

A 0.209

1994-17532-24

Recorded — Official Records
Humboldt County, California
Carolyn Crnich, Recorder

Recorded by Humboldt Land Title Company
Exempt from payment of fees
Clerk: CM Total: 0.00
Jun 17, 1994 at 14:26

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
State Lands Commission
1807 13th Street
Sacramento, CA 95814
Attn: Lance Kiley
Telephone: (916) 324-2955

STATE OF CALIFORNIA-OFFICIAL
BUSINESS - Document entitled
to free recordation Pursuant
to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

NO TAX DUE -0-

SLC No. G04-02.11
Escrow No. 83901

A.P.N. 3-082-18 and 3-082-23

CERTIFICATE OF CONSENT TO RECORDING

Government Code 27281

This is to certify that the State of California, acting by and through the State Lands Commission, an Agency of the State of California, hereby consents to the recordation of the attached TITLE AND BOUNDARY SETTLEMENT AGREEMENT REGARDING CERTAIN REAL PROPERTY IN THE CITY OF EUREKA, HUMBOLDT COUNTY, CALIFORNIA (Including Quitclaims by Parties to Effectuate Agreement), dated February 7, 1994.

This consent to recording is executed by and on behalf of the State of California by the State Lands Commission, acting pursuant to law, as approved and authorized by its Calendar/Minute Item No. C43 of its regular public meeting on September 9, 1993, by its duly authorized undersigned officer.

Dated: June 2-94

State Lands Commission

By: Robert C. Knight
Executive Officer

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California

County of Sacramento

On June 15, 1994, before me, Angel D. Roberts, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Robert C. High * * * * *
NAME(S) OF SIGNER(S)

personally known to me - **OR** - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Angel D. Roberts
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- _____ TITLE(S)
- PARTNER(S) LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: Executive Officer

DESCRIPTION OF ATTACHED DOCUMENT

Certificate of Consent to Recording
TITLE OR TYPE OF DOCUMENT

one
NUMBER OF PAGES

June 2, 1994
DATE OF DOCUMENT

none
SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
State Lands Commission

1994-17532-24

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

THIS AGREEMENT is made and entered into as of
February 7, 1994, by and between the City of Eureka
(hereinafter referred to as "CITY") and the STATE OF CALIFORNIA,
acting by and through the STATE LANDS COMMISSION (hereinafter
referred to as "STATE") and the Eureka Redevelopment Agency, a
public body, corporate and politic (hereinafter referred to as
"AGENCY").

RECITALS

1. This Agreement deals with certain real property (hereinafter referred to as "TRUST TERMINATION PARCEL") as described in Exhibit "A" to this Agreement and shown in its general location for reference only on Exhibit "B" to this Agreement. Both Exhibits A and B are attached to this Agreement and are incorporated as part of it.
2. The State of California, upon being admitted to the Union on September 9, 1850, received title by virtue of its sovereignty to any tide and submerged lands which existed within the perimeter bounds of the TRUST TERMINATION PARCEL.
3. The State of California, by virtue of the Arkansas Swamp Lands Act of September 28, 1850, received title from the United States to certain swamp and overflowed lands located within the State's boundaries.
4. The State of California in the early years of statehood enacted various statutes purporting to authorize the sale of tidelands and swamp and overflowed lands to private applicants.
5. The TRUST TERMINATION PARCEL was included within the perimeter description of the Patent for Humboldt County Tidelands Survey No. 1, dated July 10, 1860, issued by the State of California to Jonathon Clark, and recorded June 9, 1868, in Book 1 of Patents at Page 188, in the Office of the County Recorder of Humboldt County.
6. STATE contends that, in its last natural condition, the TRUST TERMINATION PARCEL was composed of tide and submerged land.



7. The California Supreme Court held in the case of 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 easement retained by the State for commerce, navigation and fisheries.

8. On April 20, 1949, CITY purchased record private title in TRUST TERMINATION PARCEL, holding such title as a successor in interest to a portion of Humboldt County Tidelands Patent No. 1. CITY and/or AGENCY continues to hold such record title.

