buy, lease rate is \$.10, and to buy the building at \$35,000, and reappraise the land and square foot going with whatever square footage is valued at that time. Extensive dialogue followed resulting in Vice Pres Barbas adjusting his proposal to \$.08 a month, at the end of lease have it reappraise and deducted half of what they put into it and that would be the sale price. Extensive dialogue followed resulting in the board agreeing to rewrite a new lease in their name, counteroffer with a 2 year lease with two 6 month extensions and the option to buy. If he is to buy than a reappraisal will happen to the land and build at that time, and subtract half of what documented expenses he has put into the building, and any expansion has to come to the board. The board advised Mr. Dehlinger to see how Catalyst responds to the counteroffer, and if they like it take it to Coffey for the fine details.

**c. Slugs N Stones N Ice Cream Cones Lease Renewal Request:**

Board requested to know their square footage rate, Mr. Dehlinger came up with 1,600 square feet and paying \$.038 a square foot, and their lease mimics Chetco seafood. Treas. Thompson wants them to keep the building, have a land lease, with the option of 3 years, and put a COLA clause on what she is paying now, plus give her a new lease in her name.

*Treas. Thompson made the motion to lease her ground only she keeps her building and with a COLA clause in it with a new standard lease in her name, at the existing rate, with a 3 years with a 1 year option.  
Motion dismissed.*

Vice Pres. Barbas asked at the end of that time the building would be ours or do we want to require them to move it. Comm. Davis proposed to offer them a new 3 year ground lease in her name a with 3 year option at the end and see what we wanted to do at the end of that. Owner of Slugs N Stones N Ice Cream Cones, Darla Winegarden, informed the Board that she had spoken with the previous owner. It was explained to the previous owner by Russ Crabtree that at this time the port was creating blanket leases for all building and it didn't pertain to her since her building was her building, and this pertains to port property, so she never had it amended. Extensive dialogue followed resulting in the board wanting more clarification from Mr. Coffey regarding his opinion on who owns the building. Extensive dialogue followed resulting in:

*Vice Pres. Barbas made the motion to direct Mr. Dehlinger to work with Port Council to develop a lease offer for Slugs N Stones N Ice Cream Cones, Darla Winegarden, at the current rate of \$.0379 per sq. ft. with a 3 year term, and at the end of 3 years the building becomes hers and the*

*port drops any ownership of the building. With the option to have a ground lease rate or the option of 3 years at the asphalt rate.  
Seconded by Treas. Thompson. Voting Yes: Unanimous*

**6. New Business:**

**a. Port Quarterly Newsletter:**

Dehlinger wanted to inform the board that Skylar Windham has created a Quarterly newsletter for the Port and would be sending them out in the statements. Vice Pres. Barbas had some typographical errors. The board agreed that they like the newsletter, and happy to see this happening.

**7. Non-Agenda Related Public Comments:**

No non-agenda related public comments.

**8. Adjournment:**

The meeting was unanimously adjourned at 6:49 p.m.

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Port Commissioner

## NEW BUSINESS AGENDA ITEM

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**DATE:** *October 26, 2017*  
**RE:** *Natural Hazards Mitigation Plan Kick-Off Meeting*  
**TO:** *Port of Brookings Harbor, Board of Commissioners*  
**ISSUED BY:** *Gary Dehlinger, Port Manager*

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### OVERVIEW

- Part of the Pile Replacement Project for Basin 1, FEMA Hazard Mitigation Grant Program requires a Natural Hazards Mitigation Plan.
- Reason for the meeting is to go through the elements of the plan and delegate the Plan's completion to Board members.
- The meeting focused on three main issues:
  1. Identification of natural hazard, the Port's vulnerability and risk assessment, with assignments to planning team members and the consulting team.
  2. Discussion of the District's outreach efforts and public meetings.
  3. Discussion of the project schedule.

### DOCUMENTS

- Natural Hazards Mitigation Plan (Working Document), 34 pages

### COMMISSIONERS ACTION

- Board review and appoint Plan Committee members.

# Natural Hazards Mitigation Plan

## STAND – ALONE PLAN FOR THE SPECIAL DISTRICT OF THE PORT OF BROOKINGS HARBOR



The Port of Brookings is a vibrant port with about 530 slips (298 recreational and 232 commercial), ice production facilities, transient and trailerable vessel pumpouts, fueling, safety (US Coast Guard Station), launch ramps, boatyard maintenance, repair, lift, with full nearshore business and facility services

Plan Effective Date: \_\_\_\_\_

Date of FEMA Approval

**Port of Brookings Harbor District**  
**16340 Lower Harbor Rd,**  
**Brookings, OR 97415**



## EXECUTIVE SUMMARY

The Port of Brookings Harbor Natural Hazards Mitigation Plan (NHMP) covers each of the natural hazards that pose significant threats to the District.

The mission statement of the Port of Brookings Harbor Hazards Mitigation Plan is to:

Proactively facilitate and support district-wide policies, practices, programs, and actions that make the Port of Brookings Harbor more disaster resistant and resilient.

Making the Port of Brookings Harbor more disaster resistant and resilient means taking proactive steps and actions to protect life safety, reduce damage, and shorten the recovery period from future disasters.

Completely eliminating the risk of future disasters in the Port of Brookings Harbor is neither technologically possible nor economically feasible. However, substantially reducing the negative consequences of future disasters is achievable with the implementation of pragmatic mitigation measures that reduce the likelihood of damages to the harbor system in future disaster events.

An important benefit of the District having a FEMA-approved Natural Hazards Mitigation Plan is that this makes the District eligible to apply for pre- or post-disaster FEMA hazard mitigation grants.

The 2018 Port of Brookings Harbor Natural Hazards Mitigation Plan is a living document which will be reviewed and updated periodically.

Briefly, the NHMP includes a description of the hazards, probability, vulnerability, mitigation goals, priority actions, and implementation of this NHMP.

Comments, suggestions, corrections, and additions are encouraged from all interested parties.

Please send comments and suggestions to:

Gary Dehlinger  
Port Manager  
16340 Lower Harbor Rd  
Brookings, Oregon 97415  
(541) 469-2218  
<https://www.portofbrookingsharbor.com>

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## 1.0 District Profile

The **Port of Brookings Harbor** is the port authority within Curry County, Oregon, United States, and serving the neighboring community of Harbor. The service district covers 400 square miles (1,000 km<sup>2</sup>) from the mouth of the Chetco River south to the Oregon-California border, north to the mouth of the Pistol River, and east to the Curry-Josephine county line. The Port is governed by a five-member commission elected at-large from the district population of approximately 16,000.

It is the busiest recreational port on the Oregon Coast, generating more than 31,000 boat trips for more than 95,000 people, and is one of the most active harbors for Chinook salmon on the coast. The Port District is defined, for the purposes of this Plan, as the operations and facilities on Port property. They are shown in the Figures 1.1 (Key), 1.2 (Section A), 1.3 (Section B) and 1.4 (Section C).



