MINUTE ITEM
This Calendar Item No. C84 was approved as Minute Item No. 84 by the California State Lands Commission by a vote of 3 to 0 at its 8-19-03 meeting.

CALENDAR ITEM
C84

A 1

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AD 456

08/19/03
G04-02.13
J. Frey
G. Kato
J. DeGraff

CONSIDERATION OF A PROPOSED TITLE SETTLEMENT AGREEMENT BETWEEN THE EUREKA REDEVELOPMENT AGENCY, THE CITY OF EUREKA AND THE CALIFORNIA STATE LANDS COMMISSION, SETTLING TITLE TO THREE SMALL PARCELS OF LAND ALONG THE EUREKA WATERFRONT AND TERMINATING THE PUBLIC TRUST OVER THEM.

PARTIES:

Eureka Redevelopment Agency
531 K Street
Eureka, CA 95501

City of Eureka
531 K Street
Eureka, CA 95501-1165
C/o: David McGinty

California State Lands Commission
100 Howe Avenue, Ste 100-South
Sacramento, CA 95825-8202

BACKGROUND:

The State of California (State), upon being admitted to the Union in 1850, by virtue of its sovereignty and the Equal Footing Doctrine, received fee title to all tide and submerged lands within the subject property. The subject property is encompassed in tide and submerged lands granted to the city of Eureka (City) by Chapter 82 of the Statutes of 1857 wherein the City was authorized to divide the granted lands into lots and sell them. The subject property is within lands described in Tidelands Survey Number 8 made on March 17, 1859.

The subject property was first patented to Charles E. Collins on August 29, 1861. The patent is recorded in Book S & O 1 at page 403 of the Official Records of Humboldt County. The Eureka Redevelopment Agency claims a fee simple ownership in the

subject property through mense conveyances and as a successor in interest to Charles E. Collins.

The subject property lies within legislative grants to the City by virtue of Chapter 438, Statutes of 1915; Chapter 187, Statutes of 1927; Chapter 225, Statutes of 1945; and Chapter 1086, Statutes of 1970, as amended. The City claims it holds title to any tide and submerged lands in the subject property by virtue of the 1857 statute and other statutory grants recited above and claims that the public trust exists over the subject property. The Legislature, in 1970, enacted Chapter 1085 in order to facilitate the settlement and compromise of various title disputes within the tidelands grant to the City. Among other things, Chapter 1085 authorizes the California State Lands Commission (CSLC or Commission) and the City, upon receipt of adequate consideration, to convey, release or quitclaim lands and to lift the public trust over the same lands within the grant to the City that have been improved in connection with the development of the Humboldt Bay area and in the process filled and reclaimed, are not longer submerged or below the line of mean high tide, and are no longer necessary or useful for commerce, navigation, or fisheries.

In 1968, the State and the City became involved in extensive litigation with private landowners over title to properties along the Eureka Waterfront between Commercial Street and "J" Street. At issue was the last natural position of the mean high tide line and the City's ownership of lands waterward of that line. The litigation ended in 1980 with a title settlement agreement that established an agreed boundary line along the waterfront. The City quitclaimed any interest it had landward of that line and the private landowners quitclaimed any interest they had waterward of the line. The public trust for commerce, navigation and fisheries was extinguished over the privately owned properties. The subject property in the agreement lies landward of the privately owned properties and within the 1857 legislative grant.

TITLE SETTLEMENT:
Parties to the title settlement agreement are the State, acting through the State Lands Commission, the city of Eureka as trustee of legislatively granted land and the Eureka Redevelopment Agency.

The staff of the CSLC has conducted a study and investigation of the area within and adjacent to the subject property and has examined historical maps, aerial photos, hydrological data, and other evidence concerning the area in an effort to determine the location and extent of public property rights.

The subject property has, since 1850, been affected by numerous natural and artificial influences, including erosion, accretion, bank stabilization, bulkhead construction, fill, reclamation and construction of the railroad line. As a result of these activities, evidence of changes due to natural causes has been destroyed and there is uncertainty as to: 1) the exact nature and extent of rights, title and interest conveyed by the patent for TLS 8; 2) whether the lands included within the above referenced patent were truly swamp and overflowed lands free of the public trust, or whether they were in fact tide and submerged lands subject to the public trust; 3) the exact nature and extent of rights, titles and interests conveyed by the State to the City by virtue of Chapter 225 of the Statutes of 1945 as amended by Chapter 1086 of the Statutes of 1970.

