

PURCHASE AND SALE AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

This Purchase and Sale Agreement and Temporary Construction Easement, hereinafter referred to as “Agreement,” dated this ____ day of _____, 2021, is between BRACUT LUMBER COMPANY, a California corporation, hereinafter referred to as OWNER, and the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as COUNTY.

RECITALS

WHEREAS, OWNER is the owner in fee of two parcels of land located in Sections 8, 9, and 17 in Township 5 North, Range 1 East, Humboldt Meridian, and identified as Assessor’s Parcel Numbers 501-241-031 and 501-241-030, as described in the Grant Deed recorded in the Official Records, Volume 1799, Page 628, on May 11, 1986; the Grant Deed recorded in the Official Records, number 1998-28442-4, on November 2, 1998; and the Grant Deed recorded in the Official Records, number 1998-28441-4, on November 2, 1998, in the office of the Recorder, Humboldt County, and depicted on the exhibit contained in Attachment 1, hereinafter referred to as the “Railroad and Shoreline Parcels”; and

WHEREAS, COUNTY plans to construct a Class 1 bike path (multi-use trail) between the cities of Eureka and Arcata along the Highway 101 and railroad transportation corridor to benefit the public, hereinafter referred to as “Project,” with construction plans on file with COUNTY’s Department of Public Works, Federal Project No. RPL-5904(180), County Project Number 715036; and

WHEREAS, COUNTY desires to obtain right-of-way to construct, operate, and maintain the Project; and

WHEREAS, COUNTY desires to purchase and acquire, and OWNER desires to sell and assign, all of OWNER’S right, title, and interest in the Railroad and Shoreline Parcels, excepting a portion of developed land, hereinafter referred to as “Exception Parcel,” that will remain part of OWNER’S retained property (Bracut Industrial Park, Assessor’s Parcel Number 501-241-033) depicted on the exhibit contained in Attachment 2, in order for COUNTY to construct, operate, and maintain the Project, with the property to be acquired hereinafter referred to as the “Subject Property”; and

WHEREAS, OWNER desires to retain deeded access from U.S. Highway 101 onto the Bracut Industrial Park; and

WHEREAS, concurrent with acquisition of the Subject Property, COUNTY desires to provide OWNER with a permanent easement over and across the driveway from U.S. Highway 101 onto the Bracut Industrial Park; and

WHEREAS, COUNTY desires a temporary right to use land area within the Bracut Industrial Park to stage construction materials and equipment used in the construction of the Project and to facilitate access to the railroad corridor adjacent to the Bracut Industrial Park; and

WHEREAS, County desires to purchase and acquire, and OWNER desires to provide, a Temporary Construction Easement granting temporary use of a portion of OWNER’S retained property for a period of thirty (30) months.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

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AGREEMENT

1. Purchase of the Subject Property

- a. On the Closing Date (see Section 5), and subject to the terms and conditions set forth in this Agreement, OWNER shall sell, transfer, assign, and convey to COUNTY, and COUNTY shall purchase and accept the sale, transfer, assignment, and conveyance from OWNER of, all of OWNER'S right, title, and interest in the Railroad and Shoreline Parcels shown on Attachment 1, excepting the Exception Parcel shown on Attachment 2, which will be retained by OWNER.
- b. The amount of contiguous land to be acquired as the Subject Property is approximately 11.33 acres+/- . This constitutes the entirety of the Subject Property including all lands held in fee title, all lands encumbered by railroad easement, and all tide lands held in fee title, excepting the Exception Parcel.
- c. Prior to the close of escrow, COUNTY, at its expense, shall secure approval from the Humboldt County Planning Commission and Coastal Commission for a Lot Line Adjustment to merge the Exception Parcel with APN 501-241-033. OWNER agrees to be a co-applicant with COUNTY for a Coastal Development Permit de minimis waiver. At the Close of Escrow, COUNTY shall execute and deliver to the Title Company a Notice of Lot Line Adjustment and Certificate of Subdivision Compliance in the form of Attachment 3, which shall be recorded in the Official Records of Humboldt County, California, at close of Escrow.
- d. COUNTY, as part of the Project, prior to use of the Project by the public, shall construct a six-foot-high, welded-wire fence on the Subject Property, adjacent to OWNER's retained property, in general conformance with the exhibit in Attachment 4. COUNTY shall be solely responsible for maintenance of the fence constructed in accordance with this Agreement. COUNTY shall maintain the fence to a reasonable standard of care. COUNTY may make repairs to the fence as may be necessary to maintain the fence, but COUNTY shall not remove, alter, or demolish the fence without the express written consent of OWNER (or its successors and assigns).
- e. COUNTY shall pay to the OWNER the sum of Two Hundred Forty-Six Thousand Seven Hundred Twenty-Five Dollars (\$246,725.00) for the conveyance of the Subject Property as described in this Agreement ("Purchase Price").
- f. The Purchase Price represents the Fair Market Value for the Subject Property based on the land value stated in the Appraisal Report completed by Bender Rosenthal Incorporated, dated September 27, 2019.

