

MINUTE ITEM

This Calendar Item No. C43
was approved as Minute Item
No. 43 by the State Lands
Commission by a vote of 3
to 0 at its 9-9-93
meeting.

CALENDAR ITEM

C43

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REQUEST FOR AUTHORIZATION TO
TERMINATE SOVEREIGN INTERESTS IN
A 9.5-ACRE PARCEL OF LAND IN EXCHANGE FOR
AN \$800,000 CONTRIBUTION TO AN ESCROW ACCOUNT
FOR CONSTRUCTION OF A PUBLIC PIER AND RECONSTRUCTION
OF A DETERIORATED DOCK TO PROVIDE PUBLIC
AND FISHING INDUSTRY ACCESS TO HUMBOLDT BAY

The staff of the State Lands Commission has been in contact with the City of Eureka regarding a proposal to terminate sovereign title interests in an undeveloped 9.5 acre parcel of land in Eureka. The parcel is shown for reference only on the map entitled Exhibit "B" which is a part of Eureka City Council Resolution No. 93-21 (attached to this calendar item and incorporated by reference) and will be referred to in this item as the TRUST TERMINATION PARCEL.

The staff of the Commission has completed a title study of the TRUST TERMINATION PARCEL which shows that:

1. In its natural state, the TRUST TERMINATION PARCEL was comprised, in whole or in part, of tide and submerged land;
2. The TRUST TERMINATION PARCEL was included within the perimeter description of Tideland Survey No. 1 for Humboldt County;
3. The Supreme Court of the State of California held in People v. California Fish Company (1913) 166 Cal. 576, that sales of tidelands passed private title to land lying between the lines of high and low tide, but subject to a public trust easement for commerce, navigation and fisheries;
4. The City of Eureka in 1949 acquired record title to the TRUST TERMINATION PARCEL. In 1988, the City transferred its record interest to its Redevelopment Agency;

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5. The Legislature, in enacting Chapter 1085, Statutes of 1970, made certain findings regarding specified lands within the Humboldt Bay area, and authorized the City, upon the making of further findings by the State Lands Commission, and upon the consent of the Commission to convey portions of such lands for compensation;
6. The Legislature, by Chapter 1086, Statutes of 1970, as amended, granted in trust to the City of Eureka sovereign interests in historic tide and submerged land including the TRUST TERMINATION PARCEL;
7. The TRUST TERMINATION PARCEL has been filled above the present mean high tide line and is no longer on the waterfront of Humboldt Bay;
8. Costco Wholesale Corporation has proposed to purchase for private use, and the Redevelopment Agency proposes to convey, a 9.5 acre, more or less, parcel of granted tidelands (the TRUST TERMINATION PARCEL) between Railroad Avenue and Short Street and Wabash Avenue, more particularly described in the description which is entitled Exhibit "A" to Eureka City Council Resolution No. 93-21, attached hereto;

It is the position of the staff of the Commission that the City of Eureka cannot hold or transfer proprietary title in the TRUST TERMINATION PARCEL apart from its role as grantee in trust of the State's sovereign interest in the subject land, since the City has a fiduciary duty towards the subject land by virtue of the grant. The staff has taken the position that the TRUST TERMINATION PARCEL can be transferred effectively only if its sovereign title is first settled as this calendar item proposes.

A Proposed Agreement has been drafted to clear title to the TRUST TERMINATION PARCEL. The Agreement utilizes Ch. 1085, Statutes of 1970, which authorizes the City of Eureka, with the approval of the State Lands Commission, to settle title to historic tide and submerged land within the City's grant which (a) has been filled in connection with the development of the Humboldt Bay area; (b) which are no longer below the line of mean high tide; and (c) which are no longer necessary or useful for commerce, navigation or fisheries. The consideration provided in an agreement lifting the public trust is required to be approved by the State Lands Commission.

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The proceeds of such a conveyance must be placed in the City of Eureka's Tideland Trust Fund and can only be used for those purposes specified in Section 4 of Chapter 1086, Statutes of 1970, including the establishment, improvement and conduct of harbors, construction of piers and all other works necessary or convenient for the promotion and accommodation of commerce and navigation;

The staff of the State Lands Commission has determined, and the City of Eureka has agreed, for purposes of this transaction only, that just compensation for the trust interests in the TRUST TERMINATION PARCEL would be 40% of the appraised value, or \$800,000;

Section 6 of Chapter 1086, Statutes of 1970, provides that the City of Eureka, for any single proposed capital improvement project involving an amount in excess of \$250,000, in the aggregate, to be funded from the Tidelands Trust Fund, shall file with the Commission a detailed description of the proposed project. The Commission may then determine whether or not the project is in the statewide interest and benefit or is authorized by the terms of the grant.