The Parties have reached an agreement to resolve their conflicting claims in the subject property to the effect that it is in both of their best interests and that of the general public. The agreement provides for the conveyance of the City's title to the subject property, the lifting of the public trust for commerce, navigation and fisheries over it, and the deposit, by the Eureka Redevelopment Agency, of adequate compensation into the Humboldt Bay Fund held by the City as Trustee. The value of the State's and Trustee's claims or interests within the subject property have been evaluated and appraised.

The Parties recognize that, unless the dispute regarding their respective claimed property interests within the subject property are settled by negotiation and compromise, each of them will expend substantial sums of money in litigation of these conflicting claims, the results of which are uncertain, and that it is in their best interests and in the best interests of the general public that a compromise agreement be made by way of this title settlement.

In recognition of the State's claim and the lifting of the public trust, the Eureka Redevelopment Agency agrees to pay the Humboldt Bay Fund, as established by Chapter 1085, Statutes of 1978, the sum of $80,960 for the State's sovereign interests in the property and the lifting of the public trust upon close of escrow.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15060 (c)(3)), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project pursuant to Public Resources Code Section 21080.11. The Project is exempt because it involves settlements of title and boundary problems.

AUTHORITY:
Public Resources Code section 21080.11.

EXHIBITS:
A. Map of Subject Property
B. Land Description

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGULATIONS 15060 (c)(3) AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. FIND THAT THE PROPOSED TITLE SETTLEMENT AGREEMENT IS IN THE BEST INTERESTS OF THE PARTIES AND THE PUBLIC TO RESOLVE THIS DISPUTE BETWEEN THE STATE, THE CITY, AND THE EUREKA REDEVELOPMENT AGENCY, OVER TITLE TO THE PROPERTY DESCRIBED IN EXHIBIT B BY WAY OF A COMPROMISE SETTLEMENT AGREEMENT AND TO AVOID THE ANTICIPATED COSTS, TIME REQUIREMENTS, AND UNCERTAINTIES OF LITIGATION.

3. FIND THAT THE PROPERTY DESCRIBED IN EXHIBIT B HAS BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF THE HUMBOLDT BAY AREA AND IN THE PROCESS FILLED AND RECLAIMED AND IS NO LONGER SUBMERGED OR BELOW THE LINE OF MEAN HIGH TIDE AND IS NO LONGER USEFUL FOR COMMERCE, NAVIGATION OR FISHERIES.

4. FIND THAT THE AMOUNT TO BE DEPOSITED INTO THE HUMBOLDT BAY FUND, AS ESTABLISHED BY CHAPTER 1085, STATUTES OF 1978, IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE SOVEREIGN INTERESTS IN THE PROPERTY DESCRIBED IN EXHIBIT B.

5. AUTHORIZE THE CONVEYANCE TO THE EUREKA REDEVELOPMENT AGENCY, OF ALL SOVEREIGN INTEREST IN THE PROPERTY DESCRIBED IN EXHIBIT B AND THE LIFTING OF THE PUBLIC TRUST FOR COMMERCE, NAVIGATION AND FISHERIES OVER IT.

6. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDING OF THE TITLE SETTLEMENT AGREEMENT ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION, IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.

7. AUTHORIZE AND DIRECT THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION AND/OR THE ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE TITLE SETTLEMENT AGREEMENT.

