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RECORDED AT REQUEST OF
Eureka Title Company
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HUMBOLDT COUNTY RECORDS
GRACE JACKSON RECORDER
DEPUTY
FEE $ none

DOCUMENT RECORDED AT THE REQUEST OF AND WHEN RECORDED MAIL TO

The City of Eureka
City Attorney
P. O. Box 1018
Eureka, California 95501

(City of Eureka Official Business)
(Document entitled to free recordation pursuant to Government Code section 6103)

AGREEMENT FOR THE SETTLEMENT OF A TITLE AND BOUNDARY DISPUTE AND THE EXCHANGE OF CERTAIN LANDS WITHIN THE CITY OF EUREKA, HUMBOLDT COUNTY, BY AND AMONG THE CITY OF EUREKA AND THE CALIFORNIA STATE LANDS COMMISSION

Instructions to the County Recorder of the County of Humboldt

This document includes quitclaim deeds of parties to this agreement to other parties hereto. Therefore, please index this document as follows:

Grantor	Grantee	Agreement paragraph in which real property is described
State of California, acting by and through the State Lands Commission	City of Eureka	1
City of Eureka	City of Eureka as trustee pursuant to chapter 225 of the Statutes of 1945 and chapter 1086 of the Statutes of 1970	3

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STD. 113 (REV. 8-72)

TITLE AND BOUNDARY SETTLEMENT AGREEMENT
REGARDING CERTAIN REAL PROPERTY IN THE
COUNTY OF HUMBOLDT, CALIFORNIA
(Including Quitclaims of Parties to
Effectuate Agreement)

THIS AGREEMENT made and entered into as of the 19th day of February, 1980, between the CITY OF EUREKA (hereinafter referred to as "the City"), and the STATE OF CALIFORNIA, acting by and through the STATE LANDS COMMISSION (hereinafter referred to as "the State").

W I T N E S S E T H:

WHEREAS, the real property (hereinafter referred to as "Settlement Area") described in exhibit A attached hereto and designated "Settlement Area" on the map attached hereto as exhibit B, which exhibits are made a part hereof, was historically comprised of lands depicted on various maps and charts as swamp and overflowed lands or lands located below the line of mean high tide;

WHEREAS, the State of California, upon being admitted to the Union on September 9, 1850, received title, by virtue of the State's sovereignty, to any tide and submerged lands in the Settlement Area; and

WHEREAS, the State, by virtue of the Arkansas Swamp Lands Act of September 28, 1850, received title from the United States of America to certain swamp and overflowed lands located within the State's boundaries; and

WHEREAS, to the extent the Settlement Area may have embraced swamp and overflowed lands, the State received title to such lands by virtue of the Settlement Area

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being included within the perimiter description of a patent to the State by the federal government pursuant to the Act of Congress of September 28, 1850; and

WHEREAS, the State in the early years of statehood enacted various statutes authorizing the sale of tidelands and swamp and overflowed lands to private applicants; and

WHEREAS, the Settlement Area was included within the perimeter description of the Patent for Humboldt County Tideland Survey No. 1, dated July 10, 1860, issued by the State of California to Jonathan Clark, and recorded June 9, 1868, in book 1, page 188 of Patents in the Office of the County Recorder of the County of Humboldt; and

WHEREAS, the parties are informed and believe that the patent for Tideland Survey No. 1 is valid insofar as it conveyed into private ownership lands located landward of the line of mean low water as said line existed at the time of survey.

