

**CALENDAR ITEM
C73**

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06/22/17
G 04-02.1
R. Boggiano

**CONSIDER APPROVING TWO INDUSTRIAL LEASES, ISSUED BY THE
CITY OF EUREKA AND LOCATED ON THE CITY'S LEGISLATIVELY GRANTED
SOVEREIGN LAND, FOR EXISTING PIER AND DOCK STRUCTURES,
PURSUANT TO CHAPTER 1086, STATUTES OF 1970,
AS AMENDED BY CHAPTER 1095, STATUTES OF 1978**

TRUSTEE:

City of Eureka

LOCATION:

Granted sovereign tide and submerged lands located in the City of Eureka,
Humboldt County.

BACKGROUND AND PROPOSED LEASES:

The City of Eureka (City) is a trustee of sovereign tide and submerged land granted by the Legislature pursuant to Chapter 82, Statutes of 1857; Chapter 438, Statutes of 1915; Chapter 187, Statutes of 1927; Chapter 225, Statutes of 1945; Chapter 1086, Statutes of 1970; and Chapter 1095, Statutes of 1978, with minerals reserved to the State of California. The grant requires the City, prior to entering into a lease exceeding 1 year for use of its granted lands, to obtain approval from the Commission.

The City submitted two proposed leases to the Commission for approval. The first lease is between the City and Eureka Forest Products. Eureka Forest Products operates a shipping terminal adjacent to 1206 West 14th Street. The initial lease term is for 10 years, beginning June 1, 2017, with the option for Eureka Forest Products to extend the lease for two additional 15-year periods—a potential overall lease period of 40 years. The lease authorizes the continued use of the existing facilities for wharfing, loading/unloading, a log deck, and storage, and does not authorize the construction of any additional improvements without the City's written consent. Under the proposed lease, the City will charge Eureka Forest Products rent of \$1,950 per month for the initial 10-year lease term, subject to annual CPI adjustments. All renewals are subject to renegotiation of base rent. The rent is based on 9 percent of the appraised value of the lease premises.

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The second lease is between the City and Caito Fisheries. Caito Fisheries operates a shipping terminal on granted lands adjacent to 101 "I" Street. The facilities include a pier and dock structure and provide a platform for the loading and off-loading of seafood products from fishing boats. In 2012, Caito Fisheries, which operated under a sublease for many years, purchased the property from Eureka Fisheries.

The 10-year lease is retroactive and takes effect on January 1, 2016. The lease allows Caito Fisheries to extend its lease beyond the initial term for three additional 5-year periods—a potential overall lease period of 25 years. The lease authorizes continued use of the existing facilities for wharfing, loading/unloading, and storage, and does not authorize the construction of any additional improvements without the City's written consent. The City will charge Caito Fisheries rent of \$1,000 per month for the initial 10-year lease term, subject to annual CPI adjustments. All renewals are subject to renegotiation of base rent. The rent is based on 9 percent of the appraised value of the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

Section 8.5 of Chapter 1086, Statutes of 1970, as amended by Section 3 of Chapter 1095, Statutes of 1978, states that no lease in excess of 1 year in duration for the use of granted lands entered into or issued by the City shall be valid without the prior approval of the Commission.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. Pursuant to the common law Public Trust Doctrine, the State and its delegated trustee, such as the City of Eureka, holds these lands and resources for the benefit of all people of the State for statewide Public Trust purposes and needs that include, but are not limited to, water-dependent commerce, navigation, fisheries, water-related recreation, habitat preservation, open space. Section 4 of the City's statutory trust grant lists a variety of uses that the City may make of its granted public trust lands, including for the maintenance of wharves, docks, piers, and other facilities and structures that are incidental, necessary or convenient for the promotion and accommodation of commerce and navigation.

The proposed leases allow for the continuation of loading and offloading products from barges and fishing boats and are necessary for the promotion and accommodation of water-dependent commerce, navigation and fisheries. The proposed leases are consistent with section 4 of the City's statutory trust grant and with the common law Public Trust Doctrine.

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Commission staff conducted a review of the appraisal and found that the approach used for the appraisal and the basis for the rent calculation are consistent with sound principles of appraisal methodology. Staff has also confirmed with the City that the proceeds from the subject leases will be deposited into its tidelands fund, separate from the City's General Fund, as required by the trust grant. Therefore, staff recommends that the Commission find that the proposed leases are consistent with the City's statutory trust grant and the common law Public Trust Doctrine and approve the leases.

OTHER PERTINENT INFORMATION

1. This proposed action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, are consistent with evolving Public Trust principles and values.