NO SCALE

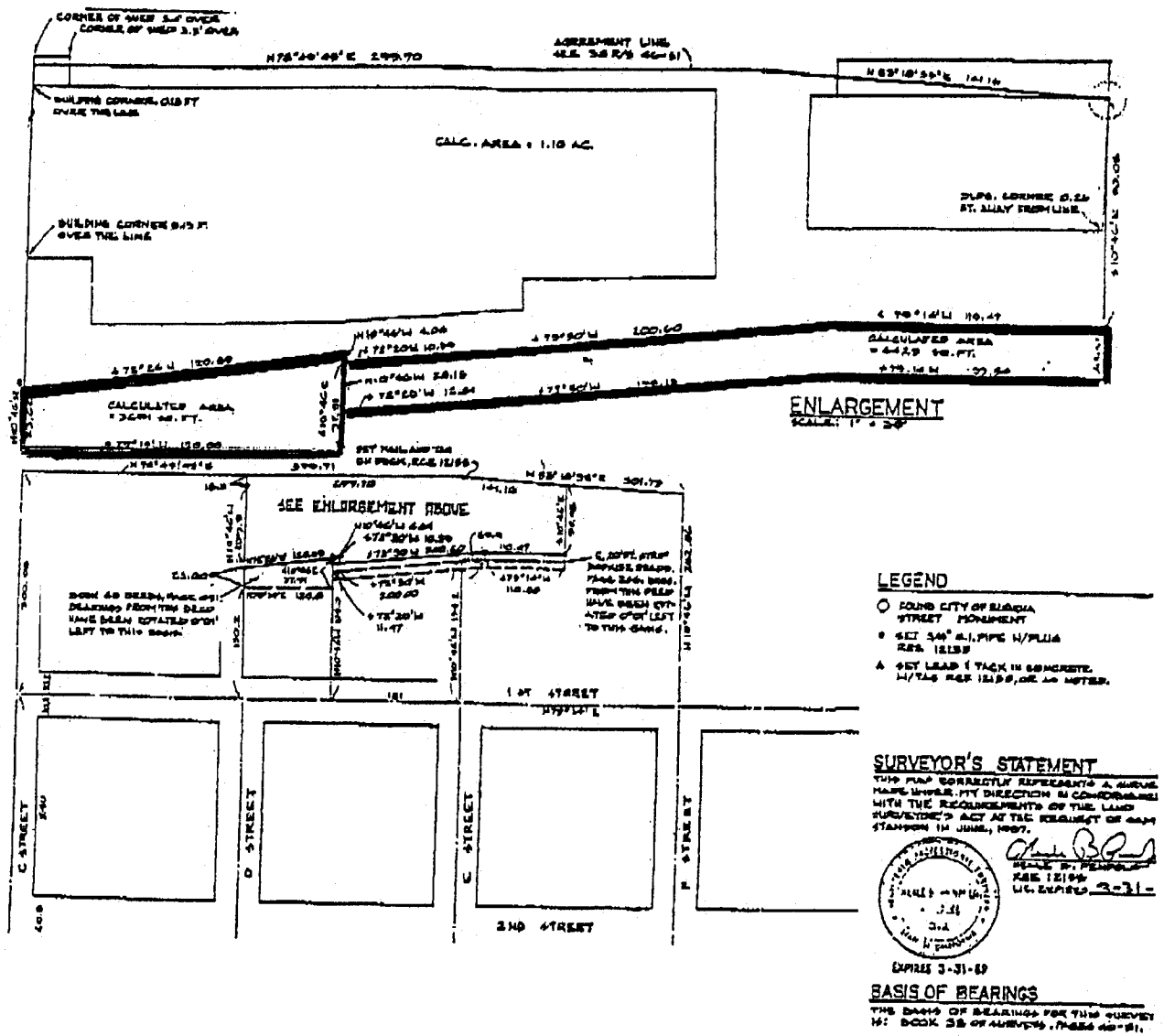

Exhibit A
Location and Site Map

Title Settlement Agreement Between City of Eureka and The California State Lands Commission

This exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by lessee or other parties, and is not intended to be, nor shall it be construed to as a waiver or limitation of any state interest in the subject or any other property.

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EXHIBIT B

G04-02

LAND DESCRIPTION
of SUBJECT PROPERTY

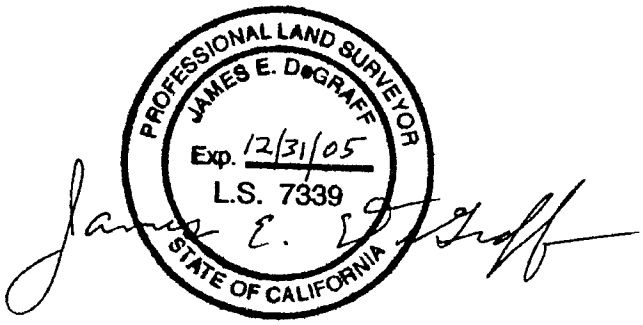
That real property situated in the City of Eureka, County of Humboldt, State of California, described as follows:

Parcel 1

Being all the land described in that certain indenture dated March 11, 1899 between Thomas Baird and the Eel River and Eureka Railroad Company, recorded March 17, 1899 in Book 65 of Deeds, Page 411, Records of said County.

Parcel 2

Being all the land described in that certain indenture dated March 27, 1899 between Elizabeth P. Kingston and the Eel River and Eureka Railroad Company, recorded March 27, 1899 in Book 65 of Deeds, Page 451, Records of said County.

END OF DESCRIPTION

Prepared by the California State Lands Boundary Unit August 12, 2003