WHEREAS, the City of Eureka, by virtue of a tax deed dated January 7, 1948, and recorded March 26, 1948, in book 39, Tax Deed, page 94 of the Official Records of the Office of the Recorder of the County of Humboldt, became the successor in interest to and owner of any private rights, title, and interest to and owner of any private rights, title, and interests in and to the Settlement Area conveyed by Tideland Survey No. 1; and

WHEREAS, the State of California, by grants contained in chapter 255 of the Statutes of 1945, as amended and modified by chapter 1086 of the Statutes of 1970, conveyed Eureka tidelands, as defined in chapter 1085 of the Statutes of 1970,

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within the Humboldt Bay Area to the City to be held by it in trust subject to the provisions of said statutes and the common law public trust for commerce, navigation and fisheries and subject to certain residuary powers and interests reserved to the State; and

WHEREAS, the net effect of the above-described conveyances was to vest both public and private title in and to the Settlement Area in the City of Eureka; and

WHEREAS, it appears that a portion of the Settlement Area was a natural slough, historically known as Clark Slough which was located below the line of mean high tide; and

WHEREAS, to the extent the Settlement Area was historically comprised of lands below the line of mean high tide it is subject to the public trust for commerce, navigation and fisheries and is also held pursuant to those trust and conditions contained in chapter 225 of the Statutes of 1945 as amended and modified by chapter 1086 of the Statutes of 1970; and

WHEREAS, at the present time it is uncertain whether and to what extent the Settlement Area may have been historically comprised of lands below the line of mean high tide, held by the City subject to the public trust and those statutory trusts and conditions imposed by chapter 225 of the Statutes of 1945, as amended and modified by chapter 1086 of the Statutes of 1970, and whether and to what extent the Settlement Area was comprised of lands held by the City free of such trust and provisions; and

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WHEREAS, the City of Eureka has embarked on a project to redevelop and provide low and moderate income housing in an area of the City currently used as a school corporation yard; and

WHEREAS, as part of this project the City of Eureka has secured funding from the federal government to construct and renovate certain buildings and these grant funds must be used within specified time limits or these grant funds may be lost; and

WHEREAS, as an integral part of this project the City is desirous of relocating the school corporation yard presently located on the project site to the Settlement Area; and

WHEREAS, it is uncertain at the present time whether such a use of the Settlement Area is consistent with the common law and statutory trust under which the City holds title to the Settlement Area; and

WHEREAS, because of the uncertainties as to title in the Settlement Area it is impossible for the City to lease or dispose of any proprietary interest in the Settlement Area without a resolution of the title problems; and

WHEREAS, the City has determined that the public and statutory trusts and conditions under which any sovereign lands within the Settlement Area are held will be better served by an exchange of lands and other interests in order to provide the people of the State with other lands more susceptible and valuable for trust purposes; and

WHEREAS, this settlement by allowing for the use of

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the Settlement Area for a school corporation yard thereby resulting in a benefit to the school district will also allow the City to proceed in a timely manner with its proposed project to provide low and moderate income housing and which will prevent the loss of federal grant moneys; and

WHEREAS, the City as part of the settlement of the case of Kaiser Cement & Gypsum Corporation v. City of Eureka, Humboldt County Superior Court No. 52624 has agreed to purchase a parcel of property commonly known as the Kaiser Parcel which the City has agreed to hold in trust for the purposes of commerce, navigation and fisheries and also pursuant to the statutory trust contained in chapter 1086 of the Statutes of 1970; and

WHEREAS, in the purchase of this parcel, the City will be expending approximately $40,000 of nontrust moneys to which it would be entitled to reimbursement from trust revenues; and

WHEREAS, at the present time the City owns in a proprietary capacity an improved parcel of land (hereinafter referred to as the "Exchange Parcel") described in exhibit C attached hereto and designated Exchange Parcel on the map attached hereto as exhibit D, which exhibits are made a part hereof, and which is not now, nor has been historically subject to the public trust for commerce, navigation and fisheries or to those statutory trusts contained in chapter 1086 of the Statutes of 1970; and

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WHEREAS, the Exchange Parcel has been improved by the City by the use of nontrust funds and such improvements consist of a parking lot and landscaping; and

WHEREAS, the Exchange Parcel is susceptible in an improved condition, for public and statutory trust uses, among which are to provide public parking for visitors to the waterfront area of the City of Eureka, which uses are of a statewide and not purely local benefit; and

