

**CALENDAR ITEM
C45**

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| A | 1 | 08/22/08 G 04-02 W26266 AD 534 |
| S | 2 | J. Frey G. Kato |

**CONSIDERATION OF TRUST TERMINATION AGREEMENT
BETWEEN THE EUREKA REDEVELOPMENT AGENCY,
THE CITY OF EUREKA AND THE CALIFORNIA STATE LANDS COMMISSION
OVER TWO PARCELS OF FILLED TIDELANDS**

PARTIES:

Eureka Redevelopment Agency
531 K Street
Eureka, CA 95501

City of Eureka
531 K Street
Eureka, CA 95501

California State Lands Commission
100 Howe Ave., Suite 100 South
Sacramento, CA 95825

BACKGROUND:

- A. This action proposes the termination of the public trust over two parcels of filled tide and submerged lands (the Subject Property) along the Eureka waterfront between "D" and "F" Streets northerly of First Street as more fully described below and encompassing 1234 square feet of land.
- B. The State of California (State), upon being admitted to the Union in 1850, by virtue of its sovereignty and the Equal Footing Doctrine, received title to all tide and submerged lands within the Subject Property. Along with other tide and submerged lands, the Subject Property was granted by the Legislature to the City of Eureka by Chapter 82 of the Statutes of 1857. The City of Eureka (City) acts as trustee of the tide and submerged lands pursuant to statutes identified in Paragraph D below.
- C. The SUBJECT PROPERTY is within lands described in Tidelands Survey Number 8 made on March 17, 1859. The SUBJECT PROPERTY was first

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patented by the State to Charles E. Collins on August 29, 1861. The patent is recorded in Book S & O 1 at page 403 of the Official Records of Humboldt County.

- D. The REDEVELOPMENT AGENCY claims the fee simple ownership in the SUBJECT PROPERTY through mesne conveyances and as a successor in interest to Charles E. Collins.
- E. The SUBJECT PROPERTY lies within legislative grants to the City of Eureka by virtue of Chapter 438, Statutes of 1915; Chapter 187, Statutes of 1927; Chapter 225, Statutes of 1945; and Chapter 1086, Statutes of 1970, as amended.
- F. In 1968, the Commission and the City, acting as trustee, became involved in extensive litigation with private landowners over title to properties along the Eureka Waterfront between Commercial Street and "K" Street. At issue was the last natural position of the mean high tide line and the City's ownership of lands waterward of that line. The litigation culminated and ended in 1980 with the Commission, the City and private landowners entering into an agreement entitled "Agreement for the Settlement of a Dispute Relating to Land Within the Humboldt Bay Area (Commercial – K Streets Area), City of Eureka (1980 Title Settlement Agreement)." (File Ref. BLA No. 199) The agreement established an agreed boundary line along the waterfront in that area; the Commission and the City quitclaimed any interest they had landward of that line; and the private landowners quitclaimed any interest they had waterward of the line. The public trust easement for commerce, navigation and fisheries was extinguished over some but not all of the privately owned properties.
- G. The 1980 Title Settlement Agreement (Parts 5 and 6), subject to the limitations therein, permitted the establishment of a bulkhead, the filling of certain tide and submerged lands and the lifting of the public trust from them provided that fill was placed prior to 1990.
- H. The SUBJECT PROPERTY in this AGREEMENT lies landward of the 1980 agreed boundary line and within the 1857 legislative grant and is subject to the public trust easement for commerce, navigation and fisheries. In 1980 the fee title interest was owned by a private party involved in the 1969 litigation, was subject to the 1980 Title Settlement Agreement and title was confirmed in the private party. It is currently owned by the REDEVELOPMENT AGENCY. The bulkhead was constructed and the fill was deposited on the SUBJECT PROPERTY in 2001. As a result, the SUBJECT PROPERTY is no longer subject to the ebb and flow of the tides. If it had been filled and reclaimed within the time limits established by Part 6 of the 1980 Title Settlement Agreement, it would not now be subject to the public trust easement or other

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sovereign interests.