FIGURE 1.1

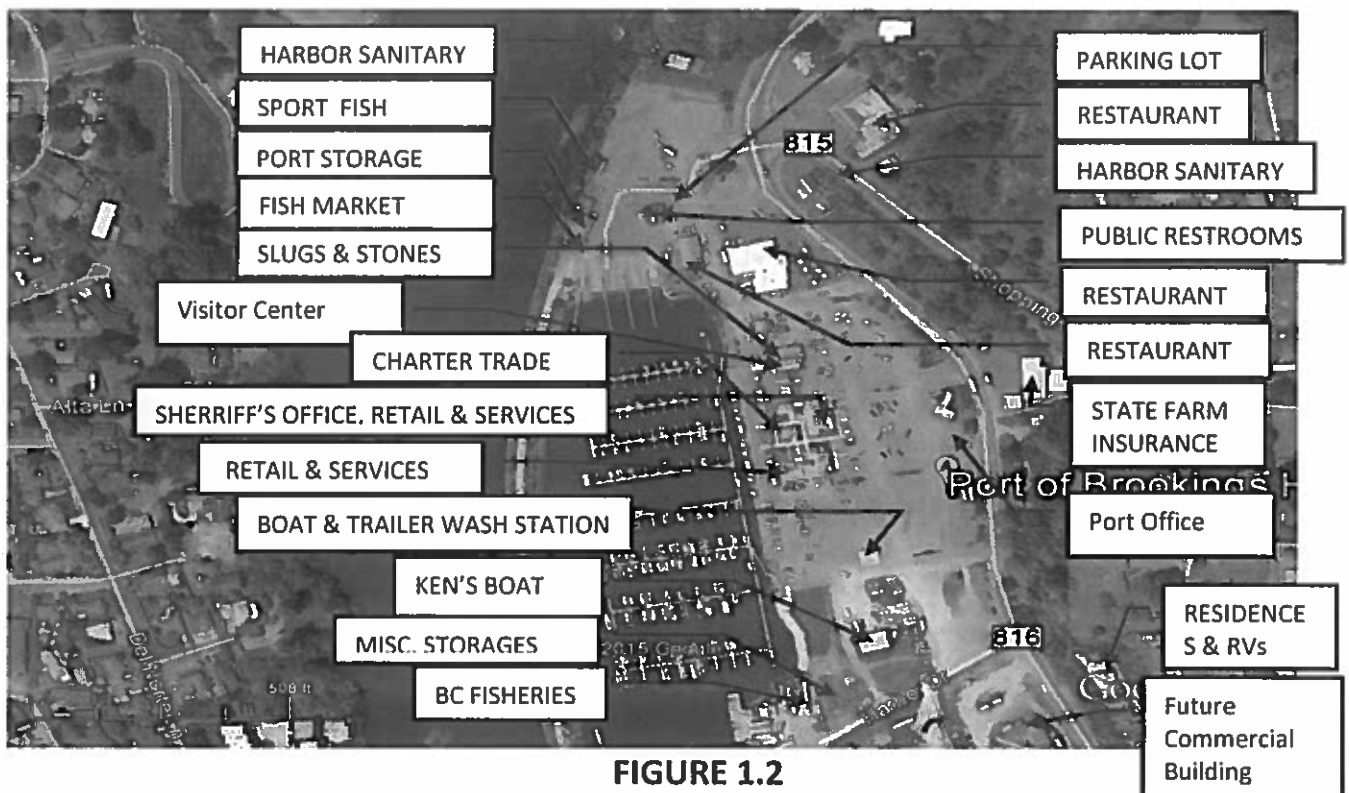


FIGURE 1.2

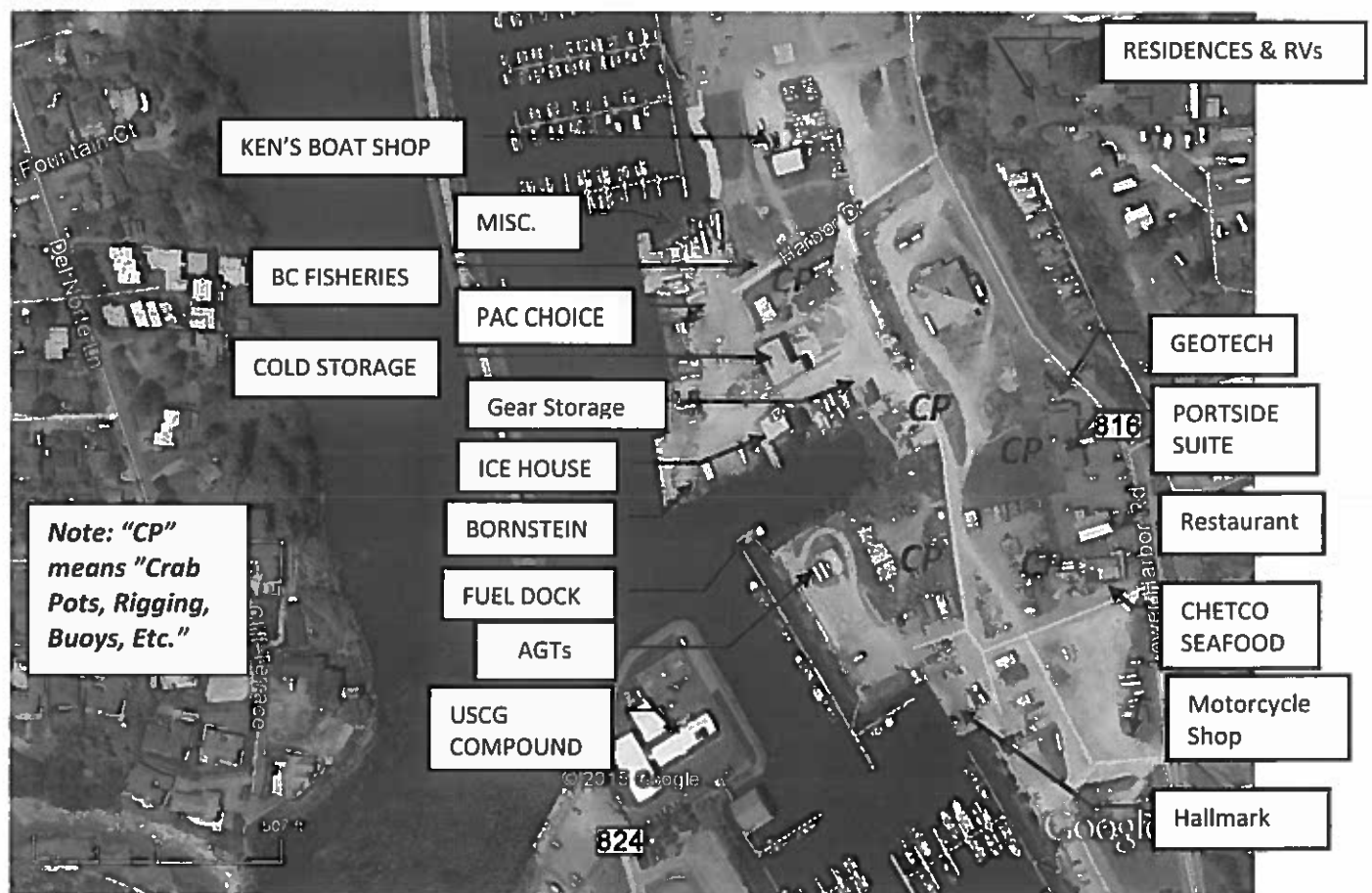


FIGURE 1.3

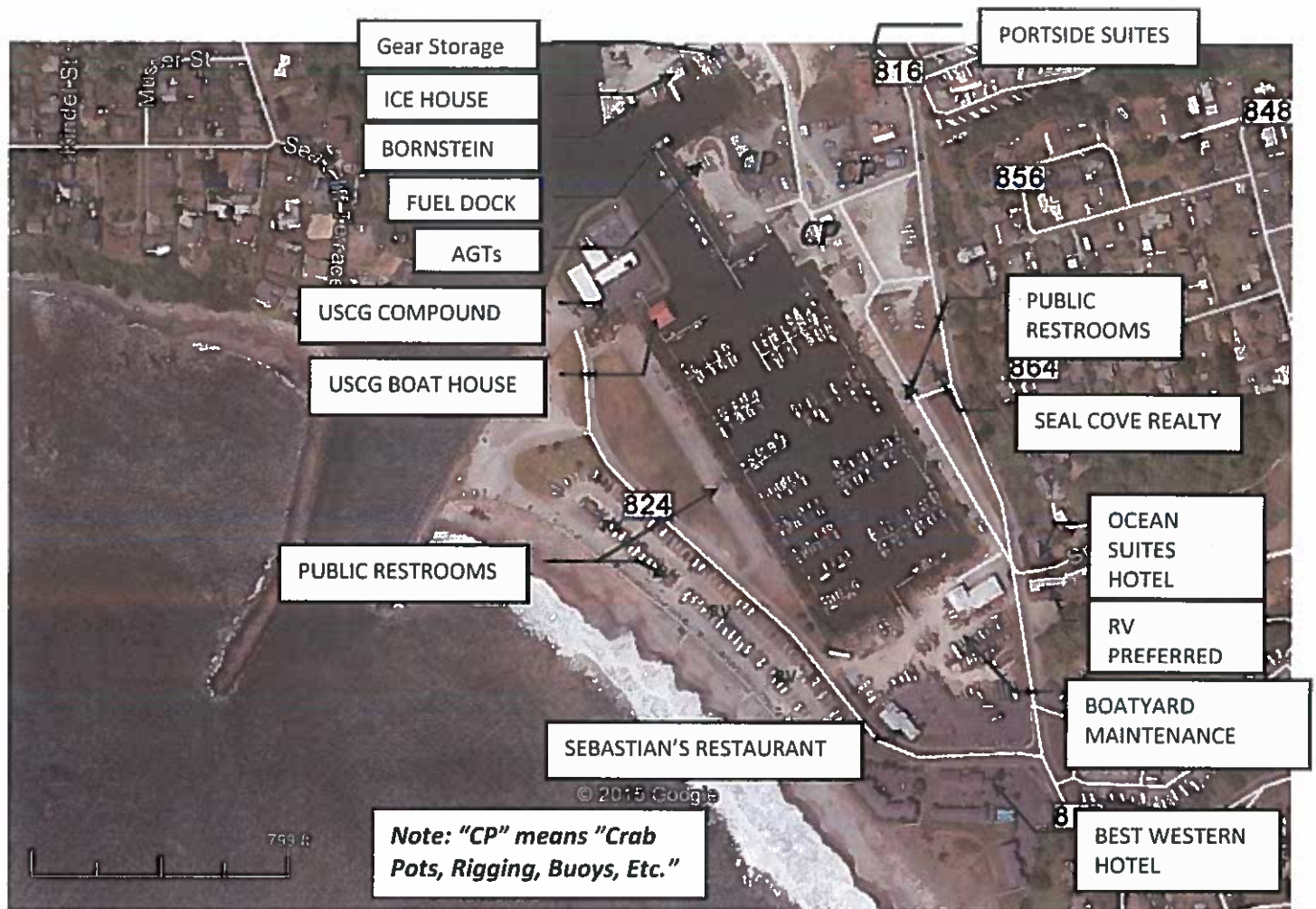


FIGURE 1.4

The Port of Brookings Harbor capital improvement planning includes

Examples of recent system improvements that have been completed include:

- Example 1
- Example 2
- Example 3
- Example.....



## **2.0 Mitigation Planning Process**

The Port of Brookings Harbor 's mitigation planning process began in September, 2017.

The Port of Brookings Harbor 's Natural Hazards Mitigation Plan has an in-depth focus on the District, its facilities and its people and includes more district-specific content, including district-specific hazard and risk assessments and mitigation priorities.

### **2.1 Mitigation Planning Team**

The mitigation planning team was led by: Gary Dehlinger, Port Manager. The planning team included the following members:

- Gary Dehlinger, Port Manager
- Port Board Member
- Port Board Member
- Jack Akin, Engineer of Record

The mitigation planning team's roles and responsibilities were defined as follows:

- Participate actively in planning team meetings.
- Provide local perspectives on natural hazards and the threats that they pose to the District's facilities and people.
- Help to identify existing plans, studies, reports and technical information for inclusion or reference in the mitigation plan.
- Forge consensus on mitigation action items and their priorities.
- Help to facilitate the public outreach actions during the mitigation planning process, and
- Review and provide comments on draft materials during development of the Port of Brookings Harbor Natural Hazards Mitigation Plan.

### **2.2 Mitigation Planning Team Meetings**

Mitigation planning team meetings are documented below with dates and summaries of each meeting. Meeting agendas are provided in Section 2.5.

### **1<sup>st</sup> Meeting: October 26 Mitigation Planning Kick-Off Meeting**

**Present:**

District Staff:

Consultant: Jack Akin, MS, PE

Others:

**Invited but not Present:**

Gary Dehlinger presented an overview of the mitigation planning process, FEMA's requirements and a preliminary assessment of the hazards posing threats to the District's facilities.

The meeting focused on three main issues:

- Identification of natural hazard, the Port's vulnerability and risk assessment, with assignments to planning team members and the consulting team.
- Discussion of the District's outreach efforts and public meetings.
- Discussion of the project schedule.

### **2.3 Public Involvement in the Mitigation Planning Process**

The District took robust efforts to involve the public and stakeholders throughout the mitigation planning process, including the following actions:

#### **Notices**

The District announced the initiation of the NHMP planning process via:

- Posting notices on the District's website ([www.portofbrookingsharbor.com](http://www.portofbrookingsharbor.com) on October 18, 2017), and posting notices in the District's bulletin board (October 18, 2017).
- Publishing the notices in the following local newspaper(s): *Curry Coastal Pilot*.

Copies of the above notices, list of stakeholders, and other required documents are included in the Supplemental Documentation section.

FEMA requires that the stakeholders invited to participate in the planning process (public meetings, review and comment on drafts) must include: 1) local and regional agencies involved in hazard mitigation activities (such as the county and city emergency managers), 2) agencies that have authority to regulate development (city and/or county) and 3) neighboring communities. Suggestions: e-mail notices of

meetings and website postings to a list of such people and include neighboring districts in this list. FEMA requires that stakeholders be given the opportunity to participate but this does not mean that they must participate. See Page 16 of the FEMA *Local Mitigation Plan Review Guide (2011)* for what information must be provided to the stakeholders. It is not required but strongly suggested that those invited to participate include representatives of the following sectors: (a) emergency management; (b) economic development; (c) land use and development; (d) housing; (e) health and social services; (f) infrastructure; and (g) natural and cultural resources.

### Public Meetings (FEMA minimum of 2 is fine)

Public meetings were announced via the modes listed above and held on the following dates (list in chronological order):

- Meeting 1 on October 26<sup>th</sup>, 2017 (during the planning process, e.g. after the risk assessment is completed)
- Meeting 2 on month, day, year (when the first full draft is complete and before it is presented to the Board for adoption)

Insert brief synopsis of each meeting as shown above for team meetings. Provide agendas and other supplemental documentation, lists of attendees etc. in the Supplemental Documentation section.

### Review and Comment on the Natural Hazards Mitigation Plan Drafts

Drafts of the Port of Brookings Harbor's Natural Hazards Mitigation Plan were posted on the District's website for review on the following dates: x, y, and z. The District's notices of the requests for comments were made via the methods identified in the "Notices" section above.

All inputs received during the review and comment periods included the following:  
Insert a list of any comments received during the review period. If no substantive comments were received, state that no comments were received.