2. Temporary Construction Easement

- a. Upon Close of Escrow (see Section 5), OWNER grants a temporary easement for construction purposes on that certain portion of OWNER'S retained property as shown on the Temporary Construction Easement exhibit in Attachment 5 and made a part hereof. Prior to the Closing Date (see Section 5), COUNTY and OWNER shall sign a lease agreement, in the form of the agreement contained in Attachment 6, specifying the terms of use of the Temporary Construction Easement area (the "Temporary Construction Easement Agreement").
- b. COUNTY shall pay to the OWNER the sum of Ninety-Eight Thousand Four Hundred Seventy-Five Dollars (\$98,475.00) as just compensation for the Temporary Construction Easement Agreement ("Easement Price").

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- c. The Easement Price represents the Fair Market Value for the Temporary Construction Easement Agreement based on the rental rate stated in the Appraisal Report completed by Bender Rosenthal Incorporated, dated September 27, 2019.
- d. The term for the Temporary Construction Easement Agreement begins upon the Closing Date and ends after thirty (30) months. The term for the Temporary Construction Easement Agreement may be extended by mutual written agreement.
- e. The Temporary Construction Easement area shall be accessed by entering the main gate of Bracut Industrial Park and following the route depicted with a purple arrow on Attachment 4 attached hereto). COUNTY shall ensure that the contractor for the Project provides a portable restroom for their employees, removes garbage for off-site disposal in a timely manner, and maintains good housekeeping practices within the Temporary Construction Easement area. COUNTY (and/or its Contractor for the Project) shall fence and secure the Temporary Construction Easement area.

3. Permanent Easement

- a. On the Closing Date (see Section 5), and subject to the terms and conditions set forth in this Agreement, COUNTY shall execute and deliver to OWNER the Easement Deed contained in Attachment 7 for permanent right of way for ingress and egress across the existing driveway between U.S. Highway 101 and the Bracut Industrial Park. The COUNTY shall maintain the easement in a reasonable manner in a condition equal to or better than the current paved roadway to allow continued ingress/egress to and from Bracut Industrial Park.
- b. Conveyance of the Easement Deed for ingress/egress shall be executed and recorded by COUNTY at no cost to OWNER.
- c. OWNER reserves the right to change or move the path of ingress/egress between U.S. Highway 101 and Bracut Industrial Park. OWNER shall be solely responsible for obtaining all required permits for changing the path of ingress/egress, preparing the legal description and easement deed for the new location, and constructing all related improvements. Any new path of ingress/egress shall conform with the applicable design standards for driveway crossings of a Class 1 bike path, as approved by COUNTY. COUNTY’s approval of relocation of the driveway into Bracut Industrial Park shall not be unreasonably withheld or delayed.

4. Total Compensation

PURCHASE OF SUBJECT PROPERTY	
Railroad Parcel (APN 501-241-031) – 5.93 ac.	258,311 sq. ft.
Shoreline Parcel (APN 501-241-030) – 5.63 ac.	245,243 sq. ft.
Total Area of Railroad and Shoreline Parcels	503,554 sq. ft.
Exception Parcel Area	10,105 sq. ft.
Subject Property Area	493,449 sq. ft.
Land value as open space	\$0.50 per sq. ft.
Total Value of Subject Property (493,449 sq. ft. x \$0.50)	\$246,725.00
TEMPORARY CONSTRUCTION EASEMENT	
Temporary Construction Easement Area	65,650 sq. ft.
Rental Rate	\$0.05 per sq. ft. per month (\$2,178 per acre month)
Duration	30 months
Total Value of Temporary Easement (65,650 sq. ft. x \$0.05 x 30 months)	\$98,475.00

TOTAL COMPENSATION

Purchase of Subject Property	\$246,725.00
Temporary Construction Easement	\$98,475.00
Legal expenses incidental to the transfer of property	\$10,000.00
TOTAL COMPENSATION (rounded)	\$355,200.00

5. Escrow and Closing

- a. COUNTY will open an escrow account with Fidelity National Title Company of California (“Title Company”) for the purpose of consummating the purchase and sale of the Subject Property and Temporary Construction Easement in accordance with the terms hereof. COUNTY will place an order for the Title Company to produce a Preliminary Title Report for both parties to review prior to the Close of Escrow. The closing of the transaction shall be carried out pursuant to this Section.
- b. Closing will take place at the office of the Title Company as soon as possible but in any event no later than December 31, 2021 (“Closing Date”), unless that date is extended by mutual written agreement. As used in this Agreement, the phrases "Closing Date" and "Close of Escrow" are synonymous.
- c. At least three (3) business days prior to the Closing Date, COUNTY shall deposit payment into Escrow by check in the amount equal to the total compensation described in paragraph 4 of this Agreement, i.e., \$355,200.00 (“the Deposit”), and the COUNTY shall further deposit payment into Escrow any costs related to this transaction as may be requested by Escrow (e.g., escrow fees, title policy fees, recording fees, etc.). The Deposit shall be held and disbursed by the Title Company in accordance with the terms and provisions of this Agreement.
- d. At least three (3) business days prior to the Closing Date, OWNER shall complete and return Internal Revenue Service W-9 forms to the Title Company.
- e. At least three (3) business days prior to the Closing Date, OWNER shall execute and deliver to Title Company a Grant Deed in the form contained in Attachment 8 conveying to COUNTY fee simple title to the Subject Property, which shall be recorded in the Official Records of Humboldt County, California, at the Close of Escrow. Delivery of said Grant Deed shall be made expressly subject to the terms and conditions set forth herein.
- f. At least (3) business days prior to the Closing Date, COUNTY shall execute and deliver to the Title Company an Easement Deed in the form contained in Attachment 7 granting access to OWNER over and across the existing driveway from U. S. Highway 101 onto the Bracut Industrial Park, which shall be recorded in the Official Records of Humboldt County, California, at Close of Escrow. Delivery of said Easement Deed shall be made expressly subject to the terms and conditions set forth herein.
- g. At least (3) business days prior to the Closing Date, COUNTY and OWNER shall execute and deliver to the Title Company the Temporary Construction Easement Agreement in the form contained in Attachment 6, the original of which shall be delivered to OWNER at the Close of Escrow. Delivery of said Temporary Construction Easement Agreement shall be made expressly subject to the terms and conditions set forth herein.
- h. At least (3) business days prior to the Closing Date, COUNTY shall execute and deliver to the Title Company a Notice of Lot Line Adjustment and Certificate of Subdivision Compliance in the form of Attachment 3, which shall be recorded in the Official Records of Humboldt County, California, at close of Escrow.