9. It appears that the TRUST TERMINATION PARCEL described in said Tideland Patents was segregated, listed and patented by the Federal government to the State as swamp and overflowed lands pursuant to the Act of Congress of September 28, 1850, although the TRUST TERMINATION PARCEL was not patented to private party as swamp and overflowed land.

10. By Chapter 1086, Statutes of 1970, the State of California granted in trust certain tidelands within Humboldt Bay to CITY. That statutory grant included any and all remaining sovereign title interests of the State of California in TRUST TERMINATION PARCEL, to be held by CITY in trust subject to the provisions of said statute and the common law public trust for commerce, navigation, and fisheries. CITY has, since that time, held title to such lands pursuant to Chapter 1086, Statutes of 1970, as amended, and the common law public trust.

11. STATE contends that it is a breach of CITY's fiduciary duty as trustee for CITY to hold any private rights in TRUST TERMINATION PARCEL while simultaneously holding a public trust easement or greater sovereign title by virtue of a the grant in trust pursuant to Chapter 1086, Statutes of 1970, as amended.

12. STATE contends that various legal and equitable remedies exist which could be pursued to rectify the alleged breach of CITY's trust obligations with respect to TRUST TERMINATION PARCEL. Such remedies could include, but are not limited to, the imposition of a constructive trust on CITY's alleged private title in TRUST TERMINATION PARCEL and/or the collection of compensation for rents received from, or the loss of use of, TRUST TERMINATION PARCEL.

13. STATE contends that, because of CITY's fiduciary obligation under the trust by which it holds the sovereign interest in TRUST TERMINATION PARCEL, CITY cannot attempt to disprove the allegation that TRUST TERMINATION PARCEL was tidelands in its last natural condition.

14. CITY contends TRUST TERMINATION PARCEL was never tide and submerged land in its natural state but was, instead, swamp and overflowed land, that TRUST TERMINATION PARCEL is not now nor ever has been subject to Chapter 1086, Statutes of 1970, as amended, or to the common law public trust, and that no legal or equitable remedies exist to rectify CITY's conduct since it is CITY's position that it has performed no illegal act in its administration of TRUST TERMINATION PARCEL.

15. TRUST TERMINATION PARCEL has over the years been subject to substantial artificial influences including, but not limited to, filling and construction of roads and other man-made improvements.

16. As a result of these artificial processes, evidence of the natural character of the underlying land, of the natural location of the ordinary high water line, and of the extent to which changes in the character of TRUST TERMINATION PARCEL are attributable to natural as opposed to artificial processes, has been obliterated.

17. The consequent uncertainties as to the true location, character and boundaries of the tide and submerged lands within TRUST TERMINATION PARCEL, the existence of the public trust easement, and the potential application of constructive trust or other legal remedies have impeded development of TRUST TERMINATION PARCEL for either public or private use and benefit.

18. The public interest requires that outstanding title problems affecting TRUST TERMINATION PARCEL be resolved and forever laid to rest either through lengthy, expensive, complex and burdensome litigation or through agreement between the affected parties.

19. CITY desires to convey all of its right, title and interest in TRUST TERMINATION PARCEL free of any public trust interests to AGENCY so that AGENCY may, in turn, convey TRUST TERMINATION PARCEL to a private party free of public trust interests.

20. In order to avoid lengthy, expensive, complex and burdensome litigation of uncertain result, the parties have, after extensive negotiation, decided that it is in the best interest of all concerned to resolve this dispute by:

- A. CITY, acting as trustee pursuant to Chapter 1086, Statutes of 1970, as amended, quitclaiming to AGENCY free and clear of any and all sovereign trust interests in TRUST TERMINATION PARCEL that it may hold by virtue of that grant in trust; and

- B. STATE quitclaiming to AGENCY free and clear of any and all residual sovereign trust interest of STATE in TRUST TERMINATION PARCEL reserved to STATE by Chapter 1086, Statutes of 1970, as amended.
- C. CITY depositing the sum of \$800,000.00 (eight-hundred thousand dollars) from funds other than public trust funds into a trust fund to be held for those express purposes described in Resolution No. 93-21, as passed and adopted by the Eureka City Council at their regular meeting of June 1, 1993, attached hereto as Exhibit "C" and incorporated herein by this reference.