- Comment 1
- Comment 2
- Comment 3
- .....



## 2.4 Review and Incorporation of Existing Plans, Studies, Reports and Technical Information

Insert a brief synopsis of the current capital improvement plan, the strategic plan, and other relevant planning documents that provide framework for the special district, and that address and relate to mitigation goals and actions for the special district.

Briefly note any other studies, reports or technical information related to the special district, if any, and how it was incorporated into this NHMP or why it was not. It is key that NHMPs are integrated into special district planning processes, policies, and strategies. Therefore, it is useful to identify that information here.

## 2.5 Supplemental Documentation: Planning Team and Public Meetings

Insert distribution lists for notices, agendas and similar documentation for planning team and public meetings here.

### 3.0 Hazard Identification, Vulnerability, and Risk Assessment

For the District, the Oregon Natural Hazards Mitigation Plan identifies the following hazards as risks: windstorms, earthquakes, tsunamis, floods, wildfires and tornados.

The Port of Brooking Harbor is subject to all the hazards in the above referenced NHMP. Details about the hazards are found in above referenced NHMP. However, the District identifies the hazards that pose the greatest risk to them as: windstorms, earthquakes, tsunamis, floods and wildfires.

The Port of Brookings Harbor Natural Hazards Mitigation Plan addresses the following natural hazards in the order they pose the greatest risk

Floods (include sea rise if appropriate)

- Severe Weather (rain, wind, heat, cold, snow, ice, drought, winter storms)
- Wildland-Urban Interface Fires
- Earthquakes
- Tsunamis
- Landslides

#### 3.1 Risk Assessment

The [2015 Oregon Natural Hazards Mitigation Plan](#) includes a Regional Risk Assessment that the special district can use as reference information.

It is not required, but it is strongly suggested the NHMP address "changing future conditions" in [FEMA's Local Mitigation Plan Review Guide \(2011\)](#) on page 30 of the pdf and page 26 of the document. For additional discussion of relevant future conditions, see also Section 3.3 Land Uses and Future Development Trends.

## TSUNAMIS

A large tsunami (and associated earthquake) would likely destroy many buildings in coastal communities that are located in the tsunami inundation zone. The damage would be from the combined effects of the forces from the tsunami surges, currents and debris, as well as the earthquake hazards. The State of Hawaii has adopted construction standards for buildings in tsunami zones. The National Tsunami Hazard Mitigation Program recently completed the document Designing for Tsunamis that outlines some of these issues.

### **Date/ Location/ Description; Remarks**

Jan. 1700/ offshore/ the Cascadia Subduction Zone Approximately 9.0; generated a tsunami that struck Oregon, Washington, and Japan; destroyed Native American villages along the coast

Mar. 2011/ offshore/ DR-1964 was Oregon's first tsunami Major Disaster Declaration (far-field event originating from a massive subsea earthquake near Japan). Effects from the trans-ocean tsunami in Oregon were largely confined to rapid changes in sea levels at port facilities in Curry and Lincoln Counties. Previously developed tsunami evacuation planning and inundation mapping were used as a life/safety measure (no lives were lost to the tsunami wave activity) based on the Pacific-wide tsunami warning. The tsunami wave impacts, although much less than those from a near-field Cascadia event, provided further impetus for the City of Newport to consider and seek mitigation funding for a tsunami "safe haven" project that will retrofit an existing land feature as a "high ground" evacuation site. The Port of Brookings Harbor implemented a post-disaster, multi-hazard mitigation project to protect their port facility from far-field tsunami waves and for storm surge waves that can occur during any winter season.

## EARTHQUAKES

The geographical position of Region 1 makes it susceptible to earthquakes from three sources: 1) the off-shore Cascadia Fault Zone, 2) deep intra-plate events within the subducting Juan de Fuca plate, and 3) shallow crustal events within the North America Plate. All have some tie to the subducting or diving of the dense, oceanic Juan de Fuca Plate under the lighter, continental North America Plate. Stresses occur because of this movement.

There is no historic record of major damaging crustal earthquakes centered in this region in the past 156 years, although Region 1 has experienced small crustal earthquakes and crustal earthquakes that originated outside the region. The geologic record shows that movement has occurred along numerous offshore faults as well as a few onshore faults in Coos and Tillamook Counties. The faulting has occurred over the last 20,000 years. Intraplate earthquakes are very rare in Oregon, although such earthquakes originating outside of the state have been felt in this region.

It is believed that the M7.3 near Brookings in 1873 was an intraplate quake. In Region 1, geologic earthquake hazards include severe ground shaking, liquefaction of finegrained soils, landslides and flooding from local and distant tsunamis. The severity of these effects depend on several factors, including the distance from the earthquake source, the ability of soil and rock to conduct seismic energy composition of materials, and the ground and ground water conditions.

### Historic Earthquake Events

Approximate years, cited from the Oregon State Hazards Mitigation Plan, of historic earthquakes are 1400 BC, 1050 BC, 600 BC, 400 AD, 750 AD, 900 AD. These are generally offshore, Cascadia Subduction Zone, estimated at M8-9.

### Date/ Location/ Description; Remarks

Jan. 1700/ offshore/ the Cascadia Subduction Zone Approximately M9.0 generated a tsunami that struck Oregon, Washington, and Japan; destroyed Native American villages along the coast

Nov. 1873/ Brookings area/ a M7.3 intraplate event, origin probably Gorda block of the Juan de Fuca plate; chimneys fell (Port Orford, Grants Pass, and Jacksonville), no aftershocks

Nov. 1962/ Portland, OR/ M5.2 to 5.5 crustal event; damage to many homes (chimneys, windows, etc.)

Mar. 1993/ Scotts Mills, OR/ M5.6 crustal event; FEMA-985-DR-OR, damage- \$28 million (homes, schools, businesses, state buildings in Salem)

Sep. 1993/ Klamath Falls, OR/ M5.9 to 6.0 crustal event, FEMA-1004-DR-OR, two earthquakes; fatalities: 2; damage \$7.5 million (homes, commercial, and government buildings)

## Discussion Regarding Risk and Mitigation-Tsunamis and Earthquakes

Risk and mitigation for tsunamis and for earthquakes are common in terms of potential damage and prevention actions, and so are combined in the narrative below.

FEMA's (2011) review of historical tsunamis affecting the Oregon coast for FEMA-1964-DR-OR documents 7 tsunami events from 1700 through 2011. This report suggests a mean interval time of about 50 years and recommends this as the "event frequency." The historical data in this report are very useful, although the surge height and damage data are incomplete. However, the frequency analysis has two significant flaws:

- 1) the 7 tsunami events include 6 distant earthquake events along with the 1700 Cascadia Subduction Zone event and
- 2) historical data for distant tsunamis are probably incomplete before the 1940s and certainly incomplete before 1873, the earliest distant earthquake tsunami event listed.<sup>2</sup>

These historical data are reinterpreted as follows. The six distant earthquake events fall into two groups

### *Major events with significant damages*

- 1873, surge height 10 feet
- 1964, surge height 4.6 to 12 feet at various locations
- 2011, surge height 6.6 feet at Brookings Harbor

### *Lessor events with minor damages*

- 1946, surge height 4 feet at one location only (Seaside)
- 1952, no surge height data
- 1960, no surge height data

The three major distant earthquake tsunami events were recorded over 138 years, which corresponds to a return period of 46 years. These events are included in the benefit-cost analysis presented later in this report

The three smaller events with very limited surge height data and minor damages are probably similar to the more frequent storm surge events. In the spirit of a conservative, lower-bound type benefit-cost analysis, these events are not considered in the benefit-cost analysis.

### *Cascadia Subduction Zone Tsunamis*

The 2011 report by Goldfinger et al. documents the paleoseismic history of the Cascadia Subduction Zone over the past 10,000 years using dates for turbidite deposits offshore. Time-correlated turbidite deposits at many locations along the length of the Cascadia Subduction Zone from Northern California to British Columbia yield the following numbers of major mega-thrust earthquakes:

- 19 M9.0 earthquakes (full length ruptures) and
- 21 Additional M8+ events (rupture of the southern 50% to 70% of the Subduction zone).

These paleoseismic results indicate return periods of about 500 years for the M9.0 events and about 250 years for M8 or greater events (including the M9 events).

Tsunami surge events from these major Cascadia Subduction Zone earthquakes would likely have surge heights of 30 to 50 feet (FEMA 2011) and result in complete or nearly complete destruction of harbor facilities all along the Oregon Coast, including Brookings Harbor.

There are no mitigation measures to protect harbor facilities from events of this extreme magnitude that are feasible from either an engineering or economic perspective.

Therefore, the proposed mitigation project is designed to minimize damage in smaller distant earthquake tsunami events and in the frequent storm surge events.

## WILDFIRES

Most counties within Region 1 have low to moderate risk from wildfire based primarily on cool, moist weather conditions. However, this region has had some of the largest wildfires that posed threats to communities when they occurred. The 1936 Bandon Fire is a prime example of a fire that, when combined with heavy fuels (gorse) and powerful dry east winds, an entire city was destroyed killing 13 people.

Gorse, brush and timber still make up much of the landscape in Region 1. Given the right conditions, this region's vulnerability to wildfire exists. However, due to infrequent fire activity, the level of vulnerability can be categorized as moderate. A large wildfire in this region would affect local economies that rely on tourism and recreation dollars.

The economic stability of the region is dependent on a major state highway (Hwy 101) that runs along the Oregon Coast. Should a major wildfire or other natural event (such as a tsunami) threaten or impact this major thoroughfare, coastal tourism and recreational economies would come to a halt.

Based on data from the 2013 West Wide Wildfire Risk Assessment, in Region 1, Douglas County has a high percentage of wildland acres subject to Fire Risk, Wildland Development Areas, and Fire Effects, making it especially vulnerable. Note: WWRA data does not differentiate between coastal and non-coastal Douglas County. Therefore, all of Douglas County is considered most vulnerable to wildfire.

In addition, each year a significant number of people build homes within or on the edge of the forest (urban-wildland interface), thereby increasing wildfire hazards.