- i. COUNTY's obligation to close escrow is conditioned on (1) the commitment of Title Company to issue to COUNTY an ALTA Owner's Policy (06-17-06) ("Title Policy") insuring fee title to the Subject Property vested in the COUNTY with liability equal to the Purchase Price, and (2) no objections by COUNTY to any exceptions to title in the Preliminary Title Report.
- j. COUNTY agrees to pay all costs related to this transaction, including escrow fees, recording fees and all related title costs in conjunction with this transaction. OWNER shall pay their prorated share of property taxes up to the date of transfer.
- k. The Title Company will disburse the Deposit to OWNER and record the Grant Deed, the Easement Deed, and the Notice of Lot Line Adjustment and Certificate of Subdivision Compliance at the Close of Escrow. The Title Company shall also deliver conformed copies of the recorded Grant Deed and Easement Deed and the Notice of Lot Line Adjustment and Certificate of Subdivision Compliance to the parties, and deliver the original Temporary Construction Easement Agreement to Owner with a copy to COUNTY.

6. **Representations and Warranties of OWNER**

- a. OWNER hereby makes the following representations and warranties to COUNTY, all of which shall be true and correct on the Closing Date and shall survive for a period of one year after the Closing Date (the "Survival Period"):
 - i. Authority. OWNER has the full power and authority to execute and deliver this Agreement and the OWNER'S Closing Documents to be executed and delivered by OWNER pursuant hereto and to perform all obligations arising under this Agreement and the OWNER'S Closing Documents. The execution, delivery and performance of this Agreement and the consummation of the transactions provided for in this Agreement have been duly and validly authorized by all necessary action on the part of OWNER. This Agreement and the documents, affidavits, certificates and other instruments to be executed and delivered by OWNER pursuant hereto are, or will be when executed and delivered by OWNER, legally binding on, and enforceable against, OWNER in accordance with their respective terms except as the same may be limited by applicable bankruptcy, insolvency, reorganization, receivership and other similar laws affecting the rights and remedies of creditors generally and by general principles of equity (whether applied by a court of law or equity).
 - ii. Leases. There are no active leases associated on the Subject Property to which the OWNER is a party.
 - iii. Litigation. There is no pending litigation against OWNER for which OWNER has been served written notice or, to OWNER'S actual knowledge, threatened in writing that, if adversely determined, would materially adversely affect the Subject Property or OWNER'S ability to consummate the transactions contemplated by this Agreement.
 - iv. Non-Foreign Entity. OWNER is not a "foreign person" or "foreign corporation" as those terms are defined in the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.
 - v. Violations of Law; Legal Proceedings. To the best of OWNER'S actual knowledge, with no duty of inquiry, OWNER has not received written notice from any Governmental Authority of any violations of any laws, rules or regulations relating to the use or operation of the Subject Property which have not heretofore been cured. To the best of OWNER'S actual knowledge, with no duty of inquiry, the Subject Property is fully compliant with all laws and regulations. To the best of OWNER'S actual

knowledge, with no duty of inquiry, OWNER has not received written notice of any pending or threatened legal proceedings in eminent domain or otherwise that would affect the Subject Property or any material portion thereof.