WHEREAS, the City of Eureka has negotiated an exchange of interests whereby the City will relinquish its claim to be reimbursed for nontideland funds expended in the purchase of the Kaiser Parcel and will agree to hold the Exchange Parcel subject of those statutory and common law trusts as if the Exchange Parcel had been sovereign lands of the State granted to the City of Eureka in trust. In exchange therefore, the State agrees to convey to the City all of its sovereign interests in and to the Settlement Area, to relinquish any trust interest in the Settlement Area so that thereafter the City may treat the Settlement Area as if such area is held in a proprietary capacity; and

WHEREAS, uncertainties as the nature and extent of titles to the Settlement Area have delayed and rendered more difficult the effectuation of the proposed exchange; and

WHEREAS, in order to allow the City to exchange these lands in a timely manner, the City and the State will assume for the purposes of this agreement that all the lands included within the Settlement Area were tide and submerged lands,

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subject however, to a subsequent agreement by the City and State as to the nature and extent of sovereign and proprietary interests within the Settlement Area; and

WHEREAS, the Legislature in 1970 enacted chapter 1085 of the Statutes of 1970 to provide for the settlement of title and boundary problems and to provide for the exchange of certain lands or interests in lands which are currently located above the line of mean high tide and which are no longer necessary or useful for commerce, navigation and fisheries; and

WHEREAS, in section 2 of said chapter 1085, the Legislature found and declared that portions of the lands within the Humboldt Bay Area, as defined in said chapter, have been heretofore and shall be improved hereafter in connection with the development of the Humboldt Bay Area, and in the process of such development have been filled and reclaimed, and are no longer necessary or useful for commerce, navigation or fisheries; and

WHEREAS, said chapter 1085 authorizes the State Lands Commission upon its own initiative or upon the application of the City of Eureka or of any other affected party, to determine which lands are above the present line of mean high tide and no longer necessary or useful for commerce, navigation or fisheries; and

WHEREAS, section 3 of chapter 1085 provides that once such a determination has been made and a description of the lands and a certificate that said lands are located above the line of mean high water and are not longer necessary or useful

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for commerce, navigation or fisheries is recorded, said lands shall be freed from the public use and trust for commerce, navigation and fisheries; and

WHEREAS, chapter 1085 further provides that when such lands have been freed from the public trust, the City of Eureka, upon receipt of such consideration as is authorized in chapter 1085, may by document, quitclaim, or conveyance, convey, release, or quitclaim any portions of such lands; and

WHEREAS, the City of Eureka has applied to the State Lands Commission to determine that the lands included within the Settlement Area are above the present line of mean high tide and are no longer useful for commerce, navigation and fisheries; and

WHEREAS, the State Lands Commission has determined that the Settlement Area has been filled and reclaimed, is presently located above the line of mean high tide and is no longer useful for the purpose of commerce, navigation and fisheries because of certain natural and artificial processes including but not limited to:

A. The closure of the mouth of Clark Slough at a date sometime prior to 1931; and

B. The filling and reclamation of the historic bed of Clark Slough within the Settlement Area; and

C. The construction of roads, sewers, drains and other improvements adjacent to and surrounding the Settlement Area; and

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WHEREAS, pursuant to the provisions of section 4, chapter 1085 of the Statutes of 1970, the consideration to be received by the City has been determined by the City and approved by the State to be equal to or exceeding the value of interest of the State and City to be conveyed pursuant to this agreement; and

WHEREAS, the settlement herein provided for will enable the City to develop, for respective public purposes, both the Settlement Area and the lands and other interests to be received by the City in exchange therefore.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual convenances and agreements herein contained or provided for, the parties hereto agree as follows:

1. State's Quitclaim to City. The State hereby remises, releases, and forever quitclaims to the City all of its rights, title, and interests in and to the Settlement Area as described in exhibit A.