## TORNADOS

### Date/ Location/ Description; Remarks

June 1897/ Bay City, Oregon/ observed; no damage recorded  
Oct. 1934/ Clatskanie, Oregon/ observed; no damage  
Apr. 1960/ Coquille, Oregon/ accompanied by heavy rain; no damage  
Nov. 1965/ Rainier, Oregon/ crossed Columbia River; two buildings damaged  
Oct. 1966/ Seaside, Oregon windows broken, telephone lines down, outdoor signs destroyed  
Oct, 1967/ Near Astoria, Oregon airport/ began over ocean and moved inland; several homes and commercial buildings damaged  
Dec, 1973/ Newport, Oregon/ some roof damage  
Dec. 1975/ Tillamook, Oregon/ 90 mph wind speed; damage to several buildings  
Aug. 1978/ Scappoose, Oregon/ manufactured home destroyed; other damage  
Mar. 1983/ Brookings, Oregon/ minor damage  
Nov. 1984/ Waldport, Oregon/ damage to automobiles and roofs  
Feb. 1994/ Near Warrenton, Oregon/ damage in local park  
Nov. 2002/ Curry County, Oregon/ \$500,000.00 in property damage  
Nov. 2009/ Lincoln County, Oregon/ \$35,000 in property damage, damage to homes and automobiles

**Sources:** National Weather Service, Portland-Taylor and Hatton (1999);  
National Climatic Data Center (2013) Storm Events Database  
<http://www.ncdc.noaa.gov/stormevents>;  
Hazards & Vulnerability Research Institute (2007);  
The Spatial Hazard Events and Losses Database for the United States, Version 5.1  
[Online Database], Columbia, SC;  
University of South Carolina-Available from <http://www.sheldus.org>;  
National Climatic Data Center (2013), US Tornado Climatology,  
<http://www.ncdc.noaa.gov/oa/climate/severeweather/tornadoes.html>

## **Probability and Vulnerability**

Different methods are used to assess risk at local and state levels. All methods employ history, probability, and vulnerability data to determine probability and vulnerability scores for each hazard. These scores identify high priority areas to which local and state governments can target mitigation actions. The challenge with these varied methodologies is that access to, interpretation of, and scale of the data is not necessarily the same at local and state levels. As a result, local and state probability and vulnerability scores for a specific hazard in a specific community are not always the same. In some instances, probability and vulnerability scores are even quite different. The state recognizes these inconsistencies and has prioritized the analysis of local and state probability and vulnerability scores during the next plan update. A description of how the High (H), Moderate (M), and Low (L) scores in the local probability and vulnerability tables in this section were determined is provided in the State Risk Assessment Section 2.2.2.2.

These documents could be evaluated and used as a starting point in developing standards. Although not under the jurisdiction of Building Code Standards, port and harbor facilities can benefit from lessons learned from DR-1964 and damages (distant generated tsunami impacts) at facilities in Brookings-Harbor, Depoe Bay, and Bandon. Such mitigation measure include strengthen pilings for floating docks, improved dock supports that facilitate unrestricted up-down movement during wave surges, and strengthened bulkhead walls that reduce scour from wave surges.

### 3.2 Land Uses and Future Development Trends

The land uses within the Port of Brookings Harbor's service areas varies from commercial, industrial and public use. The rate of new development has been low in recent years and has been mostly industrial.

The District necessarily extends its distribution system to areas of new development. For such extensions, the District conforms to current seismic design requirements for x. Therefore, the risk from seismic hazards is much lower than for older parts of the system designed to lower seismic standards or for system elements nearing the end of their useful lifetime. Similarly, for new construction, the District follows prevailing codes and standards.

Considerations: Does the NHMP need to state that the special district conforms to building (and other industry-specific?) codes for certain wind velocities, or snow loads, etc. to address all the hazards? That with increasing frequency and intensity of storms, building code/industry specifications may need to be changed? Leading to a mitigation action of working with whomever to make that happen? It could provide added information that demonstrates mitigation actions are in place or in process.

## 4.0 Mission Statement, Goals, Objectives and Action Items

### 4.1 Mission Statement

The mission statement of the Port of Brookings Harbor 's Natural Hazards Mitigation Plan is:

Proactively facilitate and support district-wide policies, practices, programs, and actions that make the Port of Brookings Harbor more disaster resistant and disaster resilient.

### 4.2 Mitigation Goals

The Port of Brookings Harbor 's mitigation goals are:

Goal 1: Reduce Threats to Life Safety,

Goal 2: Reduce Damage to District Facilities and the Environment, and

Goal 3: Reduce the Frequency and Duration of Outages.

### 4.3 Mitigation Action Items

This section should include a description of how the mitigation actions were developed and prioritized. The justification for them and the tie to the goals should also be included. The goal(s) each action implements could be a column in each table, as could the justification. See attached list approved by Board of Commissioners.

#### 4.3.1 Prioritization of Mitigation Actions

The Port of Brookings Harbor prioritization of mitigation actions included the following factors:

1. The mission statement of the Natural Hazards Mitigation Plan:  
Proactively facilitate and support district-wide policies, practices, programs, and actions that make the Port of Brookings Harbor more disaster resistant and resilient.
2. The Port of Brookings Harbor 's mitigation goals:  
Goal 1: Reduce Threats to Life Safety,  
Goal 2: Reduce Damage to District Facilities and the Environment, and  
Goal 3: Reduce the Frequency and Duration of Outages.
3. Benefit-cost analysis to ensure that mitigation projects are cost effective, with benefit exceeding the costs.

4. The STAPLEE process to ensure that mitigation action items under consideration for implementation meet the needs and objectives of the District, its communities, and citizens, by considering the social, technical, administrative, political, economic and environmental aspects of potential projects.
5. The District has the resources (capability) to implement the action within the duration of this plan.

Mitigation actions specific to the Port of Brookings Harbor are shown in the tables on the following pages.

The functions of special districts vary greatly. Each district needs to include action items that specifically address their functions and facilities.



**Table 1**  
**Port of Brookings Harbor's Mitigation Action Items**

Priority	Action Items	Timeline	Source of Funds	Lead Agency	Plan Goals Addressed		
					Life Safety	Damage Reduction	Reduce Outages
Multi-Hazard Mitigation Action Items							
	Integrate the findings and action items in the mitigation plan into ongoing programs and practices for the district.	Ongoing			X	X	X
	Review and enhance emergency planning and mutual aid agreements.	Ongoing			X	X	X
	Consider natural hazards whenever siting new facilities and locate new facilities outside of high hazard areas whenever possible.	Ongoing			X	X	X
	Ensure that new system infrastructure components re adequately designed to minimize risk from natural hazards.	Ongoing			X	X	X
	Increase the resiliency of the electric system by adding system redundancy through dual feeds, interconnections, looped circuits and adding disconnect switches, as funding becomes available.	Ongoing			X	X	X

Priority	Action Item	Timeline	Source of Funds	Lead Agency	Plan Goals Addressed		
					Life Safety	Damage Reduction	Reduce Outages
Wind/Snow/Ice Storm Mitigation Action Items							
	Review tree trimming maintenance schedules and enhance, if necessary, in locations where such may be warranted.	Ongoing	■	■	X	X	X
	Review design requirements for poles and overhead lines and replacement schedules and enhance, if necessary, in locations with a history of repetitive damage in wind/snow/ice storm events.	Ongoing	■	■	X	X	X
	Consider upgrades or undergrounding when replacing poles and lines damaged in wind/snow/ice storm events.	Ongoing	■	■	X	X	X



Priority	Action Item	Timeline	Source of Funds	Lead Agency	Plan Goals Addressed		
					Life Safety	Damage Reduction	Reduce Outages
Earthquake Mitigation Action Items							
	Evaluate the seismic vulnerabilities of transformers and other substation equipment and prioritize replacements with seismically designed equipment.	1-2 Years	■	■	X	X	X
	Evaluate the seismic vulnerabilities of District buildings that are important of operability and prioritize retrofits or replacements, if necessary, as funding becomes available.	1-3 Years	■	■	X	X	X
Other Natural Hazards							
	Inventory system infrastructure locations subject to flood damages, including scour/erosion.	1-3 Years	■	■	X	X	X
	Inventory system infrastructure locations subject to landslide damage.	1-3 years	■	■	X	X	X
	Inventory system infrastructure locations subject to wildland or wildland/urban interface fire damage.	1-3- years	■	■	X	X	X
	Evaluate and prioritize mitigation measures for the above hazards, if necessary, as funding becomes available.	Ongoing	■	■	X	X	X



## 5.0 Mitigation Plan : Adoption, Implementation and Maintenance

### 5.1 Overview

For a Natural Hazards Mitigation Plan to be effective, it has to be implemented gradually over time, as resources become available. An effective plan must also be continually evaluated and periodically updated. The mitigation action items included in the Port of Brookings Harbor's Natural Hazards Mitigation Plan will be accomplished effectively through a process which routinely considers and incorporates hazards and cost-effective mitigation into ongoing decision-making and capital improvement spending.

The following sections explain how the District has adopted and will implement and maintain the vitality of the District's Natural Hazards Mitigation Plan.

### 5.2 Plan Adoption

The District must submit its draft NHMP to FEMA for formal review prior to adoption. FEMA may require revisions or may signal FEMA's intent to approve the draft after the District adopts it by sending the District an "approved pending adoption" (APA) letter. Upon receipt of the APA letter, the District should schedule adoption by resolution at a public Board meeting. The draft NHMP must be adopted without substantive changes or the formal FEMA review process will begin again. After adoption, the District must submit the adopted version of the NHMP to FEMA with a copy of the resolution. FEMA will review the adopted plan, and if satisfied that it is substantively the same will issue a letter of final approval.

The District's NHMP becomes effective as of the date of FEMA's final approval letter. The letter also states the NHMP's expiration date. The NHMP must be updated by the expiration date. An update to an existing Natural Hazards Mitigation Plan generally requires much less effort than creating the initial Natural Hazards Mitigation Plan. See FEMA's, [Local Mitigation Plan Review \(2011\)](#).

This is the Port of Brookings Harbor's first Natural Hazards Mitigation Plan, which became effective on Month 18, 2018, the date of final approval by FEMA. After FEMA signaled by letter dated Month Day, Year its intent to approve the draft plan as submitted for formal review, the Board adopted the x Multi-Jurisdictional Natural Hazards Mitigation Plan and the Port of Brookings Harbor's to it, the Port of Brookings Harbor's Natural Hazards Mitigation Plan, without [substantive/any] revisions. The Board's adoption resolution is shown on the following pages OR in Figure x or Appendix Y.

*INSERT a scan of Board Adoption Resolution when signed, example below may be edited or replaced*

**Board of Directors Resolution Adopting the Port of Brookings Harbor's**

## Natural Hazards Mitigation Plan

### Resolution Number 2018-X

#### A Resolution Adopting the 2018 Port of Brookings Harbor 's Natural Hazards Mitigation Plan

The Port of Brookings Harbor resolves as follows:

Whereas, the Port of Brookings Harbor has determined that it is in the best interest of the District to establish, implement, and actively maintain a Natural Hazards Mitigation Plan to reduce the long-term risks from natural hazards to Port of Brookings Harbor , and

Whereas, the Port of Brookings Harbor recognizes that the Federal Emergency Management Agency (FEMA) requires the District to have an approved natural hazards mitigation plan as a condition of eligibility for receiving certain pre- and post-disaster FEMA mitigation grant funds.

Now, therefore, be it resolved by the Port of Brookings Harbor as follows:

The Port of Brookings Harbor adopts the Port of Brookings Harbor 's Natural Hazards Mitigation Plan.

Passed by the Port of Brookings Harbor Board on the 18th day of Month, 2018.

Insert signature(s) and title(s) below.

### 5.3 Implementation

Insert Name and/or Title (Title only is OK), will have the lead responsibility for implementing the Port of Brookings Harbor 's Natural Hazards Mitigation Plan, with ongoing support from the Facilities Committee (delete /replace with district-specific information).

#### 5.3.1 Existing Authorities, Policies, Programs, Resources and Capabilities

All special districts in Oregon have much narrower domains of authority than do cities and counties. The Port of Brookings Harbor 's responsibilities are limited to constructing and maintaining its facilities and providing 18 service to its customers. As a special district, the District does not participate in the National Flood Insurance Program (NFIP).