- vi. Environmental. To the best of OWNER'S actual knowledge, with no duty of inquiry, during its period of ownership of the Subject Property, there have been no disposals, releases or threatened releases of Hazardous Materials on, from, or under the Subject Property. OWNER has no knowledge of any disposal, release, or threatened release of Hazardous Materials on, from, or under the Subject Property which may have occurred prior to OWNER taking title to the Subject Property. To the best of OWNER'S actual knowledge, with no duty of inquiry, OWNER has not received written notice from any Governmental Authority of any breach of Environmental Laws relating to Hazardous Materials on the Subject Property.
 - 1. "Environmental Law" shall mean: any and all present and future federal, state and local laws, ordinances, regulations, policies and any other requirements of governmental agencies relating to health, safety, the environment or to any Hazardous Substances, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), the Resource Conservation Recovery Act ("RCRA"), the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Endangered Species Act, the Clean Water Act, the Occupational Safety and Health Act, the California Environmental Quality Act and the applicable provisions of the California Health and Safety Code, California Labor Code and the California Water Code, each as hereafter amended from time to time, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing.
 - 2. "Hazardous Materials" shall mean any chemical, substance, waste, material, equipment or fixture defined as or deemed hazardous, toxic, a pollutant, a contaminant, or otherwise regulated under any Environmental Law, including but not limited to, petroleum and petroleum products, waste oil, halogenated and non-halogenated solvents, PCBs and asbestos.
- vii. No Conflicts. To the best of OWNER'S actual knowledge, with no duty of inquiry, neither the execution nor the delivery of this Agreement, nor the consummation of the transactions contemplated hereby (i) conflict with or will result in the breach of any of the terms, conditions, or provisions of any agreement, instrument, or judgment to which OWNER is a party or by which OWNER or the Subject Property is bound or (ii) violate any applicable law to which OWNER or the Subject Property is subject.
- viii. Bankruptcy. No bankruptcy or other insolvency proceeding, voluntary or involuntary, relating to OWNER are pending.
- ix. Rights of First Refusal. To OWNER's actual knowledge, with no duty of inquiry, OWNER has not granted any options, rights of first refusal, rights of first offer or any other rights in favor of third parties to purchase or otherwise acquire the Subject Property or any portion thereof, and, to OWNER'S actual knowledge, with no duty of inquiry, no other unexpired rights exist in favor of third persons to purchase or otherwise acquire the Subject Property or any portion thereof.
- x. Contracts. To the best of OWNER'S actual knowledge, with no duty of inquiry, other than this Agreement, the Temporary Construction Easement Agreement and the

Easement Deed, and any other documents of record, there are no Contracts that will be binding on COUNTY or the Subject Property from and after the Closing Date.

- xi. Taxes. To the best of OWNER'S actual knowledge, with no duty of inquiry, all taxes, levies, and assessments imposed with respect to the Subject Property that are due and payable by OWNER have been paid in full or will be prorated at Closing.
- b. COUNTY understands that OWNER makes no express or implied warranty with respect to the condition, size of the land and/or boundary lines of the Subject Property and/or the Temporary Construction Easement area. COUNTY acknowledges that it has not relied upon any representations by OWNER as to the condition of the Subject Property and/or the Temporary Construction Easement area, and/or the suitability of said property for COUNTY's Project. COUNTY is to satisfy itself concerning these issues.
- c. COUNTY agrees and acknowledges that, except as provided herein, OWNER has made no other representations or warranties respecting the property covered by this Agreement or otherwise in connection with the transaction contemplated hereby. Without limiting the generality of the foregoing, COUNTY hereby acknowledges and agrees that it will be purchasing the Subject Property in an "AS IS" where is and with all faulty condition and further that COUNTY has made or will make its own independent investigation respecting the Subject Property and all other aspects of this transaction, and will rely entirely thereon and on the advice of COUNTY's consultants in entering into this Agreement and on the other documents executed in connection with this transaction.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, OWNER DISCLAIMS ALL WARRANTIES, IMPLIED IN LAW OR IN FACT, WITH RESPECT TO THE SUBJECT PROPERTY AND THIS TRANSACTION. SUBJECT TO THE PROVISIONS OF THIS AGREEMENT, COUNTY SHALL PURCHASE THE SUBJECT PROPERTY IN AN "AS IS" WHERE IS AND WITH ALL FAULTS CONDITION ON THE CLOSING DATE. OWNER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECC TO THE CONDITION, USE OR SUITABILITY OF THE SUBJECT PROPERTY OR ANY PORTION THEREOF, OR WITH RESPECT TO THE ZONING OR DEVELOPMENT OF THE PROJECT. COUNTY ACKNOWLEDGES THAT EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, COUNTY HAS NOT RELIED ON ANY REPRESENTATION OF OWNER OR ANY REPRESENTATIVE, OFFICER, AGENT OR EMPLOYEE OF OWNER IN CONNECTION WITH THIS AGREEMENT, THE CONDITION, USE OR SUITABILITY OF THE SUBJECT PROPERTY, THE PURCHASE OF THE SUBJECT PROPERTY, OR ANY OTHER TRANSACTION CONTEMPLATED HEREIN.

7. Indemnity

- a. Upon the Close of Escrow, COUNTY agrees to indemnify, defend, and hold harmless OWNER and its agents, representatives, heirs, successors and assigns from all liabilities, costs, damages, expenses, causes of action, claims or judgments including without limitation reasonable attorneys' fees at any time in connection with COUNTY's ownership of the Subject Property, construction, operation and maintenance of the Project, and the use of the Subject Property by the general public, excluding therefrom claims resulting from the gross negligence or willful misconduct of OWNER.
- b. Notwithstanding anything set forth in the indemnification contained above, the indemnity by COUNTY of OWNER shall not cover liability of OWNER arising prior to the Close of Escrow.