2. City's Relinquishment of Claim of Reimbursement: The City of Eureka hereby relinquishes its claim of reimbursement from tideland or other trust revenues for any and all funds which have been or may be for the purchase of that parcel of land commonly known as the Kaiser Parcel located between J and K Streets in the City of Eureka and which is to be purchased as part of the Agreement to be entered into by and between the State of California, City of Eureka and various private parties in settlement of the case of Kaiser Gypsum and Cement Corporation

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v. City of Eureka, Humboldt County Superior Court No. 52624.

3. Exchange of Trust Lands. The City of Eureka hereby agrees to hold the lands known as the Exchange Parcel and described in exhibits C and D attached hereto, in trust subject to all provisions of chapter 225 of the Statutes of 1945 and chapter 1086 of the Statutes of 1970 as such statutes may be amended from time to time as well as the common law public trust for commerce, navigation and fisheries and shall hold these lands as if they were originally sovereign lands granted by the State to the City.

4. State Lands Commission Approvals. The State Lands Commission by indicating its approval of and execution of this Settlement Agreement, hereby:

a. Determines and declares, pursuant to and in accordance with section 2(b) of chapter 1085 of the Statutes of 1970, that the Settlement Area, to the extent said parcel was sovereign lands and not uplands, has heretofore been improved in connection with the development of the Humboldt Bay Area, and in the process of such development has been filled and reclaimed, is no longer submerged or below the present line of mean high tide, and is no longer necessary or useful for commerce, navigation or fisheries, or for such uses or trusts as are or have been imposed by the statutory grants of tide and submerged lands from the State to the City, and is hereby freed from such statutory and common law trusts.

b. In accordance with section 6 of chapter 1085 of the Statutes of 1970, approves this settlement Agreement and

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the conveyances provided for herein and approves of the conveyance to the City by the State, of all of the right, title and interest of the State of California and of the right, title and interest of the City of Eureka held by virtue of chapter 225 of the Statutes of 1945 and chapter 1086 of the Statutes of 1970, in and to all of the real property described in exhibit A hereto.

c. Further finds and declares that the consideration to be received by the City to be held in trust pursuant to this agreement has a value equivalent to or exceeding the value of the interest of the State being conveyed to the City hereunder, and approves of the adequacy of the consideration as determined by the City with respect to the settlement provided for herein, in accordance with section 4 of chapter 1085 of the Statutes of 1970.

5. Renegotiation.

a. If, after future studies, the uncertainties as to the nature and extent of public and private interest in the settlement area can be determined, the parties hereby agree that this agreement will be renegotiated and a portion of the consideration to be given by the City or held in trust pursuant to paragraphs 2 and 3 of this agreement, may be returned to the City to be held in a proprietary capacity.

b. As a condition for a permit for the development project which the City proposes to undertake on the settlement area, the City of Eureka has entered into an agreement with the California Coastal Commission whereby the City of Eureka

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has agreed to dedicate or purchase and dedicate a parcel of restorable wetland of 3,000 square feet and to establish a fund for restoration of said wetland as mitigation for this project. Selection of the area to be dedicated and restored is to be made in the local coastal program. The State Lands Commission hereby agrees to cooperate with the California Coastal Commission in the selection of the wetland area to be dedicated and restored. Assuming the wetland area to be dedicated and restored is susceptible of trust usage in its restored condition and not presently encumbered by the trust, and it is determined by the State Lands Commission to meet the other conditions and requirements for an exchange pursuant to chapter 1085 of the Statutes of 1970, the State Lands Commission hereby agrees to renegotiate this Agreement at such time the parcel is dedicated and the restoration fund established and to refund to the City a portion of the consideration the City has agreed to hold subject to the trust pursuant to paragraphs 2 and 3 of this Agreement. The amount of the refund will be of a value equivalent to the fair market value of the property to be dedicated and the restoration costs not already subject to the trust. The City of Eureka hereby agrees that a prior condition for any renegotiation of this agreement will be the City's agreement to hold the wetlands to be dedicated and the money to be spent for restoration as part of the common law, public trust, and those statutory trusts contained in chapter 225 of the Statutes of 1945 and chapter 1086 of the Statutes of 1970 as subsequently amended.