21. The California Legislature enacted Chapter 1085, 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.

22. In Section 2 of said Chapter 1085, the Legislature found and declared that portions of the lands within Humboldt Bay Area, as defined in said Chapter, have been heretofore and shall be hereafter improved in connection with the development of 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 and fisheries.

23. Chapter 1085 further provides that when such lands have been freed from the public trust, CITY, upon receipt of such consideration as is authorized by Chapter 1085, may by document, quitclaim or conveyance, convey, release, or quitclaim portions of such lands.

24. CITY has applied to STATE to determine that the lands included within TRUST TERMINATION PARCEL are above the present line of mean high tide and are no longer useful for commerce, navigation and fisheries.

25. STATE has determined that TRUST TERMINATION PARCEL has been filled and reclaimed and is above the present line of mean high tide, and upon recordation of this Agreement, TRUST TERMINATION PARCEL is no longer useful for the purpose of commerce, navigation and fisheries.

26. STATE has determined that, upon recordation of this Agreement, the consideration provided for in this Agreement to be received by CITY acting in its trust capacity and to be held in trust for those purposes specified herein is equal to or exceeds the value of any and all sovereign interests in TRUST TERMINATION PARCEL.

27. This Agreement will permit the TRUST TERMINATION PARCEL to be developed for private purposes and will provide CITY with funds to cause improvements to be made in trust land, which improvements will themselves become part of the real estate and part of the trust corpus for the purposes enumerated in Chapter 1086, Statutes of 1970, as amended, and the common law public trust for commerce, navigation and fisheries.

In consideration of the preceding recitals and the terms that follow, the parties agree that:

AGREEMENT

1. CITY's Quitclaim to AGENCY of the TRUST TERMINATION PARCEL.

CITY, acting as trustee pursuant to Chapter 1086, Statutes of 1970, as amended, quitclaims to AGENCY free and clear of sovereign trust claims any and all of CITY's right, title and interest held pursuant to Chapter 1086, Statutes of 1970, as amended, in the TRUST TERMINATION PARCEL described in Exhibit A.

2. STATE's Quitclaim to AGENCY.

STATE quitclaims to AGENCY free and clear of sovereign trust claims any and all right, title and interest of STATE existing by virtue of STATE's sovereignty in TRUST TERMINATION PARCEL described in Exhibit A.

3. CITY's Payment of \$800,000.00 into Escrow.

CITY shall pay \$800,000.00 (eight hundred thousand dollars) of funds other than public trust funds into escrow for the purposes of and by the procedures described in paragraphs 14, 15, 17, and 22 of this Agreement.

4. State Lands Commission Approvals.

STATE, upon execution and recordation of this Agreement and pursuant to State Lands Commission Calendar Item No. C43 (approved at the State Lands Commission's September 9, 1993 meeting), hereby:

- A. Finds, upon recordation of this 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 is hereby freed of the public use and trust for commerce, fisheries, and navigation.
- B. In accordance with Section 6 of Chapter 1085, Statutes of 1970, approves the conveyance by CITY in its trust capacity to AGENCY of all right, title, and interest of

CITY held by virtue of Chapter 1086, Statutes of 1970, as amended, in TRUST TERMINATION PARCEL.

- C. In accordance with Section 6 of Chapter 1085, Statutes of 1970, approves this Agreement and the conveyances provided for herein and approves the conveyance to AGENCY of all of the sovereign right, title and interest of STATE.
- D. Further finds and declares that the consideration to be placed in escrow and to be held in trust by CITY for expenditure pursuant to the terms of this Agreement equals or exceeds the value of the interests of CITY and STATE being conveyed as part of the settlement described herein, in accordance with the terms of Section 4 of Chapter 1085, Statutes of 1970.

5. Notarization.

All signatures on this Agreement shall be duly acknowledged before a notary public and certificate of acknowledgment with respect to each such acknowledgment shall be affixed to the respective document to which it pertains, so as to allow recordation thereof in the Official Records of Humboldt County, California.