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8. Miscellaneous

- a. Assignment. This Agreement shall be binding upon, and inure to the benefit of and be enforceable by, the respective personal representatives, successors and permitted assigns of the parties hereto. Neither COUNTY nor OWNER shall have any right to assign this Agreement and/or its rights and obligations hereunder without the prior written consent of the other.
- b. Notices. Any and all notices required to be given pursuant to the terms and conditions of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: County of Humboldt
Department of Public Works – Environmental Services
Attn: Hank Seemann
1106 Second Street
Eureka, CA 95501

OWNER: Rick Hess
Bracut Lumber Company
4338 Indigo Street
Palm Springs, CA 92262

- c. Governing Law. This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Humboldt. Any action or dispute arising out of this Agreement shall only be brought in the County of Humboldt.
- d. Exhibit Incorporated by Reference. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement whether or not actually attached.
- e. Amendment. This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.
- f. Severability. If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.
- g. Attorneys' Fees. If either party shall commence any legal action, including, without limitation, an action for declaratory relief, against the other by reason of the alleged failure of the other to perform any of its obligations hereunder, the party prevailing in said action shall be entitled to recover court costs and reasonable attorneys' fees, including, but not limited to, the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.
- h. Section Heading. The titles of the sections and subsections set forth herein are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

- i. Entire Agreement. It is understood and agreed that this instrument contains the entire agreement between the parties hereto. It is further understood and agreed by OWNER that COUNTY and COUNTY'S agents have made no representations or promises with respect to this Agreement or the making or entry into this Agreement, except as expressly set forth in this Agreement, and that no claim or liability or cause for termination shall be asserted by OWNER against COUNTY for, and COUNTY shall not be liable by reason of, the breach of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with COUNTY being expressly waived by OWNER.
- j. Interpretation. This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code §1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.
- k. Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.
- l. Merger. Except as expressly set forth herein, any and all rights of action of COUNTY for any breach by OWNER of any representation, warranty or covenant contained in this Agreement shall merge with the Grant Deed and other instruments executed at Close of Escrow, shall terminate at the Close of Escrow and shall not survive the Close of Escrow. All other provisions of this Agreement which are intended by their terms to survive the Close of Escrow or a termination of this Agreement shall survive the Close of Escrow or a termination of this Agreement.
- m. No Waiver. The waiver by either Party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.
- n. Independence. OWNER is acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, director, officer, agent, employee or representative of COUNTY.
- o. Nuclear Free Clause. By executing this Agreement, OWNER certifies that he is not a Nuclear Weapons Contractor, in that OWNER is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear-Free Humboldt County Ordinance. OWNER agrees to notify COUNTY immediately if he becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if OWNER subsequently become a Nuclear Weapons Contractor.
- p. Counterpart Execution. This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. A signed copy of this Agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement and any amendments hereto.

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IN WITNESS WHEREOF, the parties have entered into this Agreement as of the first date written above.

OWNER:

BRACUT LUMBER COMPANY

By: _____
RICK HESS, President DATE

By: _____
RICK HESS, Secretary DATE

COUNTY:

COUNTY OF HUMBOLDT

By: _____
THOMAS K. MATTSON, DIRECTOR DATE
DEPARTMENT OF PUBLIC WORKS

LIST OF ATTACHMENTS:

- 1 – Railroad and Shoreline Parcels Exhibit
- 2 – Exception Parcel Exhibit
- 3 – Notice of Lot Line Adjustment and Certificate of Subdivision Compliance
- 4 – Fence Plan Exhibit
- 5 – Temporary Construction Easement Exhibit
- 6 – Temporary Construction Easement Agreement
- 7 – Permanent Easement Deed (Driveway)
- 8 – Grant Deed (Subject Property)



APN 501-241-030

APN 501-241-031

Railroad and Shoreline Parcels

Bracut Industrial Park



Project: Humboldt Bay Trail South
Imagery Date: July 24, 2019
Map Date: September 29, 2020
Humboldt County Public Works