The proceeds from this transaction will be deposited into the Tidelands Trust Fund to be used together with the existing \$160,970 to (1) build a public pier in the vicinity of the Adorni Recreation Center, to provide public access to Humboldt Bay, and (2) reconstruct up to 350 feet of deteriorated dock running westerly from the foot of C Street to provide public access and support facilities to the fishing industry.

The construction and reconstruction of public access facilities contemplated in this transaction will result in improvements to real property held for trust purposes by the City of Eureka. The improvements themselves will become part of the realty, enhancing its value for public trust purposes and improving the harbor itself.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061) the staff has determined that this activity is exempt from the requirements of the CEQA as a

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statutorily exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11

EXHIBIT:

A. Eureka City Council Resolution No. 93-21

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CA. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE AND TO DELIVER INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF HUMBOLDT COUNTY, THE SUBJECT EXCHANGE AGREEMENT IN SUBSTANTIALLY THE FORM NOW ON FILE WITH THE OFFICE OF THE COMMISSION.
3. FIND, UPON RECORDATION OF THE EXCHANGE AGREEMENT AND PURSUANT TO CHAPTER 1085, STATUTES OF 1970, THAT THE TRUST TERMINATION PARCEL HAS BEEN FILLED AND RECLAIMED IN CONNECTION WITH THE DEVELOPMENT OF THE EUREKA WATERFRONT, IS ABOVE THE PRESENT MEAN HIGH TIDE LINE, IS NOT NECESSARY OR USEFUL FOR COMMERCE, NAVIGATION, OR FISHERIES, AND SHALL BE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERIES, AND NAVIGATION.
4. FIND, PURSUANT TO CHAPTER 1085, STATUTES OF 1970, THAT \$800,000 IS AN AMOUNT EQUAL TO OR GREATER THAN THE VALUE OF SOVEREIGN INTERESTS IN THE TRUST TERMINATION PARCEL AND THAT FUNDS GENERATED BY THIS SETTLEMENT, USED AS DESIGNATED HEREIN, WILL BE USED CONSISTENTLY WITH THE TERMS AND CONDITIONS OF THE GRANTS UNDER WHICH THE SUBJECT LANDS ARE HELD.
5. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS HE/THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THIS TRANSACTION INCLUDING REPRESENTATION OF THE COMMISSION IN ANY LEGAL ACTION TO DETERMINE THE LEGALITY OF THIS AGREEMENT.

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EXHIBIT

RESOLUTION NO. 93-21
RESOLUTION OF THE COUNCIL OF THE CITY OF EUREKA
AUTHORIZING EXECUTION OF AN AGREEMENT WITH
STATE LANDS COMMISSION FOR TIDELAND SETTLEMENT

WHEREAS, between 1857 and 1945 several thousand acres of tidelands were granted to the City of Eureka by the State of California; and

WHEREAS, such granted tidelands are held in trust by the City of Eureka for the benefit of all the citizens of California and must be used for purposes consistent with the public trust doctrine; and

WHEREAS, the California Legislature, in enacting Chapter 1085 of California Statutes of 1970 made certain findings regarding specified lands within the Humboldt Bay area, and authorized the City, upon the making of further findings by the State Lands Commission, and upon the consent of the Commission, to convey portions of such lands for compensation; and

WHEREAS, Section 3 of Chapter 1086, State of California Statutes of 1970, provides that all monies paid as compensation in exchange for any tideland settlements within the City of Eureka be deposited in a Tidelands Trust Fund, which presently has a fund balance of \$160,970; and

WHEREAS, revenues from the Tidelands Trust Fund can only be used by the City of Eureka for those purposes provided in Section 4 of Chapter 1086, State of California Statutes of 1970 which include establishment, improvement and conduct of harbors, construction of piers and all other works necessary or convenient for the promotion and accommodation of commerce and navigation, and

WHEREAS, Costco Wholesale Corporation has proposed to purchase for private use approximately ten (10) acres of granted tidelands generally described as the real property (hereinafter referred to as "Subject Property") between Railroad Avenue and Short Street and Wabash Avenue and the abandoned 15th Street, more particularly described in Exhibit "A" and shown in Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, the State Lands Commission staff has determined that just compensation to be paid in exchange for tidelands settlement on the Subject Property would be 40% of the appraised value of \$2,000,000 or \$800,000;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUREKA THAT:

The Mayor of the City is authorized to enter into an agreement with the State Lands Commission for Tideland Settlement for the "Subject Property" and requests this item be placed on the agenda of the next available State Lands Commission meeting; and