6. Prohibition on Sale or Encumbrances.

Upon execution of this Agreement, neither CITY, nor AGENCY, nor STATE shall sell, transfer, assign, mortgage, pledge or hypothecate, nor allow to be sold, transferred, assigned, mortgaged, pledged, hypothecated, whether by operation of law or otherwise, any of their respective rights, titles, or interests in or to TRUST TERMINATION PARCEL prior to the recording of this Agreement.

7. Termination of Agreement.

If this Agreement shall not be recorded on or before July 1, 1994, it shall terminate and be of no force and effect whatsoever.

8. Agreement Binding on Heirs, Assigns, etc.

All terms, provisions and conditions herein shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, successors, and assigns of the parties hereto.

9. Modification.

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

10. 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.

11. No Effect on Other Lands.

The provisions of this Agreement do not constitute nor are they to be construed as an admission of any party concerning the boundaries of or character of title or interest in any lands outside TRUST TERMINATION PARCEL.

12. Headings.

The title headings of the sections of this Agreement are inserted for convenience only and shall not be deemed part of this Agreement or considered in construing this Agreement.

13. Acceptance of Conveyances and Consent to Recording.

By their execution of this Agreement, the parties each authorize acceptance of and hereby accept the conveyances of each other party, and further, the parties consent to the recordation of this Agreement and the conveyances in it.

14. Use of Funds by CITY.

CITY and STATE hereby agree that any funds deposited in the escrow established pursuant to this Agreement shall be held in trust subject to all provisions of Chapter 1086 of Statutes of 1970, as amended, as well as the common law public trust for commerce, navigation and fisheries, and shall be used only for those express purposes specified in Resolution No. 93-21, as passed and adopted by the Eureka City Council at their regular meeting of June 1, 1993, which purposes are hereby declared to be consistent with the terms and conditions of the grants under which CITY's interests in TRUST TERMINATION PARCEL are held.

15. Status of Land Improvements Constructed with Trust Funds.

CITY and STATE agree that improvements to land constructed as provided for in this Agreement will be part of a program of harbor improvement and will improve and become part of those sovereign lands granted to CITY pursuant to the terms of Chapter 1086 of Statutes of 1970, as amended, and shall be subject to the trusts and conditions specified in such grant.

16. Creation of Escrow.

The parties hereby designate a mutually agreeable title company (TITLE COMPANY) to act as escrow agent pursuant to the terms of this Agreement. The parties hereby authorize, respectively, the City Attorney, the staff of the State Lands Commission, and the Office of the Attorney General to enter into

any additional mutually agreeable escrow instructions to effectuate the provision of this Agreement.

17. Escrow.

A. The parties agree to open an escrow with TITLE COMPANY.

b. Deposits by Parties:

- (1) STATE shall deposit the following documents into escrow:
 - (a) A letter with the seal of the State Lands Commission embossed upon it stating that the State Lands Commission approved this Agreement at its September 9, 1993 meeting and that the Commission authorized its execution on the Commission's behalf;
 - (b) This Agreement, duly and properly executed by it;
- (2) CITY shall deposit the following documents into escrow:
 - (a) A certified copy of a written minute order of its City Council approving this Agreement and authorizing its execution on CITY's behalf;
 - (b) This Agreement, duly and properly executed by it;
 - (c) A certified or cashier's check in the sum of \$800,000.00 payable to "City of Eureka, as trustee pursuant to Chapter 1086, Statutes of 1970, as amended."
- (3) AGENCY shall deposit the following documents into escrow:
 - (a) A certified copy of a resolution by its governing body approving this Agreement and authorizing its execution on AGENCY's behalf;
 - (b) This Agreement, duly and properly executed by it.

18. Recordation.

Upon receipt of all of the documents and items listed in paragraph 17 section (b) of this Agreement and a letter from AGENCY stating that it has received adequate assurance from TITLE COMPANY that the TRUST TERMINATION PARCEL will be free of sovereign land interests upon recordation of this Agreement, TITLE COMPANY, if it has not received an objection by a party to the closing of escrow, shall notify the parties in writing of its intention to close escrow and to record this Agreement and any related documents and shall set a date certain for recordation and closing. At 8:00 A.M., or as early as possible thereafter on the date chosen for the close of escrow, TITLE COMPANY shall

record this Agreement in the Office of the County Recorder for Humboldt County, California.