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c. At the present time the City, State and private parties are in the process of final negotiations on the purchase of the Kaiser Parcel. Should this Agreement not be consummated or should this Agreement not require for the City to provide $40,000 of nontidelands funds for the purchase of the Kaiser Parcel, the City and the State hereby agree to renegotiate this agreement and the City agrees to hold an additional amount of nontrust property or other consideration with a fair market value of not less than $40,000 subject to the common law public trust and those statutory trusts contained in chapter 225 of the Statutes of 1945 and chapter 1086 of the Statutes of 1970 as those statutes may be amended from time to time.

6. Notarization. All signatures on this agreement shall be duly acknowledged before a notary public and a certificate of acknowledgement with respect to such acknowledgements shall be attached to the respective document to which it pertains so as to allow the recordation thereof in the County of Humboldt, California.

7. Prohibition on Sale or Encumbrances. Neither the City nor the State shall sell, transfer, assign, mortgage, pledge or hypothecate, whether by operation of law or otherwise, any of their respective rights, title or interest in or to said parcels prior to the recording of this agreement.

8. Termination of Agreement. If this agreement shall not be recorded on or before December 31, 1980, it shall terminate and be of no force and affect whatsoever.

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9. Agreement Binding on Heirs, Assigns, Etc. All the terms, provisions and conditions hereon shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, successors, and assigns of the parties hereto.

10. Severability. Should any party fail to comply with any such provisions after the effective date of this agreement, such failure shall in no way affect the consideration supporting the other provisions of this agreement or the validity or binding nature thereof. Nothing herein, however, shall affect or diminish the rights of any party hereto at law or in equity, or both, to enforce each and every position of this agreement against any other party hereto.

11. Modification. No modification, amendment or alteration of this agreement shall be valid unless in writing and signed by the parties hereto.

12. Notices. a. All notices required or permitted to be given to a party hereto by the provisions of this agreement shall be deemed to have been given forty-eight (48) hours after such notice is deposited in the United States mail as registered or certified mail, with postage thereon fully prepaid, addressed to such party at the following respective addresses, or when such notice is filed as a telegram with Western Union Telegraph Company, or any successor in interest of said telegraph company, addressed as above provided, with all charges fully prepaid.

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City

City of Eureka
6th and K Streets
Eureka, California 95501
Attention: City Attorney

State

State Lands Commission
1807 13th Street
Sacramento, California 95814

b. Any notice given in any other fashion shall be deemed to have been given when actually received by the addressee.

Any party hereto may change its address by giving written notice to all other parties hereto and to the escrow agent. A copy of all notices given to the escrow agent, and said notice shall not be effective until deemed given to both the party to receive it and the escrow agent pursuant to the provisions of this paragraph.

13. Counterparts. This agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all of the parties to the aggregate counterparts had signed the same instrument.

14. Gender. As used herein, whenever the context so requires, the neuter gender includes the masculine and the feminine, and the singular includes the plural and vice versa. Defined terms are to have their defined meanings regardless of the grammatical form, number or tense of such terms.

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IN WITNESS WHEREOF, each party hereto has caused this agreement to be executed by its officers thereunder duly authorized as of the date set forth opposite their signatures.

CITY OF EUREKA

May 30, 1980
DATE

BY Fred J. Moore
FRED J. MOORE, Jr., Mayor

ATTEST:

BY Patricia A. Bandrucci
City Clerk

STATE OF CALIFORNIA
STATE LANDS COMMISSION

June 5, 1980
DATE

BY

Approved by:

GEORGE DEUKMEJIAN
Attorney General

June 4, 1980
DATE

BY Stephen H. Mills

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STATE OF CALIFORNIA)
) ss.
COUNTY OF HUMBOLDT)

On this 21 day of May 1982, before me, a Notary Public in and for said County and State, personally appeared Fred J. Moore, Jr., known to me to be the Mayor of the City of Eureka and Chairman of the Eureka Redevelopment Agency and known to me to be the person who executed the within instrument on behalf of said municipal corporation, and acknowledged to me that he executed the same on behalf of the City of Eureka and Eureka Redevelopment Agency.