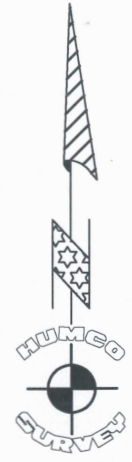


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Attachment 1

TOPOGRAPHIC MAP

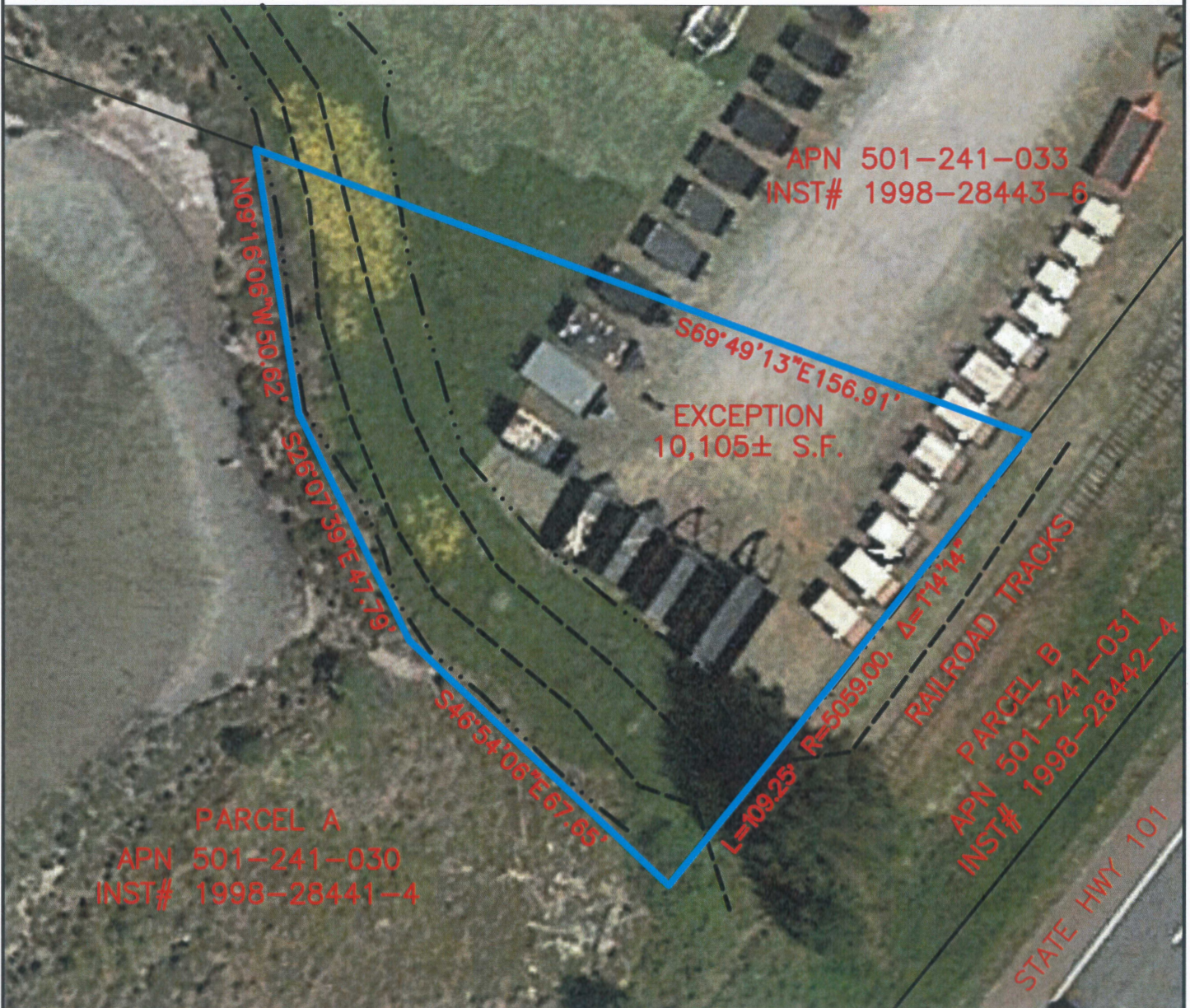
PORTION SOUTHEAST QUARTER OF SECTION 8,
TOWNSHIP 5 NORTH, RANGE 1 EAST, HUMBOLDT MERIDIAN,
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
CCS83, ZONE 1, EPOCH 2010.00



SCALE 1"=30'

LEGEND

- EXCEPTION PARCEL BOUNDARY LINES ———
- ADJACENT PARCEL BOUNDARY LINES ———
- BOTTOM EDGE OF LEVEE - - - - -
- TOP EDGE OF LEVEE - - - - -



HUMBOLDT BAY TRAIL

EXCEPTION PARCEL
PROJECT NO. 715036

IMAGE IS NOT ORTHO RECTIFIED

Attachment 2
SHEET 1 OF 1

Recording Requested By:

County of Humboldt
Planning and Building Department

Return To:

County of Humboldt
Planning and Building Department
3015 H Street
Eureka CA 95501-4484

NOTICE OF LOT LINE ADJUSTMENT
AND CERTIFICATE OF SUBDIVISION COMPLIANCE

Property Owner(s) Of Record:
Bracut Lumber Company, a corporation

Assessor's Parcel Number(s):
501-241-030 (por.), 501-241-033

Record No.: **PLN-2020-16865**

NOTICE IS HEREBY GIVEN that the real property described in the attached EXHIBIT "A" is the result of a lot line adjustment in accordance with Section 66412(d) of the Government Code of the State of California, and that any portions of prior parcels contained within said description have been merged into the single parcel described herein.

THIS NOTICE IS GIVEN by the person(s) whose name(s) is/are subscribed on page 3 of this instrument as the owner(s) of record of the real properties described in the attached EXHIBIT "A".

THIS CERTIFICATE relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto and no further compliance with the Subdivision Map Act is necessary. However, development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.

THIS CERTIFICATE DOES NOT CERTIFY that the real property for which this notice has been given is suitable for development in accordance with existing or future regulations.

On this _____ day of _____, 20____, I HEREBY CERTIFY that the lot line adjustment for which this Notice is given has been executed with the approval of the County of Humboldt and that the parcel or unit of land resulting from the lot line adjustment complies with the provisions of the California Subdivision Map Act and County of Humboldt Ordinances enacted pursuant thereto.