19. Allocation of Costs and Expenses.

CITY and AGENCY shall bear the expenses and fees of escrow incurred by TITLE COMPANY including those fees associated with recordation of this Agreement. All other fees, costs, and expenses of any attorney, engineer, or other persons employed or retained by a party in connection with this Agreement shall be borne by that party.

20. Compromise Agreement.

It is expressly understood that the Agreement of the parties set forth herein is in compromise and settlement of their dispute with respect to various title and boundary uncertainties described in the recitals herein. Nothing contained herein shall be an admission of any party hereto with respect to such disputes and shall not be used by any person in any judicial or other proceeding as evidence of an alleged admission.

21. Effective Date.

This Agreement shall become effective upon the occurrence of all of the following acts:

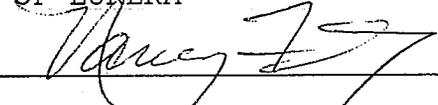
- (a) Approval of this Agreement by the State Lands Commission;
- (b) Approval of this Agreement by CITY;
- (c) Approval of this Agreement by AGENCY;
- (d) Execution of this Agreement by CITY, AGENCY, and STATE;
- (e) Recordation of this Agreement in the Office of the County Recorder of Humboldt County by TITLE COMPANY when all conditions specified herein for recordation have been complied with.

22. Release of Funds in Escrow.

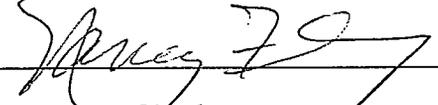
The \$800,000.00 deposited by CITY with TITLE COMPANY as provided in paragraph 17 herein shall be released upon recordation of this Agreement as provided herein to the Tidelands Trust Fund of the City of Eureka to be used only as provided for herein.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized officers on the date set forth opposite their respective signatures.

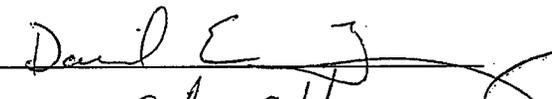
CITY OF EUREKA

By: 
Title: Mayor

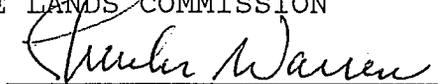
EUREKA REDEVELOPMENT AGENCY

By: 
Title: Chairman

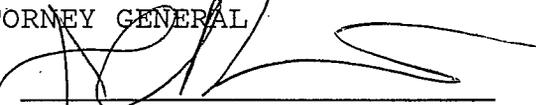
Approved:
EUREKA CITY ATTORNEY

By: 
Title: city attorney

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By: 
Title: Executive Officer

Approved:
DANIEL E. LUNGREN
ATTORNEY GENERAL

By: 
Title: Deputy Attorney General

IN APPROVAL WHEREOF, I, PETE WILSON, 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, the 19th day of April, in the year of our Lord one thousand nine hundred and ninety-four.

Pete Wilson

GOVERNOR
STATE OF CALIFORNIA

Attest:

Tony Miller

ACTING Secretary of State

by:

Deputy Secretary of State



1994-17532-24

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5193

State of California
County of Sacramento

On 2-14-94 before me, Gina M Hoffeditz, Notary Public
NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Charles Warren
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is/are
subscribed to the within instrument and ac-
knowledged to me that he/she/they executed
the same in his/her/their authorized
capacity, and that by his/her/their
signature(s) on the instrument the person(s),
or the entity upon behalf of which the
person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Signature of Notary

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT: Title & Boundary Settlement
NUMBER OF PAGES: DATE OF DOCUMENT: City of Eureka
SIGNER(S) OTHER THAN NAMED ABOVE: (13)

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
CORPORATE OFFICER(S)
PARTNER(S) LIMITED GENERAL
ATTORNEY-IN-FACT
TRUSTEE(S)
GUARDIAN/CONSERVATOR
OTHER: Executive Officer