PATRICIA A. BANDUCCI
NOTARY PUBLIC
HUMBOLDT COUNTY, CALIFORNIA
My commission expires May 18, 1984

Patricia A. Banducci

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

On June 5 1980, before me, the undersigned, a notary public in and for said state, with principal office in Sacramento County, personally appeared William F. Northrop known to me to be the Executive Officer of the STATE LANDS COMMISSION, STATE OF CALIFORNIA, the Commission that executed the within instrument, known to me to be the person who executed the within instrument on behalf of the Commission therein named, and acknowledged to me that such Commission executed the within instrument pursuant to a resolution of its Commissioners unanimously adopted on FEBRUARY 28 1980 at a regular meeting thereof.

OFFICIAL SEAL
DIONEL B. JONES
NOTARY PUBLIC-CALIFORNIA
Principal Office in Sacramento County
My Commission Expires March 5, 1982

Notary Public in and for the
County of Sacramento,
State of California

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

IN APPROVAL WHEREOF, I, EDMUND G. BROWN, JR., Governor of the State of California, have set my hand and caused the Seal of the State of California to be hereunto affixed pursuant to section 6107 of the Public Resources Code of the State of California. Given under my hand at the City of Sacramento, this 11th day of June, in the year of our Lord One Thousand Nine Hundred and Eighty.

Edmund G. Brown

GOVERNOR
State of California

Attest: March Fong Eu

By Marjorie R Hershberger

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EXHIBIT A

LEGAL DESCRIPTION

FOR

SETTLEMENT AREA

All that real property located in the City of Eureka, County of Humboldt, State of California, described as follows:

That portion of Block 132 of the Third Enlargement of Clark's Addition to the City of Eureka, according to the map thereof on file in the office of the County Recorder of said county in Book 9 of Maps, page 1, described as follows:

BEGINNING on the North line of Fourteenth Street formerly Whipple Street at a point distant thereon 119.5 feet West from the Westerly line of Broadway;

thence Northerly parallel with Broadway 261.11 feet to Cedar Street;

thence West along Cedar Street 548.18 feet, more or less, to Koster Street;

thence South along Koster Street 240 feet to the north line of Fourteenth Street;

thence East along the North line of Fourteenth Street 445.32 feet to the point of beginning.