BY _____
John H. Ford, Director
County of Humboldt
Planning and Building Department

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

On this _____ day of _____ 20 ____, before me, _____
Notary Public, personally appeared **JOHN H. FORD** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Notary Public Signature

(Seal)

OWNER'S REPRESENTATION

_____ hereby represent that _____ the owner _____ of record of the real properties described in the attached EXHIBIT "A" and that _____ have consented to and executed the lot line adjustment for which _____ have given the notice herein.

(for names and signatures)

Bracut Lumber Company, a corporation

Rick Hess, President, Bracut Lumber Company, a corporation

Rick Hess, Secretary, Bracut Lumber Company, a corporation

If additional notary acknowledgment required, please attach full page acknowledgment form.

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

On this _____ day of _____, 20____, before me, _____ Notary Public, personally appeared _____ who 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/her/their authorized capacity(ies), 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Notary Public Signature

(Seal)

EXHIBIT A

PROPERTY DESCRIPTION

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

PARCEL ONE

BEGINNING at a point which is 640.7 feet North and 1500.7 feet West from the corner common to Sections 8, 9, 16 and 17, Township 5 North, Range 1 East, Humboldt Meridian; and running thence North 21 degrees 30 minutes East, 2170 feet to a point which is 2659.7 feet North and 705.4 feet West of the corner common to said sections as aforementioned; thence South 77 degrees 10 minutes East, 548 feet, more or less, to the Westerly line of the Northwestern Pacific Railroad Company Right of Way; thence Southerly along said last mentioned line and following the meanders thereof to a point which bears South 71 degrees 24 minutes East from the point of beginning; and thence North 17 degrees 24 minutes West to the point of beginning.

EXCEPTING THEREFROM that portion thereof described as follows:

BEGINNING at a point which is 1757.2 feet North and 1060.9 feet West of the corner common to Sections 8, 9, 16 and 17, township 5 North, Range 1 East, Humboldt Meridian; and running thence North 21 degrees 30 minutes East, 970 feet; thence South 77 degrees 10 minutes East, 548 feet, more or less, to the West line of the property of the Northwestern Pacific Railroad, said West line being also the West line of the former Eureka and Klamath River Railroad Right of Way; thence in a Southerly direction along the West line of said railroad property to a point which is South 65 degrees 30 minutes East, 530 feet, more or less, from the point of beginning; thence North 65 degrees 30 minutes West, 530 feet, more or less, to the point of beginning, being all in the Southeast Quarter of Section 8, Township 5 North, Range 1 East, Humboldt Meridian.

ALSO EXCEPTING THEREFROM an undivided 1/6th interest in and to all mineral, oil and gas rights lying within that portion of Tideland Survey No. 120, which lies North of the Westerly extension of the North line of the South Half of the South Half of said Section 8, with the right of ingress and egress for the purpose of exploiting all such mineral, oil and gas rights, and for the purpose of operating said mineral, oil and gas rights in the event of the successful exploration thereof; and the further right to construct wells, mines, oil and gas pipelines, trams, roads, tanks and reservoirs and any and all works in order to explore for oil, gas and minerals, and to remove and manufacture, refine or smelt same, all as excepted and reserved in the Deed from F. Bruce Maiden to Herbert J. Fehely and wife, dated October 10, 1950 and recorded October 20, 1950 in Book 147 of Official Records at Page 3, under Recorder's File No. 10969.

ALSO EXCEPTING THEREFROM an undivided 5/6 interest in and to all minerals, oil, gas and substances associated therewith, lying within that portion of Tideland Survey No. 120, which lies North of the Westerly extension of the North line of the South Half of the South Half of said Section 8, together with the right to enter upon said land and drill for, develop, produce and remove said minerals including the right of ingress and egress, all as excepted and reserved in the Deed from Albert E. Kern and wife and Samuel Hamburger and wife, to Herbert J. Fehely and wife, dated August 15, 1950 and recorded October 20, 1950 in Book 147 of Official Records at Page 5, under Recorder's File No. 10970.

EXHIBIT A

**PROPERTY DESCRIPTION
(continued)**

ALSO EXCEPTING THEREFROM the portion of said property included in the Patent by the State of California, recorded May 23, 1958 in Book 490, Official Records, Page 384 in the Humboldt County Recorder's Office, all oil, gas, oil shale, coal, phosphate, sodium, gold, silver and all other mineral deposits contained in said land together with the right to drill for and extract such deposits of oil and gas, or gas, and to prospect for, mine and remove such deposits of other minerals from said land and to occupy and use so much of the surface of said land as may be required therefore, upon compliance with the conditions and subject to the provisions and limitations of Chapter 5, Part I, Division 6 of the Public Resources Code.

PARCEL TWO

ALSO all that portion of those parcels in Sections 8, 9 and 17, Township 5 North, Range 1 East, Humboldt Meridian, described in Deed dated May 30, 1986 and recorded in Book 1799 of Official Records, page 628, that lies between a line that bears South 71 degrees 24 minutes East from a point which is 640.7 feet North and 1500.7 feet West of the corner common to Sections 8, 9, 16 and 17, Township 5 North, Range 1 East, Humboldt Meridian; and a line that bears South 77 degrees 10 minutes East from a point that is North 21 degrees 30 minutes East, 970 feet from a point that is 1757.2 feet North and 1060.9 feet West of the common corner to Sections 8, 9, 16 and 17, Township 5 North, Range 1 East, Humboldt Meridian.