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)
State Lands Commission

1994-17532-24

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

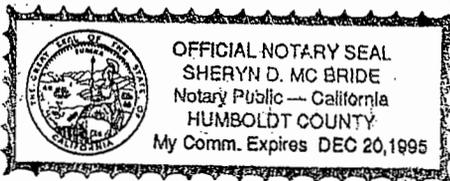
No. 5193

State of California
County of Humboldt

On Feb. 7, 1994 before me, Sheryn D. McBride
NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Nancy Fleming
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is/are
subscribed to the within instrument and ac-
knowledged to me that he/she/they executed
the same in his/her/their authorized
capacity, and that by his/her/their
signature(s) on the instrument the person(s),
or the entity upon behalf of which the
person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Signature of Notary

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

TITLE OR TYPE OF DOCUMENT: Title & Boundary Settlement Agreement w/ State Lands Commission proposed Costco Site
NUMBER OF PAGES: 14 DATE OF DOCUMENT: Feb. 7, 1994
SIGNER(S) OTHER THAN NAMED ABOVE: None

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
CORPORATE OFFICER(S)
PARTNER(S) LIMITED GENERAL
ATTORNEY-IN-FACT
TRUSTEE(S)
GUARDIAN/CONSERVATOR
OTHER: City of Eureka & Eureka Redevelopment Agency

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)
Mayor & Chairman Respectively

1994-17532-24

(13)

STATE OF CALIFORNIA
STATE LANDS COMMISSION

PETE WILSON, Governor

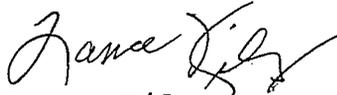
1807 13TH STREET
SACRAMENTO, CALIFORNIA 95814
(TDD/TT) 1-800-735-2929
(916) 322-2277

June 1, 1994

File Ref.: G04-02.11

TO WHOM IT MAY CONCERN:

The State Lands Commission approved the enclosed agreement, entitled "TITLE AND BOUNDARY SETTLEMENT AGREEMENT REGARDING CERTAIN REAL PROPERTY IN THE CITY OF EUREKA, HUMBOLDT COUNTY, CALIFORNIA (Including Quitclaims by Parties to Effectuate the Agreement)", at its September 9, 1993 meeting and authorized execution of the agreement on the Commission's behalf.



Lance Kiley
Staff Counsel



1994-17532-24

EXHIBIT A

DESCRIPTION

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

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, 1070.82 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 of 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, 694.28 feet to the West line of Short Street;
7. thence South along said West line 37.5 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:

DESCRIPTION (continued) Page 2

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.

EXHIBIT (B)