- I. The REDEVELOPMENT AGENCY has requested that the public trust be extinguished over the SUBJECT PROPERTY because it is within the lands embraced by BLA 199; it is filled tide and submerged lands and is no longer useful for commerce, navigation and fisheries, and it will provide for more orderly development of Eureka's waterfront.
- J. The Legislature, in 1970, enacted Chapter 1085 in order to facilitate the settlement and compromise of various title disputes within the tidelands grant to the City of Eureka. Among other things, Chapter 1085 authorizes the COMMISSION and the TRUSTEE, upon receipt of adequate consideration, to convey, release or quitclaim lands and to lift the public trust easement over the same lands within the grant to the City of Eureka that have been improved in connection with the development of the Humboldt Bay area and in the process filled and reclaimed, are no longer submerged or below the line of mean high tide, and are no longer necessary or useful for commerce, fisheries, or navigation.
- K. The value of the STATE'S and the TRUSTEE'S claims or interests within the SUBJECT PROPERTY have been evaluated and appraised. The payment to be received by the Humboldt Bay Fund is equal to or greater than the value of the public trust rights in the SUBJECT PROPERTY to be relinquished by this AGREEMENT. Monies received from the termination of the trust will be deposited in the Humboldt Bay Fund. The amount to be deposited is \$19,744.00.

OTHER PERTINENT INFORMATION:

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

AUTHORITY:

Public Resources Code Section 21080.11.
Chapter 1085, Statutes of 1970.

EXHIBITS:

- A. Map of Subject Property
- B. Land Description

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IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGULATIONS 15060(c)(3) AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT TITLE TO THE SUBJECT PROPERTY WAS PART OF THE 1980 TITLE SETTLEMENT AGREEMENT (BLA NO. 199), THAT TITLE TO THE SUBJECT PROPERTY WAS CONFIRMED TO A PRIVATE PARTY, SUBJECT TO THE PUBLIC TRUST EASEMENT AND WITH CERTAIN RECLAMATION RIGHTS INCLUDING RIGHTS THAT COULD RESULT IN THE REMOVAL OF THE PUBLIC TRUST.
3. FIND THAT THE SUBJECT PROPERTY IS NOW CURRENTLY OWNED BY THE EUREKA REDEVELOPMENT AGENCY AND HAS BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF HUMBOLDT BAY AND THE EUREKA WATERFRONT AND HAS BEEN FILLED AND RECLAIMED.
4. FIND THAT THE SUBJECT PROPERTY IS NO LONGER SUBMERGED OR BELOW THE LINE OF MEAN HIGH TIDE AND IS NO LONGER USEFUL FOR COMMERCE, NAVIGATION OR FISHERIES.
5. FIND THAT THE VALUE OF RIGHTS AND INTERESTS TO BE PAID TO THE HUMBOLDT BAY FUND BY REDEVELOPMENT AGENCY UNDER THIS AGREEMENT ARE EQUAL TO OR GREATER THAN THE VALUE OF ANY SOVEREIGN RIGHTS AND INTERESTS RELINQUISHED BY THE STATE AND TRUSTEE PURSUANT TO THIS AGREEMENT.
6. AUTHORIZE THE CONVEYANCE TO THE EUREKA REDEVELOPMENT AGENCY OF ALL SOVEREIGN INTEREST IN THE SUBJECT PROPERTY AS DESCRIBED IN EXHIBIT B AND ENCOMPASSING 1234 SQUARE FEET OF LAND AND THE TERMINATION AND LIFTING OF THE PUBLIC TRUST FOR COMMERCE, NAVIGATION AND FISHERIES OVER IT.
7. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDING OF A TRUST TERMINATION AGREEMENT ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
8. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND THE ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE

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CALIFORNIA STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT, ACCEPTANCE AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE TRUST TERMINATION AGREEMENT.