The District's policies and programs related to hazard mitigation planning are limited to the criteria guiding documents such as [Strategic Plan, Capital Facilities Plan etc.].

The NHMP will be integrated into the planning document(s) and the capital facilities plan. The relevant policies and implementation measures in those documents should be highlighted here as supporting the special district's capability to implement the NHMP.

The District's resources [these include but are not limited to staff, funds, equipment and time] for these programs include District staff responsible for these activities, supplemented by contractors and consultants when needed.

The Port of Brookings Harbor has the necessary human resources to ensure that the District's Natural Hazards Mitigation Plan will be an actively used planning document. District staff has been active in the preparation of the NHMP, and have gained an understating of the process and the desire to integrate the NHMP into ongoing capital budget planning. Through this linkage, the District's Natural Hazards Mitigation Plan will be kept active and be a working document.

Reference related mitigation action(s) implementing that desire. Include justification and explanation of the importance of integrating in the mitigation action table and/or on mitigation action worksheets.

District staff has broad experience with planning and facilitating community input. This broad experience is directly applicable to hazard mitigation planning and to implementation of mitigation projects. If specialized expertise is necessary for a particular project, the District will contract with a consulting firm or other entity on an as-needed basis.

To ensure efficient, effective and timely implementation of the identified mitigation action items, the Port of Brookings Harbor will use the full range of its capabilities and resources and those of the community. The District's goal is to implement as many of the elements of its mitigation strategy (action items) over the next five years as possible, commensurate with the extent of funding that becomes available.

#### **Regulatory Tools (Ordinances and Codes)**

List applicable ordinances and codes related to capital projects, mitigation and emergency planning. Add/delete and edit/rename items as appropriate for your special district.

- 
- 
- 
-



## Regional and State Resources

- 
- 
- 
- 

## Technical Tools (Plans and Others)

- District's Emergency Response Plan
- Mutual Aid Agreements
- Capital Improvement Plan
- 
- 

## Fiscal Tools (Bonds, Funds and Fees)

### Port of Brookings Harbor Capabilities

- Authority to Issue Bonds
- Funds
  - General Fund
  - Capital Project Funds
  - Connection Fees
- External Funds
  - Oregon Infrastructure Finance Authority Loans and Grants
  - FEMA Grants
  - HUD "CDBG" Grants
  -

### 5.3.2 Integration into Ongoing Programs

As noted above, the Port of Brookings Harbor's ongoing programs are more narrowly defined than those for cities and counties.

An important aspect of the Natural Hazard Mitigation Plan's integration into ongoing plans and programs will be the inclusion of the NHMP's hazard identification, vulnerability, and risk evaluations and mitigation action items into ongoing comprehensive planning, capital improvement planning, operations, and other district activities. These include things such as system maintenance, periodic replacements or upgrades of infrastructure or modernization of facilities and future siting and construction of new infrastructure.

### 5.3.3 Cost Effectiveness of Mitigation Projects

When the Port of Brookings Harbor considers whether or not to undertake specific mitigation projects or evaluate how to decide between competing mitigation projects, we must address questions that don't always have obvious answers, such as:

What is the nature of the impacts?

How frequent and how severe are the hazard impacts?

Who would benefit from the action and who would be disadvantaged if it were not undertaken?

Are our mitigation projects likely to be eligible for FEMA funding or will other funding sources be used?

Use the prioritization of mitigation projects in Section 4.3.3.

The Port of Brookings Harbor recognizes that benefit-cost analysis is a powerful tool that can help provide solid, defensible answers to these difficult socio-political-economic-engineering questions. Benefit-cost analysis is required for all FEMA-funded mitigation projects, under both pre-disaster and post-disaster mitigation programs.

However, regardless of whether or not FEMA funding is involved, benefit-cost analysis provides a sound basis for evaluating and prioritizing possible mitigation projects for any natural hazard. Thus, the district will use benefit-cost analysis and related economic tools, such as cost-effectiveness evaluation, to the extent practicable in prioritizing and implementing mitigation actions.

### 5.3.4 STAPLEE Process

The Port of Brookings Harbor will also use the STAPLEE methodology to evaluate projects based on the Social, Technical, Administrative, Political, Legal, Economic, and Environmental (STAPLEE) considerations and opportunities for implementing particular mitigation action items in the district. The STAPLEE approach is helpful for doing a quick analysis of the feasibility of proposed mitigation projects.

The following paragraphs outline the District's STAPLEE Approach.

#### **Social:**

- Is the proposed action socially acceptable to the community?
- Are there equity issues involved that would mean that one segment of the community is treated unfairly?
- Will the action cause social disruption?

**Technical:**

- Will the proposed action work?
- Will it create more problems than it solves?
- Does it solve a problem or only a symptom?
- Is it the most useful action in light of other goals?

**Administrative:**

- Is the action implementable?
- Is there someone to coordinate and lead the effort?
- Is there sufficient funding, staff, and technical support available?
- Are there ongoing administrative requirements that need to be met?

**Political:**

- Is the action politically acceptable?
- Is there public support both to implement and to maintain the project?

**Legal:** Include legal counsel, land use planners, and risk managers in this discussion.

- Who is authorized to implement the proposed action?
- Is there a clear legal basis or precedent for this activity?
- Will the district be liable for action or lack of action?
- Will the activity be challenged?

**Economic:**

- What are the costs and benefits of this action?
- Do the benefits exceed the costs?
- Are initial, maintenance, and administrative costs taken into account?
- Has funding been secured for the proposed action? If not, what are the potential funding sources (public, non-profit, and private)?
- How will this action affect the fiscal capability of the district?
- What burden will this action place on the tax base or economy?
- What are the budget and revenue effects of this activity?

**Environmental:**

- How will the action impact the environment?
- Will the action need environmental regulatory approvals?

- Will it meet local and state regulatory requirements?
- Are endangered or threatened species likely to be affected?

## 5.4 Plan Maintenance and Periodic Updating

### 5.4.1 Periodic Monitoring, Evaluating and Updating

Monitoring the Port of Brookings Harbor's Natural Hazards Mitigation Plan is an ongoing, long-term effort. An important aspect of monitoring is a continual process of ensuring that mitigation action items are being implemented and that the goals, objectives, and priorities established during the development of the District's Natural Hazards Mitigation Plan remain current. The District has developed a process for regularly reviewing and updating the Natural Hazards Mitigation Plan.

As noted previously, Insert Name and/or Title (Title only is OK), will have the lead responsibility for implementing the Port of Brookings Harbor's Natural Hazards Mitigation Plan and for periodic monitoring, evaluating and updating of the NHMP. There will be ample opportunities to incorporate mitigation planning into ongoing activities and to seek grant support for specific mitigation projects.

The Port of Brookings Harbor's Natural Hazards Mitigation Plan will be reviewed annually as well as after any significant disaster event affecting the District. These reviews will determine whether there have been any significant changes in the understanding of hazards, vulnerability and risk, community profile, or any significant changes in goals, objectives and action items. These reviews will provide opportunities to incorporate new information into the NHMP, remove outdated items, and document completed action items. This will also be the time to recognize the success of the District in implementing action items contained in the NHMP. Annual reviews will also focus on identifying potential funding sources for the implementation of mitigation action items.

The periodic monitoring, evaluation and updating will assess whether or not, and to what extent, the following questions are applicable:

1. Do the plans goals, objectives and action items still address current and future expected conditions?
2. Do the mitigation action items accurately reflect the District's current conditions and mitigation priorities?
3. Have the technical hazard, vulnerability and risk data been updated or changed?
4. Are current resources adequate for implementing the District's Natural Hazards Mitigation Plan? If not are there other resources that may be available?
5. Are there any problems or impediments to implementation? If so, what are the solutions?

6. Have other agencies, partners, and the public participated as anticipated? If no, what measures can be taken to facilitate participation?
7. Have there been changes in federal and/or state laws pertaining to hazard mitigation in the District?
8. Have the FEMA requirements for the maintenance and updating of Natural Hazard Mitigation Plans changed?
9. What can the District learn from declared federal and/or state hazard events in other special districts that share similar characteristics to the Port of Brookings Harbor, such as vulnerabilities to earthquakes and tsunamis?
10. How have previously implemented mitigation measures performed in recent hazard events? This may include assessment of mitigation action items similar to those contained in the District's Natural Hazards Mitigation Plan, but where hazard events occurred outside of the District.

The Facilities Committee (or other committee as appropriate) for the Port of Brookings Harbor will review the results of these mitigation plan assessments, identify to the Board of Port of Brookings Harbor the actions that may be necessary to bring the Natural Hazards Mitigation Plan back into conformance with the stated goals and objectives. As part of the Facilities Committee (or other committee as appropriate) process revisions of the NHMP will be taken to the Port of Brookings Harbor's Board for formal approval as part of the District's ongoing NHMP maintenance and implementation program.

Changes to the NHMP that are made during the maintenance process don't need to be reviewed by FEMA. However, if there are major changes, FEMA should be engaged as the status of the NHMP could be called into question.

The Facilities Committee (or other committee as appropriate) for the Port of Brookings Harbor will have lead responsibility for the formal updates of the Natural Hazards Mitigation Plan every five years. The formal update process will be initiated in collaboration with the other parties to the x Multi-Jurisdictional Natural Hazards Mitigation Plan at least two years before the expiration date of that Plan, to allow ample time for robust participation by stakeholders and the public and for updating data, maps, goals, objectives, action items, and capabilities.

#### 5.4.2 Continued Public Involvement and Participation

Implementation of the NHMP must continue to engage the entire community. Continued public involvement will be an integral part of the ongoing process of incorporating mitigation planning into capital planning and related activities within the communities served by the District, as well as of updating the NHMP. In addition, the District will expand communications and joint efforts between the District and emergency management, and planning activities in [insert name as relevant].



The Port of Brookings Harbor Natural Hazards Mitigation Plan will be available on the District's website. The Port of Brookings Harbor is committed to involving the public directly in the ongoing review and updating of the NHMP. This public involvement process will include public participation in the monitoring, evaluation and updating processes outlined in the previous section. Public involvement will intensify as the next 5-year update process unfolds. This process will provide the public with accessible and effective means to express their concerns, opinions, and ideas about any updates/changes that are proposed to the Natural Hazards Mitigation Plan.

## NEW BUSINESS AGENDA ITEM

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**DATE:** *October 26, 2017*  
**RE:** *Port Public Hoist*  
**TO:** *Port of Brookings Harbor, Board of Commissioners*  
**ISSUED BY:** *Gary Dehlinger, Port Manager*

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### OVERVIEW

- Bernie Lindley of the Brookings Fishermen's Marketing Association, F/V SeaJay, has contacted several commissioners and has requested this topic to heard before the Board.
- Bernie would like to see the north hoist on the Hallmark dock made available for public use like it had been in the past. This will be especially important during this upcoming crab season when live buyers that are willing to come to Brookings and pay more for live crab are looking for a way to hoist product. It will be important for the rate that is charged for the use of this hoist to be attractive to these buyers. When we had access to the public hoist on the steel wall, there were times when the rate was too high and the buyers that would have come to Brookings for crab went to other harbors instead.
- Bernie also relayed, a functional public hoist that is not cost prohibitive is very important to our crab fleet. Certainly, some years it is less important than other years. But, it is easy to expect that live buyers would be willing to pay 50 cents a pound more than the regular buyers in this harbor once the volume slows down in February through the end of the season in August. In fact, every year, once the volume slows down and the bigger boats switch back to trawl, Pacific Seafoods stops buying crab in Brookings and expects us to find alternate markets for our crab. In the past, the public hoist gave many of us the opportunity to bring alternate markets to town, adding thousands of dollars to our bottom line.
- Current Port conditions do not allow for a public hoist. With the failed section of commercial receiving dock, all but one hoist is being used under long lease terms. Bornstein lease ends Dec 2017. Hallmark lease ends March 31, 2021.
- Many State regulatory requirements, insurance, maintenance, etc. would be needed to operate a public hoist.
- The funds from State Lottery mature in 2019 and its only half of what is estimated for the repair/upgrade. Grant money could cover the remaining that's needed, but there is no guarantee that the Port would win a grant. The earliest construction could start would be 2020.