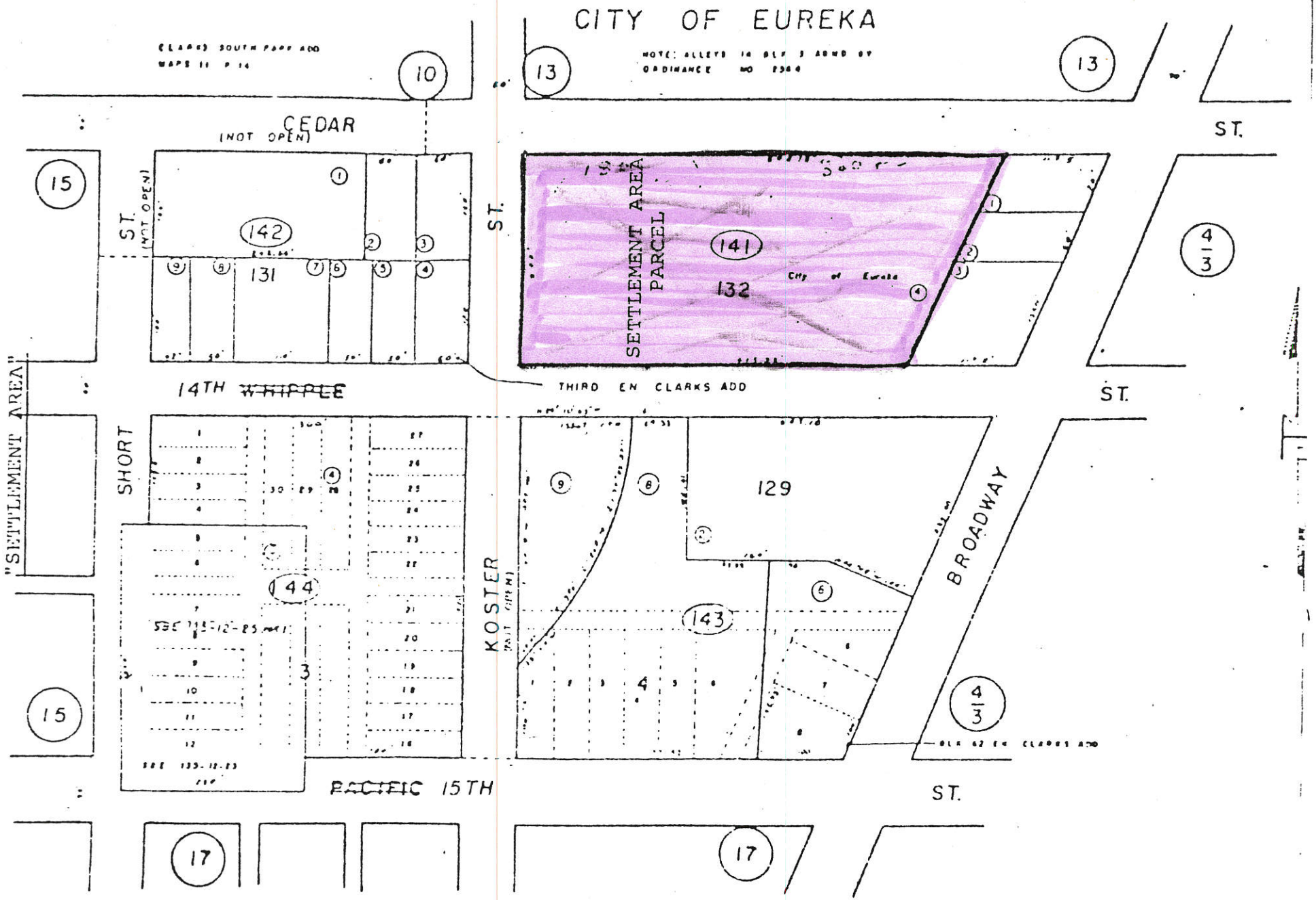
CITY OF EUREKA
CEDAR
(NOT OPEN)
ST.
(NOT OPEN)
SETTLEMENT AREA PARCEL
141
132
City of Eureka
142
131
THIRD EN CLARKS ADD
14TH ~~WHIPPLE~~
ST.
MAP OF "SETTLEMENT AREA"
SHORT
KOSTER
129
BROADWAY
144
143
3
4
15
10
13
13
4/3
4/3
15
17
17
~~PACIFIC~~ 15TH
ST.

EXHIBIT C

LEGAL DESCRIPTION

FOR

EXCHANGE PARCEL

All that real property located in the City of Eureka, County of Humboldt, State of California, described as follows:

Lots 1, 2, 3, 4, 15 and 16 of Block 4 of the City of Eureka, as shown on the map prepared by J. S. Murray and recorded in Book 1 of Maps, page 16, July 28, 1859, Humboldt County Records.