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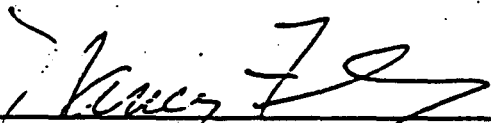
The City of Eureka agrees with the State Lands Commission on the 40% (\$800,000) settlement with the understanding that the 40% figure for determining just compensation is unique to the proposed tidelands settlement on the "Subject Property," and in no way does it set precedent as a determining factor for future tidelands settlements within the City of Eureka, and

Eight hundred thousand dollars (\$800,000) will be deposited from proceeds of escrow into the Tidelands Trust Fund to be used together with the existing \$160,970 for the following purposes:

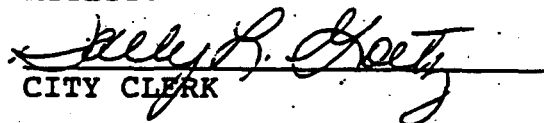
1. To build a public pier in the vicinity of the Adorni Recreation Center, to provide public access to waters of the State of California on Humboldt Bay.
2. Reconstruct up to 350 feet of deteriorated dock running westerly from the foot of C Street to provide public access and support facilities to the fishing industry of the State of California.

Passed, approved and adopted by the Council of the City of Eureka, County of Humboldt, State of California on the 1st day of June, 1993 by the following vote:

AYES: COUNCILMEMBERS WARNES, WORTHEN, MCKELLAR, JAGER, MADSEN.
NOES: COUNCILMEMBERS NONE
ABSENT: COUNCILMEMBERS NONE


MAYOR OF THE CITY OF EUREKA

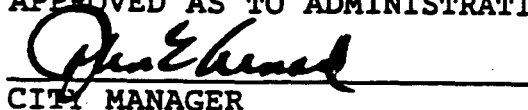
ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

APPROVED AS TO ADMINISTRATION:


CITY MANAGER

(resostatelandscmission)

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DESCRIPTION

All that real property situated in the City of Eureka, County of Humboldt, State of California, located in the Northeast one-quarter of Section 28, Township 5 North, Range 1 West, Humboldt Base and Meridian, described as follows:

BEGINNING at the Northeast corner of Block 7 of Clark's South Park Addition to the City of Eureka as shown on the Map thereof recorded in Book 11 of Maps, page 14, Humboldt County Records, said point also being the Southwest corner of Short Street and Fifteenth Street (formerly known as Pacific Avenue and now vacated) as shown on said Map;

1. thence South along the West line of Short Street, 420 feet to the North line of Wabash Avenue as shown on said Map of Clark's South Park Addition;
2. thence West along the North line of Wabash Avenue, 1,070.82 feet to the Easterly line of Railroad Avenue as shown on said Map;
3. thence North 15 degrees 33 minutes East along the Easterly line of Railroad Avenue, 435.96 feet to the South line of Fifteenth Street (formerly Pacific Avenue);
4. thence East along the South line Fifteenth Street, 259.67 feet to the Southerly prolongation of the East line of Lot 7 of Block 1 of said Clark's South Park Addition;
5. thence North along the Southerly prolongation of said East line of Lot 7 of Block 1, 37.5 feet to the centerline of Fifteenth Street;
6. thence East along the centerline of Fifteenth Street, 284.62 feet to the Southerly prolongation of the West line of Octavia Avenue as shown on said Map of Clark's South Park Addition;
7. thence South along the Southerly prolongation of the West line of Octavia Avenue, 37.5 feet to the South line of Fifteenth Street;
8. thence East along the south line of Fifteenth Street, 409.66 feet to the point of beginning.