## DOCUMENTS

- Hallmark lease, 14 pages
- Revenue from 2010 to present, 1 page. No expenses available during that time period.

## COMMISSIONERS ACTION

- Board review and discussion.

# COMMERCIAL LEASE AGREEMENT

This lease is made and entered into at Brookings, Oregon this 1st day of April 2016, by and between the **Port of Brookings Harbor** (the Landlord) and **Hallmark Fisheries** (the Tenant).

**1. Leased Premises.** Landlord hereby leases to Tenant the following described properties located in the Port of Brookings Harbor on the terms and conditions stated below:

a. A receiving dock with two hoists and work area legally described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Leased Premises"). A map of the Dock Premises and work area is identified as Exhibit "B" "Exhibit Map", also attached hereto and incorporated herein by this reference.

b. A work area located adjacent to the Dock Premises, consisting of approximately 13,808 square feet of property, which is further described in Exhibit "B" attached hereto and incorporated herein by this reference (the "Work Area").

c. The Dock Premises and the Work Area shall be referred to collectively herein as the "Leased Premises".

**2. Lease Term.**

- a. The initial term of the lease for the Dock Premises shall commence on the **1<sup>st</sup> day of April 2016**, and shall continue through the **31<sup>st</sup> day of March, 2021**. The Base Rental of the lease of the Dock Premises shall be the sum of **FIVE THOUSAND EIGHT HUNDRED SIXTY DOLLARS AND .97 CENTS (\$5,860.97) (U.S.) per month**, (9,429 sq. ft. at .6215 cents per sq. ft.) payable in advance on the first day of each month.
- b. The initial term of the lease for the Work Area shall commence on the **1<sup>st</sup> day of April, 2016** and shall continue through the **31<sup>st</sup> day of March, 2021**. The Base Rental of the lease for the Work Area shall be the sum of **EIGHT THOUSAND SIX HUNDRED NINETY-NINE DOLLARS AND .04 CENTS (\$8,699.04) (U.S.) ANNUALLY**, (13,808 sq. ft. at \$0.63 cents per sq. ft.) payable yearly in advance on the 1<sup>st</sup> day of April and every 1<sup>st</sup> day of April thereafter.
- c. Upon termination of the initial term of this lease, Landlord grants to Tenant the option to renew this lease in whole or in part of the Leased Premises, for one (1) additional five (5) year term at terms and conditions to be negotiated, provided Tenant a) is not in default of this lease at the time the option is exercised and b) Landlord does not need the ground for its own use and c) Landlord is otherwise satisfied with Tenant's use of the leased premises during the initial term. The parties agree to negotiate in good faith with respect to the renewal terms and conditions on terms at

least as favorable as those offered to any other tenant of Landlord at the time.

d. Tenant shall notify the Landlord in writing ninety (90) days prior to expiration of the lease of tenant's intent to exercise all or any portion of Tenant's option to extend the lease. Failure to provide such notice is a default and a material breach of the lease and Landlord may terminate the lease on the expiration date and retake possession of the Leased Premises with or without process of law.

**3. Base Rent Payment.** Tenant shall pay the base rent for the Leased Premises and any additional rent provided herein without deduction or offset, except as set forth herein. Base rent shall increase annually, on each anniversary of the lease commencement beginning on the second and continuing each subsequent year in the same percentage of increase as the Consumer Price Index – all items – Western Urban Index increased for the previous twelve (12) months. Base rent shall include all prior percentage increases. In no case shall the minimum base rent be less than the initial base rent for this lease. Rent for any partial month during the lease term shall be prorated to reflect the number of days during the month that Tenant occupies the Leased Premises. Additional rent means any other sums payable by Tenant to Landlord under this lease. At the end of the lease, a new Base Rent will be established. Rent not paid when due shall bear an automatic \$35.00 late fee each month if not paid by the 10<sup>th</sup> of the month due.

### 3.1 Additional Variable Rent

a. This lease is subject to an additional variable rent amount based in ex-vessel deliveries over the leased premises if such a surcharge should be adopted by Port of Brookings Harbor during the term of this lease. It is understood by all parties that such charges shall not exceed 1% of the gross value of delivered price at dock unload, for purposes of this section no product unloaded over the dock shall be deemed to be valued at more than \$1.00 per pound, and such charges, if assessed, shall apply equally to all commercial unloading operations conducted at the Port of Brookings Harbor.

**4. Security Deposit.** Upon execution of the lease, Tenant's prior security deposit of \$5,751.69 is carried over from previous lease term. Landlord may apply the security deposit to pay the cost of performing any obligation which Tenant fails to perform within the time required by this lease, but such application by Landlord shall not be the exclusive remedy for Tenant's default. If the security deposit is applied by the Landlord, Tenant shall on demand pay the sum necessary to replenish the security deposit to its original amount. To the extent not applied by Landlord to cure defaults by Tenant, the security deposit shall be returned to Tenant upon termination of this lease, or, by mutual agreement between Landlord and Tenant, applied against the rent payable for the last month of the term.

**5. Use.** Tenant shall use the Leased Premises to off load fish, crab and other product from commercial boats, and for no other purpose without Landlord's written consent. Tenant is entitled to the exclusive use of the hoist owned by Landlord. Tenant shall use the work area of the Leased Premises for the storage of trailers, totes, tanks and crab pots, and for general storage, and for no other purpose without Landlord's written consent. In connection with its use of the

Leased Premises, Tenant shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority, including those of the Port of Brookings Harbor, and not unreasonably annoy, obstruct or interfere with the rights of other tenants of the Port of Brookings Harbor, wherever located. Tenant shall not create or maintain any nuisance or any objectionable fumes, noise, or vibrations while using the Leased Premises.

6. **Equipment.** Tenant shall install in the Leased Premises only such equipment as is customary for the intended *use* and shall not overload the dock or electrical circuits of the Leased Premises or alter the plumbing or wiring of the Leased Premises, without the written consent of Landlord. Landlord must approve, in advance, the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any equipment installed by Tenant shall remain Tenant's property and shall be installed and operated at Tenant's expense. Cranes or boom trucks not owned by Tenant are prohibited from operating on the Leased Premises unless authorized by the Landlord.

7. **Sign.** No signs, awnings, antennas, or other apparatus shall be positioned as to be visible from outside the Leased Premises without Landlord's written approval as to design, size, location, and color. All signs installed by Tenant shall comply with Landlord's standards for signs, and all applicable codes and signs and sign hardware shall be removed upon termination of this lease with the sign location restored to its formal state unless Landlord elects to retain all or any portion thereof.

8. **Utilities and Services.** Landlord shall furnish all utilities up to the Leased Premises and Tenant shall be directly responsible for any and all electrical charges or fees for electrical service, and shall make arrangements to be billed directly from the local electric co-op (Coos-Curry Electric Cooperative, Inc.). Tenant shall make the necessary arrangements to have a meter installed in the name of Tenant for billing purposes. Tenant shall comply with all government laws or regulations regarding the use or reduction of use of utilities on the Leased Premises. Unless caused by Landlord's negligence or intentional act, interruption, limitation, curtailment, or rationing of services or utilities shall not be deemed an eviction or disturbance of Tenant's use and possession of the Leased Premises, render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this lease, and Landlord shall take all reasonable steps to correct any interruption in service.

9. **Maintenance and Repair - Tenant**

a. Tenant is at all times during the term of this lease, and at Tenant's sole cost and expense, obligated to keep the entire of the Leased Premises and every part thereof in good condition and repair; ordinary wear and tear and damage to the Leased Premises by earthquake, act of God, or the elements. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Leased Premises or any part thereof. Landlord shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Landlord shall have no liability for interference with Tenant's use because of repairs and installations. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no such interruption or reduction shall be construed as a constructive or otherwise eviction of Tenant.

Repair of damage caused by negligent or intentional acts or breach by this lease by Tenant, its employees or invitees shall be at Tenant's expense.

b. Tenant shall maintain the Leased Premises, including the hoists and dock structures, in the condition existing at time of leasing, normal wear and tear excepted. Landlord may inspect repairs, and may declare a default if the Leased Premises are not deemed in good repair after written notice of thirty (30) days for the dock and ten (10) days for the hoist itself.

c. Tenant shall be responsible for controlling and preventing any equipment usage of the dock area from vehicles or equipment which exceed 80,000 lbs GVW, by their invitees or other persons utilizing the facility in connection with the permitted usage described herein. Tenant shall be responsible for damages and/or repairs to the Leased Premises which result from overload of the dock, hoist or storage facility by the invitees of Tenant or persons utilizing the structure in connection with Tenant's business.

d. Tenant shall be responsible for any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except as provided in Section 13 dealing with waiver of subrogation, but including repairs that would otherwise be the responsibility of Landlord under Section 11.

e. Tenant is responsible for all other repairs to the Leased Premises which Landlord is not required to make under Section 11.

f. If Tenant fails to perform Tenant's obligations under this Section 10 or under any other Section of this lease, Landlord may enter upon the affected portion of the Leased Premises after ten (10) days' prior written notice to Tenant (except in case of emergency, in which no notice shall be required), perform such obligations on Tenant's behalf and put the Leased Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Landlord together with Tenant's next Base Rent installment.

g. On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Leased Premises to Landlord in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Leased Premises shall not be deemed ordinary wear and tear if the same could have been prevented by commercially reasonable maintenance practices. Tenant shall leave the air lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing and fencing which were on the Leased Premises prior to the commencement of the lease, in good operating condition.

**10. Maintenance and Repair - Landlord's Obligations.** The following shall be the responsibility of Landlord:

- a. Provide adequate means of ingress and egress to the Leased Premises.
- b. Provide access to a water supply and electricity.

c. Repair and maintenance of existing exterior water, sewage, and electrical services up the point of entry to the Leased Premises.

d. Repair and maintain any structural element with respect to the Leased Premises.

**11. Alterations.** Tenant shall not make any alterations, additions, or improvements to the Leased Premises without Landlord's prior written consent. Any such additions, alterations, or improvements, except for removable machinery and trade fixtures, and approved additions shall at once become part of the realty and belong to the Landlord. Landlord may at its option require that Tenant remove any alterations and restore the Leased Premises to the original condition upon termination of this lease. Landlord shall have the right to approve the contractor used by Tenant for any work in the Leased Premises, and to post notices of non-responsibility in connection with any work being performed by Tenant in the Leased Premises.