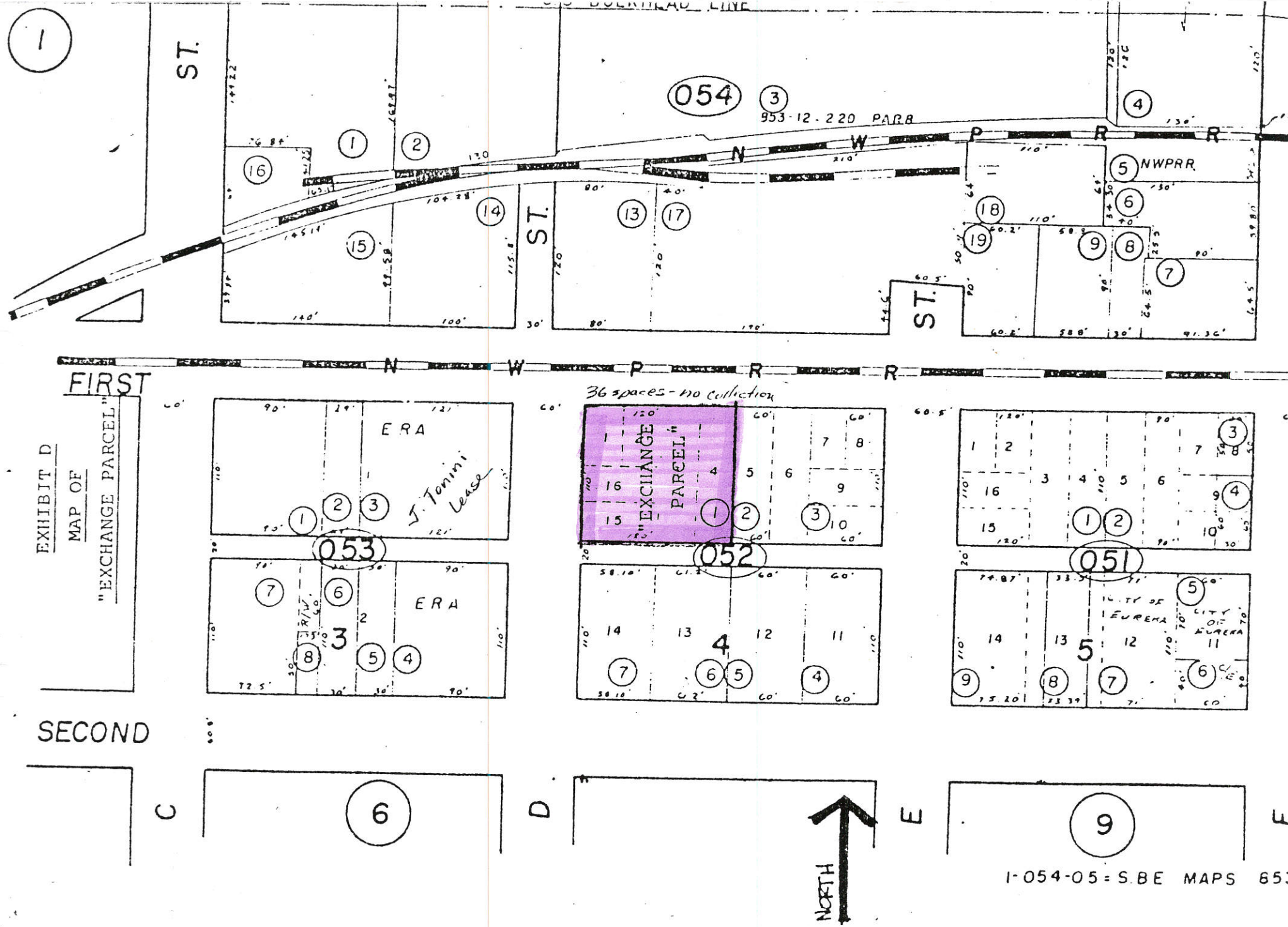

EXHIBIT D
MAP OF
"EXCHANGE PARCEL"
FIRST
SECOND
ST.
N W P R R
054
053
052
051
953-12-220 PARB
NWPRR
36 spaces - no collection
"EXCHANGE PARCEL"
ERA
J. Tonini Lease
CITY OF EUREKA
C
D
E
F
NORTH
1-054-05 = S.BE MAPS 65