2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

EXHIBITS:

- A. Location and Site Map – Eureka Forest Products
- B. Location and Site Map – Caito Fisheries

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

AUTHORIZATION:

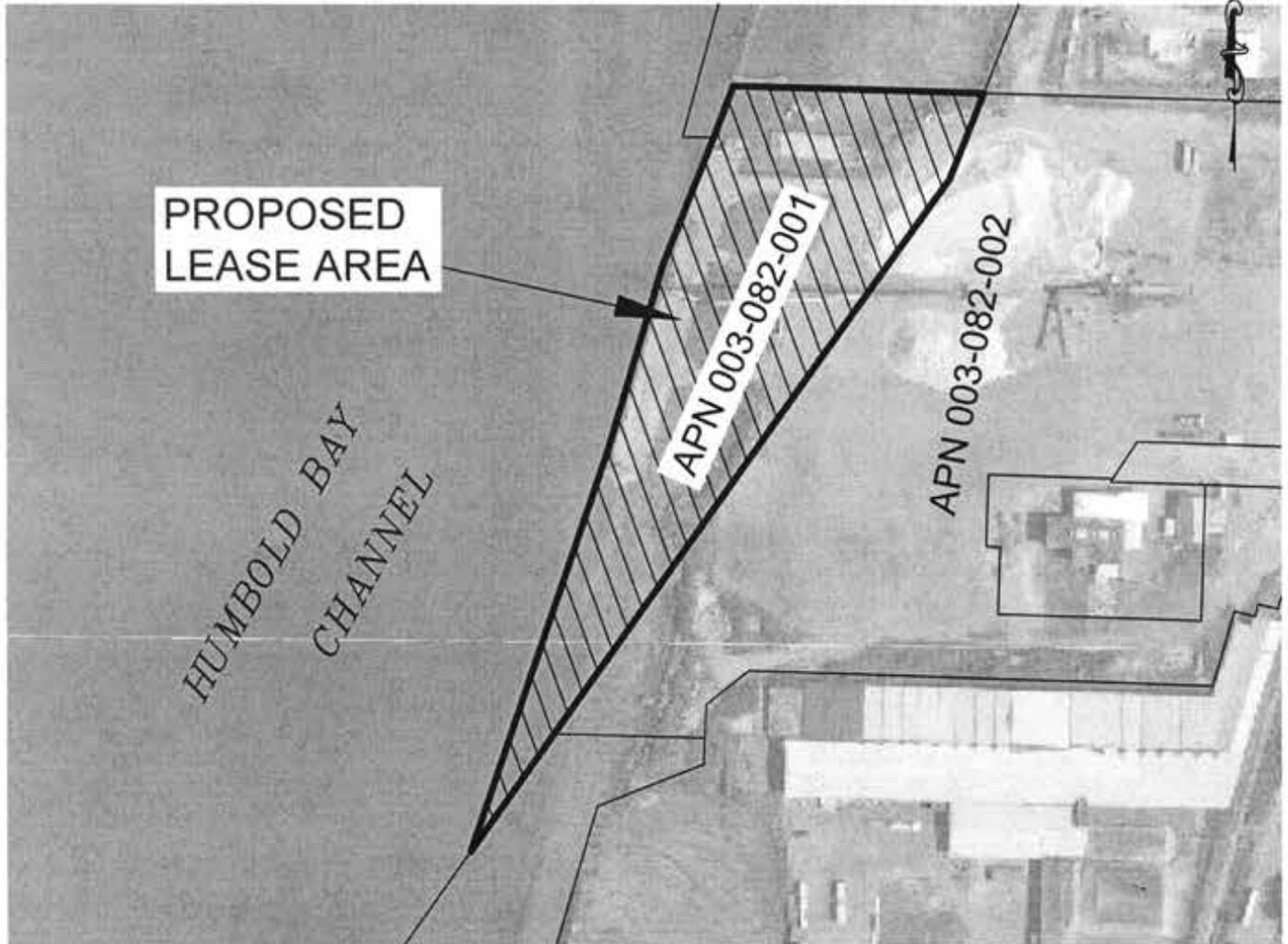
1. Approve the proposed lease between the City of Eureka and Eureka Forest Products for a pier and dock structure, pursuant to Chapter 1086, Statutes of 1970, as amended by Chapter 1095, Statutes of 1978.

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2. Approve the proposed lease between the City and Caito Fisheries for a pier and dock structure, pursuant to Chapter 1086, Statutes of 1970, as amended by Chapter 1095, Statutes of 1978.

NO SCALE

SITE



1206 WEST 14th STREET, CITY OF EUREKA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

CITY OF EUREKA
G 04-02

APPROVAL OF A LEASE OF
TIDE & SUBMERGED LANDS
HUMBOLDT COUNTY
EUREKA FOREST PRODUCTS



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

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NO SCALE

SITE

HUMBOLDT BAY CHANNEL

**PROPOSED
LEASE AREA**

APN 001-162-010

101 I STREET, CITY OF EUREKA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

CITY OF EUREKA
 G 04-02
 APPROVAL OF A LEASE OF
 TIDE & SUBMERGED LANDS
 HUMBOLDT COUNTY
 CAITO FISHERIES



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TS 05/10/17