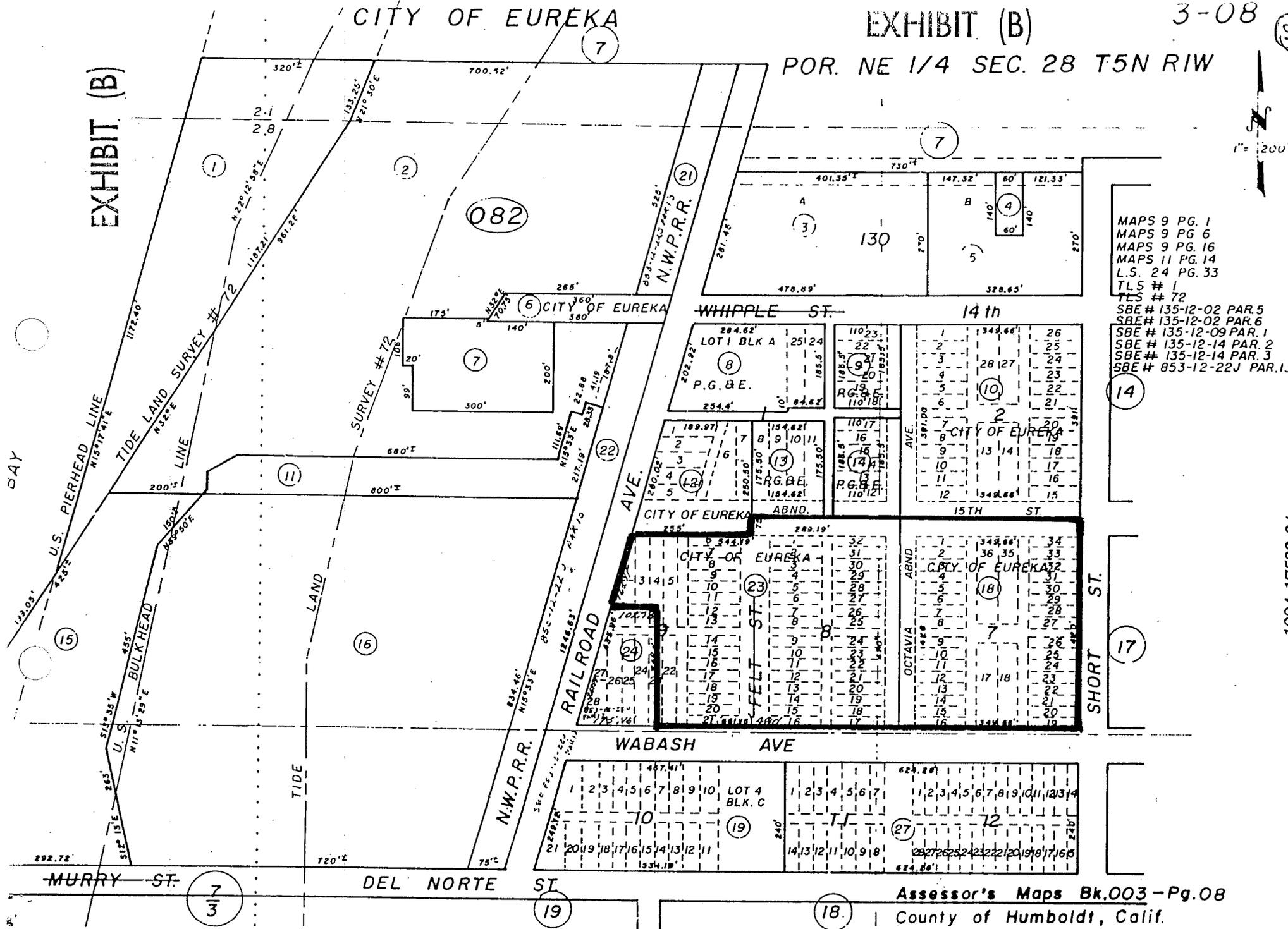
CITY OF EUREKA

EXHIBIT (B)

3-08

POR. NE 1/4 SEC. 28 T5N RIW

1" = 200'



- MAPS 9 PG. 1
- MAPS 9 PG. 6
- MAPS 9 PG. 16
- MAPS 11 PG. 14
- L.S. 24 PG. 33
- TLS # 1
- TLS # 72
- SBE # 135-12-02 PAR. 5
- SBE # 135-12-02 PAR. 6
- SBE # 135-12-09 PAR. 1
- SBE # 135-12-14 PAR. 2
- SBE # 135-12-14 PAR. 3
- SBE # 853-12-22J PAR. 13

Assessor's Maps Bk.003 - Pg.08
 County of Humboldt, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses
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12-27-11

1994-17532-24

EXHIBIT C

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, as appears on record in my office.

WITNESS my hand and the official seal of the City of Eureka this 2nd day of February, 1994.


Sally L. Goetz
City Clerk

SEAL

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

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



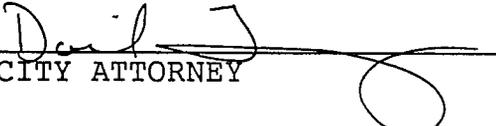
 MAYOR OF THE CITY OF EUREKA

ATTEST:



 CITY CLERK

APPROVED AS TO FORM:



 CITY ATTORNEY

APPROVED AS TO ADMINISTRATION:



 CITY MANAGER

(resostatelandscommission)

DESCRIPTION

EXHIBIT (A)

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

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 of 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, 694.28 feet to the West line of Short Street;
7. thence South along said West line 37.5 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 Record, 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;

continued.....