**12. Indemnity.**

a. Tenant shall not allow any liens to attach to the Leased Premises or Tenant's interest in the Leased Premises as a result of its activities. In the event that a materialman, mechanic's, or other lien is filed, or a claim of lien is made for work claimed to have been done for Tenant, Landlord will have the option in its sole discretion to require Tenant to post a Surety Bond within ten (10) days at Tenant's expense or to pay and discharge the lien, and Tenant agrees to reimburse Landlord promptly upon demand. These Landlord remedies are not exclusive as Landlord has other remedies as provided by law including requiring Tenant to pay for Landlord's attorney fees and costs relating to any such lien. Except as otherwise stated herein, Tenant hereby waives all claims against Landlord for damage to any property or injury, illness, or death of any person in, upon, or about the Leased Premises arising at any time and from any cause whatsoever other than by reason of the negligence or willful act of Landlord, its officers, employees, invitees, licensees or agents. Tenant shall defend, indemnify and hold Landlord harmless from any and all claims or liability for damage to any property or injury, illness, or death of any person (a) occurring in or on the Leased Premises or any part thereof arising at any time and from any cause whatsoever other than by reason of the negligence or willful act of Landlord, its officers, employees, invitees, licensees or agents; or (b) occurring in, on, or about any part of the Leased Premises when such damage, injury, illness, or death shall be caused by the act, negligence, omission, or fault of Tenant, its agents, servants, employees, invitees, or licensees. Except as otherwise stated herein, Landlord shall have no liability to Tenant because of loss or damage caused by the acts or omissions of other tenants of Landlord, or by third parties. The provisions of this paragraph shall survive the termination of this lease with respect to any damage, injury, illness, or death occurring prior to such termination.

**13. Insurance.** Tenant shall carry liability insurance and fire insurance with limits of not less than Two Million Dollars (\$2,000,000) combined single limit bodily injury and property damage, which insurance shall have an endorsement naming Landlord and Landlord's agent, if any, as additional insured and additional loss payee and covering the liability insured under



Paragraph 15 of this Lease. Tenant shall furnish a certificate evidencing such insurance which shall state, if possible, that the coverage shall not be cancelled or materially changed without ten (10) days advance notice to Landlord and Landlord's agent, if any, and a renewal certificate shall be furnished at least ten (10) days prior to expiration of any policy. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire, or property damage not covered by insurance.


**14. Exemption of Landlord from Liability**

Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers, or any other person in or about the Leased Premises or the Port, nor shall Tenant be liable for injury to the person of Tenant, Tenant's employees, agents or contractors, whether such damage or injury is caused by or results from fire, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, wires or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Leased Premises or upon other portions of the Port, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant. Except as otherwise stated herein, Landlord shall not be liable for any damages arising from any act or neglect of any other tenant, occupant or user of the Port, nor from the failure of Landlord to enforce the provisions of any other lease of the Port.

**15. Major Damage.** Major damage means damage by fire or other casualty to the Leased Premises that causes the Leased Premises or any substantial portion of the Leased Premises to be unusable, or which will cost more than twenty-five percent (25%) of the pre-damage value of the Leased Premises to repair, or which is not covered by insurance. In case of major damage, Landlord or Tenant may elect to terminate this lease by notice in writing to the other party within thirty (30) days after such date. If this lease is not terminated following major damage, or if damage occurs that is not major damage, Landlord shall promptly restore the Leased Premises to the condition existing just prior to the damage, with the exception of damage to Tenant improvements. Restoration of any Tenant improvements or alterations installed by Tenant, and the costs thereof, shall be the responsibility of the Tenant. Rent shall be reduced from the date of damage until the date restoration work being performed by the Landlord is substantially complete, with the reduction to be in proportion to the area of the Leased Premises not useable by Tenant.

**16. Waiver of Subrogation.** Tenant shall be responsible for insuring its personal property and trade fixtures located on the Leased Premises and any alterations or Tenant improvements it has made to the Leased Premises. Neither Landlord nor Tenant shall be liable to the other for any loss or damage caused by any of the risks that are or could be covered by a standard all risk insurance policy with the extended coverage endorsement, or for any business interruption, and there shall be no subrogated claims by one party's insurance carrier against the other party arising out of any loss.

**17. Eminent Domain.** If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Leased Premises or a portion sufficient to render the

  
4-18-17

  
3-21-17

Leased Premises unsuitable for Tenant's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Leased Premises taken shall be of such extent and nature as to substantially handicap, impede, or impair Tenant's use of the balance of the Leased Premises for the purpose intended. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Leased Premises caused by the taking. All condemnation proceeds shall belong to Landlord, and Tenant shall have no claims against Landlord or the condemnation award because of the taking.

**18. Assignment and Subletting.** This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Tenant shall not assign its interest under this lease or sublet all or any portion of the Leased Premises without first obtaining Landlord's consent in writing. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of Tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by this lease and no consent to one assignment or subletting shall be consent to any further assignment or subletting. Landlord shall not unreasonably withhold or delay its consent to any assignment, or to subletting, accepting that the proposed Tenant has been approved by Landlord in writing. A new base rent may be established for the remainder of the lease at the sole option of the Landlord

**19. Default.**

a. Any of the following shall constitute a default by Tenant under this lease:


1. Tenant's failure to pay rent or any other charge under this lease within ten (10) days after its due, or failure to comply with any other term or condition within twenty (20) days following written notice from Landlord specifying the noncompliance. If such noncompliance cannot be cured within the 20-day period, this provision shall be satisfied if Tenant commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible. Time is of the essence of this lease.

2. Tenant's insolvency, business failure or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for Tenant's property.

3. Assignment or subletting by Tenant in violation of Section 19 above.

4. Vacation or abandonment of the Leased Premises for more than three (3) months without the written consent of Landlord.

5. If this Lease is levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days.

  
4-18-17

  
3-21-17

**20. Remedies for Default.** In case of default as described in Section 19 above, Landlord shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law.

a. Landlord may terminate the lease and reenter and retake possession of the Leased Premises, and remove any persons or property by legal action or by self help with the use of reasonable force and without liability for damages. Following such retaking of possession, efforts by Landlord to relet the Leased Premises shall be sufficient if Landlord follows its usual procedures for finding tenants for the Leased Premises at rates not less than the current rates for other comparable space on Port property. If Landlord has other vacant space available, prospective tenants may be placed in such other space without prejudice to Landlord's claim to damages to loss of rentals from Tenant.

b. Landlord may recover all damages caused by Tenant's default which shall include an amount equal to rentals lost because of the default, all attorney fees and costs. Landlord may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages subsequently accruing. Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Leased Premises for the remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgments.

c. Landlord may make any payment or perform any obligation which Tenant has failed to perform, in which case Landlord shall be entitled to recover from Tenant upon all demand all amounts so expended plus interest from the date of the expenditure at the rate of one and one-half percent (1.5%) per month. Any such payment or performance by Landlord shall not waive Tenant's default.

**21. Regulations.** Landlord shall have the right (but shall not be obligated) to make, revise, and enforce commercially reasonable regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness, and good service to all tenants of the Landlord, provided that if Landlord passes a regulation or policy that interferes with Tenant's quiet enjoyment or unreasonably interferes with Tenant's use of the Leased Premises, then Tenant may terminate this lease. All such regulations and policies shall be complied with as if part of this lease.

**22. Access.** During times other than normal business hours Tenant's officers and employees or those having business with Tenant may be required to identify themselves or show passes in order to gain access to the Leased Premises. In such event, Landlord shall have no liability for permitting or refusing to permit access to anyone. With reasonable notice to Tenant, Landlord shall have the right to enter upon the Leased Premises at any time by passkey or otherwise to determine Tenant's compliance with this lease, to perform necessary services,

maintenance and repairs to the Leased Premises, or to show the Leased Premises to any prospective tenant or purchasers. Except in case of emergency such entry shall be with at least 24 hours prior notice and at such times and in such manner as to minimize interference with the reasonable business use of the Leased Premises by Tenant.

Landlord reserves to itself a right of access over the subject real property, and a right of access over the dock attached hereto. Landlord further reserves to itself a non-exclusive license to use the hoist at the north end of the dock only. Landlord may from time to time operate its own heavy equipment, such as, but not limited to, a forklift or crane, upon the leased premises as the need arises.

**23. Notices.** Notices to the parties relating to the lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage prepaid, to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Notice to Tenant may always be delivered to the Leased Premises. Rent shall be payable to Landlord at the same address and in the same manner, but shall be considered paid only when received.

**24. Subordination.** This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Leased Premises. At Landlord's option this lease shall be subject and subordinate to any future encumbrance hereafter placed against the Leased Premises (including the underlying land) or any modifications of existing encumbrances, and Tenant shall execute such documents as may reasonably be requested by Landlord or the beholder of the encumbrance to evidence this subordination.

**25. Transfer of Premises.** If the Leased Premises is sold or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee and recognize it as the Landlord under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.

**26. Estoppel.** Either party will within twenty (20) days after notice from the other execute, acknowledge and deliver to the other party a certificate whether or not this lease has been modified and is in full force and effect, whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent; and any other facts that may be reasonably requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate. If requested by the holder of any encumbrance or any ground lessor, Tenant will agree to give such holder or lessor notice of and an opportunity to cure any default by Landlord under this lease. Unresolved good faith disputes between Landlord and Tenant shall be resolved pursuant to mandatory binding arbitration.

27. **Attorney's Fees.** In any litigation or arbitration arising out of this lease, the prevailing party shall be entitled to recover attorney fees, costs and expert witness fees, if any, at trial, on any appeal, or in any other proceeding.

28. **Quiet Enjoyment.** Landlord warrants that so long as Tenant complies with all material terms of this lease, it shall be entitled to peaceable and undisturbed possession of the Leased Premises free from any eviction or disturbance by Landlord. Landlord shall have no liability to Tenant for loss or damages arising out of the acts of other tenants of the Leased Premises or third parties, nor any liability for any reason which exceeds the value of its interest in the Leased Premises. Notwithstanding the above, Landlord reserves to itself a right of access over and across the dock leased herein, provided that such access does not unreasonably interfere with Tenant's use of the Leased Premises.

29. **Complete Lease.** This lease and the attached Exhibits, constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Landlord nor Tenant is relying on any representations other than those expressly set forth herein. Any modification to this lease must be in writing and signed by both parties.

30. **Nonwaiver.** Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.

31. **Real Property Taxes.**

a. **Payment of Taxes.** Tenant shall pay the real property tax, if any, as defined in paragraph 31.c. below applicable to Tenant's portion of the Port as represented by the lease.

b. **Additional Improvements.** Tenant shall be responsible for paying Tenant's share of any increase in real property tax specified in the Tax Assessor's records and work sheets as being caused by additional improvements placed upon the Leased Premises.

c. **Definition of "Real Property Tax".** As used herein, the term "real property tax" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Port or any portion thereof by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof.

32. **Severability.** The invalidity of any provision of this lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provisions herein.

33. **Time of Essence.** Time is of the essence with respect to the obligations to be performed under this Lease.

34. **Security Measures.** Each party acknowledges that they shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the other party or their property. Each party assumes all responsibility for the protection of itself, its agents and invitees and its property from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option from providing security protection for the Port or any part thereof.