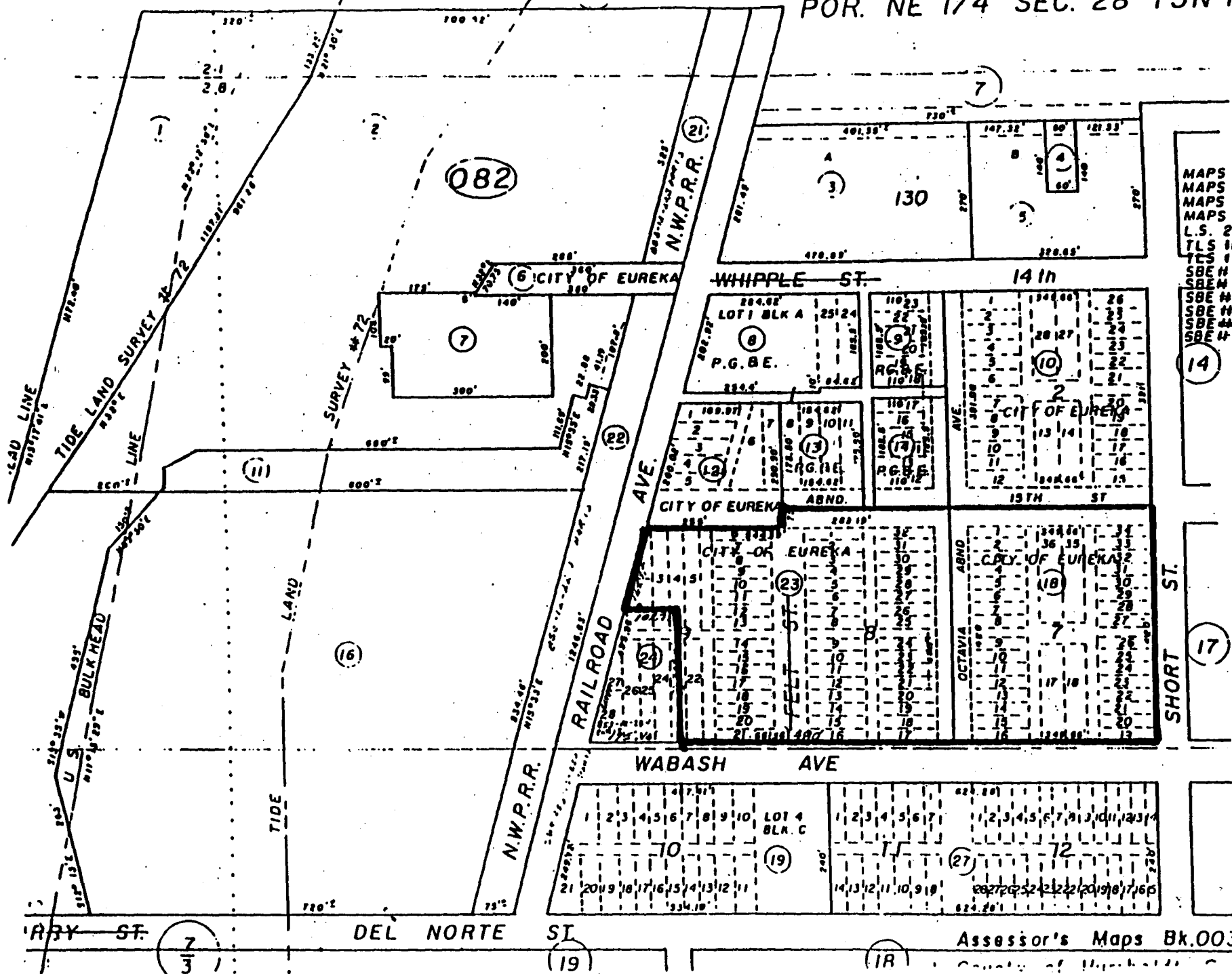
EXCLUDING THEREFROM that portion granted to the Northwest Pacific Railroad Company by Deed recorded in Volume 1208 of Official Records, page 464, Humboldt County Records, being more particularly described as follows:

BEGINNING at the intersection of the North line of Wabash Avenue and the East line of Railroad Avenue as it exists today, November 7, 1972;

1. thence North 15 degrees 33 minutes East 269.99 feet along the said East line of Railroad Avenue;
2. thence East, 102.78 feet parallel to the said North line of Wabash Avenue;
3. thence South 260.11 feet to the said North line of Wabash Avenue;
4. thence West 175.16 feet along the said North line of Wabash Avenue to the point of beginning.

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EXHIBIT (A)



MAPS 9 PG
 MAPS 9 PG
 MAPS 9 PG
 MAPS 11 PG
 L.S. 24 PG
 T.L.S. 11
 T.L.S. 11
 SBE # 135-12-09 PAR. 1
 SBE # 135-12-14 PAR. 2
 SBE # 135-12-14 PAR. 3
 SBE # 853-12-22J PAR. 13

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CERTIFICATE OF CITY CLERK

STATE OF CALIFORNIA,)
County of Humboldt) ss.
City of Eureka)

I, SALLY L. GOETZ, City Clerk of the City of Eureka,
hereby certify under penalty of perjury that the attached is a
full, true and correct copy of Resolution No. 93-21, as passed and
adopted by the Eureka City Council at their regular meeting of June
1, 1993, and as appears on record in the City Clerk's office.

WITNESS my hand and the official seal of the City of Eureka
this 10th day of June, 1993.


Sally L. Goetz
City Clerk

SEAL

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