DESCRIPTION (continued) Page 2

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.



EXHIBIT (B)

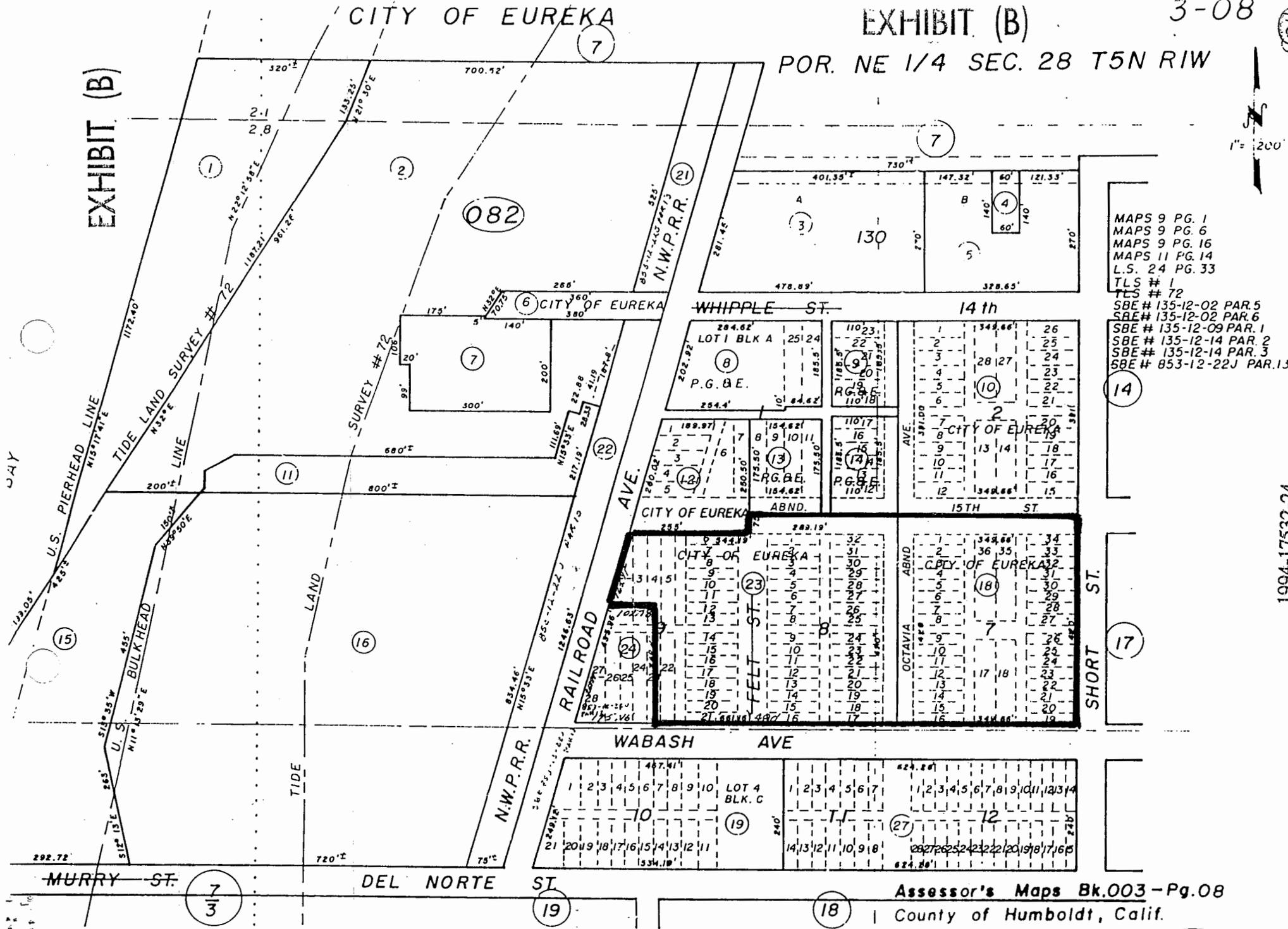
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