35. **"As-is".** This lease is not subject to any implied warranties, but is leased "as is".

36. **Intentionally Omitted**

37. **Arbitration.** Any controversy or claim arising out of or relating to this lease, including without limitation, the making, performance, or interpretation of this lease shall be settled by arbitration. If the Landlord or Tenant disagree whether either is legally entitled to recover damages under this lease, then either Landlord or Tenant may make a written demand for arbitration. The parties agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. The party seeking arbitration shall give written notice to that effect to the other and shall, in that notice, select an arbitrator. Within 15 days thereafter, the other party shall by written notice either agree to the arbitrator selected or suggest another person to act as arbitrator. If the parties cannot agree within 30 days to the selection of a single arbitrator after the election to arbitrate, either party may request that the selection of an arbitrator be made by a judge of the Circuit Court for Curry County, Oregon. Landlord and Tenant will pay their own costs of arbitration, and, unless costs are awarded by the arbitrator to the prevailing party, each is obligated to pay one half of the arbitrator's fee.

Unless otherwise agreed the arbitration shall be conducted in Curry County, Oregon. If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided for by the Oregon Rules of Civil Procedure both in advance of and during recess of the arbitration proceedings. ORS 183.450 (1) through (4), where applicable, shall control the admission of evidence at the hearing in any arbitration conducted hereunder, provided however no error by the arbitrator in application of the statute shall be grounds as such for vacating the arbitrator's award. Each party shall be entitled to present evidence and argument to the arbitrator. The arbitrator shall give written notice to the parties stating the arbitration determination and shall furnish to each party a signed copy of such determination and judgment so the award may be entered in any court having jurisdiction over the parties.

If arbitration is commenced, this contract shall be governed by and construed in accordance with the laws of the State of Oregon. The parties agree that the arbitrator shall have no jurisdiction to render an award or judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a judgment may be entered on the arbitrator's award. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law. Unless otherwise inconsistent herewith, the provisions of ORS Chapter 36 shall apply to any arbitration hereunder. In the event of arbitration under the provisions of this lease, the prevailing party shall be awarded reasonable attorney fees and related costs, disbursements and expert witness fees as provided for in this contract.

The duty to arbitrate shall survive the cancellation or termination of this lease.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this lease as of the day and year first written above.

**PORT OF BROOKINGS-HARBOR,**

Landlord

By: [Signature]

Name: Roy Davis

Title: Chairman

**HALLMARK FISHERIES,**

Tenant

By: [Signature]

Name: Scott Adams

Title: General Mgr.

Mailing Address:

P.O. Box 5390

Charleston Ave. 97420

Phone 541-888-3253

Hallmark Lease Area

EXHIBIT A

A parcel of land lying in the Northeast Quarter of Section 8, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon, more particularly described as follows:

**Dock Area**

BEGINNING at Point "A", said point being North 09°03'40" West, a distance of 1,731.04 feet from a 2 1/2" brass cap in asphalt set at the Northwest corner of D.L.C. 40, and also being the inside rail at the Northwest corner of a concrete boat dock;  
thence along the inside rail of said concrete boat dock, thence South 28°52'57" East, a distance of 157.46 feet;  
thence North 61°44'25" East, a distance of 55.77 feet to Point "B";  
thence North 28°56'52" West, a distance of 125.67 feet;  
thence North 70°16'33" East, a distance of 26.64 feet;  
thence North 18°18'04" West, a distance of 20.44 feet;  
thence South 71°01'52" West, a distance of 24.45 feet;  
thence North 31°56'02" West, a distance of 11.98 feet;  
thence South 61°28'28" West, a distance of 60.96 feet, to the POINT OF BEGINNING

**Work Area #1**

BEGINNING at Point "B" described above;  
thence North 28°56'52" West, a distance of 125.67 feet;  
thence North 70°16'33" East, a distance of 26.64 feet;  
thence North 88°47'22" East, a distance of 53.24 feet;  
thence South 29°16'07" East, a distance of 163.16 feet;  
thence South 61°01'30" West, a distance of 68.43 feet;  
thence North 28°54'05" West, a distance of 66.48 feet;  
thence South 61°53'27" West, a distance of 5.95 feet, to the POINT OF BEGINNING.

**Work Area #2**

BEGINNING at Point "A" described above;  
thence North 29°06'47" West, a distance of 13.65 feet;  
thence North 68°06'10" East, a distance of 73.37 feet;  
thence South 36°07'02" East, a distance of 19.61 feet;  
thence South 71°01'52" West, a distance of 13.86 feet;  
thence North 31°56'02" West, a distance of 11.98 feet;  
thence South 61°28'28" West, a distance of 60.96 feet,

Bearings for the above description are Oregon State Plane – South Zone and are based on a line between control monuments #1 and #2 as indicated on County Survey #41-1623 prepared by OBEC Consulting Engineers, to bear North 27°44'56" West a distance of 639.37 feet.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 25, 1935  
RICHARD P. ROBERTS  
2730

EXPIRATION DATE 12/31/14



FOUND MAGNAIL-WASHER  
STAMPED "OBEC CONTROL"  
CONTROL PT #2 PER  
COUNTY SURVEY #41-1623

LOCATED IN  
NE 1/4, SECTION 8,  
T41S, R13W, WILLAMETTE MERIDIAN,  
CURRY COUNTY, OREGON

# EXHIBIT MAP

HALLMARK DOCK AREA

LINE	BEARING	DISTANCE
L1	S 28°52'57" E	157.46'
L2	N 61°44'25" E	55.77'
L3	N 28°56'52" W	125.67'
L4	N 70°16'33" E	26.64'
L5	N 18°18'04" W	20.44'
L6	S 71°01'52" W	24.45'
L7	N 31°56'02" W	11.98'
L8	S 61°28'28" W	60.96'
L9	N 88°47'22" E	53.24'
L10	S 29°16'07" E	163.16'
L11	S 61°01'30" W	68.43'
L12	N 28°54'05" W	66.48'
L13	S 61°53'27" W	5.95'
L14	N 29°06'47" W	13.65'
L15	N 68°06'10" E	73.37'
L16	S 36°07'02" E	19.61'
L17	S 71°01'52" W	13.86'

(OREGON STATE PLANE-SO. ZONE)  
N 27°44'56" W 639.37'  
N 27°44'56" W 639.37'  
BASIS OF BEARINGS

FOUND 5/8" IRON REBAR  
W/ RPC "OBEC CONTROL"  
CONTROL PT #1 PER  
COUNTY SURVEY #41-1623

WORK AREA #2  
857 SQ.FT.

BOAT

PT. "A"

N 09°03'40" W 1731.04'

DOCK  
9,429 SQ.FT.

WORK AREA #1  
12,951 SQ.FT.

BASIN

FOUND 2 1/2" BRASS CAP  
IN ASPHALT MARKED  
"NW COR DLC 40 1980"

PT. "B"



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*[Signature]*

OREGON  
JULY 25, 1995  
RICHARD P. ROBERTS  
2730

EXPIRES 12/31/12

PREPARED FOR: PORT OF BROOKINGS-HARBOR

SURVEY DATE: MARCH 8, 2013

JOB #: 13-005

**Roberts & Associates**  
LAND SURVEYING INC.



611 SPRUCE STREET  
P.O. Box 1599  
Brookings, OR 97415

Ph: 541-469-0162  
Fax: 541-469-5456

EXHIBIT "B"

Port of Brookings Harbor  
Transaction Detail By Account  
January 1, 2010 through October 18, 2017

Type	Date	Name	Memo	Credit
<b>4600 - BOATYARD</b>				
<b>4610 - Receiving Dock</b>				
Invoice	01/20/2010	Dynamik Fisheries	Public Hoist-(Sea World Trading)	164.60
Invoice	02/12/2010	Dynamik Fisheries	Public Hoist-Crab-2/11/10	424.50
Invoice	03/10/2010	Nor-Cal	Invoice 4613252-f/v 'Dynamik' 3-10-10	290.20
Invoice	04/08/2010	Nor-Cal	Public Hoist-Ticket Number 487600	166.60
Invoice	05/28/2010	Alber Seafood	Public Hoist Ticket Number 1852801	3.20
Invoice	08/19/2010	Speir, Joe	Public Hoist 8/19/10 'Equinox'	40.05
Invoice	10/04/2010	Caito Fisheries	Public Hoist	177.24
Invoice	10/05/2010	Long, Tyler	Public Hoist 10/5/10	301.77
Invoice	07/30/2012	Wetten, Ken	Unload Salmon	35.25
Invoice	07/30/2012	Shepherd, Rick	Unload Salmon	23.00
Invoice	08/01/2012	Evanow, David	Unload Salmon	20.60
Invoice	08/01/2012	F/V Annie Marie	Hoist off load crab pots	90.00
Invoice	08/06/2012	Shepherd, Rick	Unload salmon 8/5/12	22.20
Invoice	10/23/2012	Pettinger, Dave	Port hoist 1/2 hour F/V Alex 10/23/12	10.50
Invoice	12/29/2012	Lindley Fisheries	Hoist	135.00
Invoice	05/08/2013	Sea Water Seafood Company	Unload Crab	1,153.02
Invoice	08/07/2013	Speir, Joe	Public Hoist	47.00
Invoice	11/25/2013	Smith, Mike	Hoist Inv #494067	45.00
Invoice	12/11/2013	Ocean Gold Seafood	Hoist-'Voyager'	90.00
Invoice	12/11/2013	Ocean Gold Seafood	Hoist-'Valliant'	90.00
Invoice	04/11/2014	Wilson, Michael	Public Hoist 494099	47.00
Deposit	05/14/2014	Oceanic Logistics LLC	Crab Unload 1,068 lbs & 1 Tote of Ice	259.96
Deposit	05/14/2014	Oceanic Logistics LLC	Crab Unload Washington & Anita Lynn & 3 totes of ice	990.42
Invoice	11/04/2015	We Fish Inc.	Public Hoist F/V: Karen Jan Ticket: 633502	47.00
Invoice	01/27/2016	Nor-Cal	Unloading Dungeness Crab F/V: Miss Emily	3,001.95
Invoice	01/28/2016	Nor-Cal	Unloading Dungeness Crab F/V: Eddie & Rod	3,806.40
Invoice	01/28/2016	Nor-Cal	Unloading Dungeness Crab F/V: Dynamik	1,670.70
Total 4610 - Receiving Dock				13,153.16
Total 4600 - BOATYARD				13,153.16
<b>TOTAL</b>				<b>13,153.16</b>
Found few invoices that were missed labeled				
	02/02/2016	Nor-Cal	Unloading Dungeness Crab F/V: Eddie & Rod	2,538.60
	02/11/2016	Nor-Cal	Unloading Dungeness Crab	2,550.45
	01/24/2014	Sea Water Seafood	Unloading Catalyst	325.82
	01/24/2014	Sea Water Seafood	Unloading Equinox	487.85
	01/24/2014	Sea Water Seafood	Unloading Leonard G	29.26
	01/24/2014	Sea Water Seafood	Unloading Miss Emilie	195.03

Total Income for Past 7 Years 19,280.17

Average Income 2,754.31

It appears no records were kept to keep track of the costs operating and maintaining the public hoist

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