EXCEPTING THEREFROM a strip of land 48 feet wide of which 33 feet, lying along, East of and adjacent to; and 15 feet lying along, West of and adjacent to the centerline of railroad, described as follows:

BEGINNING at a point 223 feet North of the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 17, Township 5 North, Range 1 East, Humboldt Meridian, which said point of beginning is Station 254 + 47.5 feet on the said centerline of railroad, and running thence North 55 degrees East, 632.5 feet;

- thence North 54 degrees 41 minutes East, 100 feet;
- thence North 53 degrees 33 minutes East, 100 feet;
- thence North 52 degrees 25 minutes East, 100 feet;
- thence North 51 degrees 17 minutes East, 100 feet;
- thence North 50 degrees 09 minutes East, 100 feet;
- thence North 49 degrees 01 minutes East, 100 feet;
- thence North 47 degrees 53 minutes East, 100 feet;
- thence North 46 degrees 45 minutes East, 100 feet;
- thence North 45 degrees 37 minutes East, 100 feet;
- thence North 44 degrees 29 minutes East, 100 feet;
- thence North 43 degrees 21 minutes East, 100 feet;
- thence North 42 degrees 13 minutes East, 100 feet;
- thence North 41 degrees 05 minutes East, 100 feet;
- thence North 39 degrees 57 minutes East, 100 feet;
- thence North 38 degrees 49 minutes East, 100 feet;
- thence North 37 degrees 41 minutes East, 100 feet;
- thence North 36 degrees 33 minutes East, 100 feet;
- thence North 35 degrees 25 minutes East, 100 feet;
- thence North 34 degrees 17 minutes East, 100 feet;
- thence North 33 degrees 09 minutes East, 100 feet;
- thence North 32 degrees 01 minutes East, 100 feet;
- thence North 30 degrees 53 minutes East, 100 feet;
- thence North 29 degrees 45 minutes East, 100 feet;
- thence North 28 degrees 37 minutes East, 50 feet to Station 284 + 30 on the said line of railroad;
- thence North 28 degrees 37 minutes East, 50 feet;
- thence North 27 degrees 29 minutes East, 100 feet;
- thence North 26 degrees 21 minutes East, 100 feet;
- thence North 25 degrees 13 minutes East, 100 feet;

EXHIBIT A

**PROPERTY DESCRIPTION
(continued)**

thence North 24 degrees 05 minutes East, 100 feet;
thence North 22 degrees 57 minutes East, 100 feet;
thence North 21 degrees 49 minutes East, 100 feet;
thence North 20 degrees 41 minutes East, 100 feet;
thence North 19 degrees 33 minutes East, 100 feet;
thence North 18 degrees 25 minutes East, 100 feet;
thence North 17 degrees 17 minutes East, 20 feet to Station 294 on the said line of said railroad;
thence North 17 degrees 17 minutes East, 80 feet;
thence North 16 degrees 09 minutes East, 100 feet;
thence North 15 degrees 01 minutes East, 100 feet;
thence North 13 degrees 53 minutes East, 100 feet;
thence North 12 degrees 45 minutes East, 100 feet;
thence North 11 degrees 37 minutes East, 100 feet;
thence North 10 degrees 29 minutes East, 100 feet;
thence North 09 degrees 21 minutes East, 100 feet;
thence North 08 degrees 13 minutes East, 7.50 feet to the North line of the Southwest Quarter of Section 9, Township 5 North, Range 1 East, Humboldt Meridian, which said point of ending is Station 301 + 87.6 feet on the said line of said railroad.

ALSO EXCEPTING all that portion of those parcels in Sections 8, 9 and 17, Township 5 North, Range 1 East, Humboldt Meridian, in the County of Humboldt, State of California, and described in Deed dated May 30, 1986, recorded in Book 1799 of Official Records, Page 628, that lies North of a line that bears South 77 degrees 10 minutes East, from a point that is North 21 degrees 30 minutes East, 970 feet from a point that is 1757.2 feet North and 1060.9 feet West of the corner common to Sections 8, 9, 16 and 17, Township 5 North, Range 1 East, Humboldt Meridian.

PARCEL THREE

A portion of that certain parcel of land described in a document recorded November 2nd, 1998 as Instrument No. 1998-28442-4 Official Records of the County of Humboldt, located in the southeast quarter of the southeast quarter of Section 8, Township 5 North, Range 1 East, Humboldt Meridian, State of California, and being more particularly described as follows:

BEGINNING at the most southerly corner of that certain parcel of land described as Parcel 2 in a document recorded November 2nd, 1998 as Instrument No. 1998-28443-6 Official Records of said County, said point being on the westerly line of a strip of land 48 feet wide, the Southeast Corner of said Section 8 bears South 62°34'19" East a distance of 1017.11 feet as calculated from field work based on a Record of Survey filed in Book 45 of Surveys at page 148, records of said County;

Thence, departing said westerly line, North 69°49'13" West, a distance of 156.91 feet;

Thence South 9°16'06" East, a distance of 50.62 feet;

EXHIBIT A

**PROPERTY DESCRIPTION
(continued)**

Thence South 26°07'39" East, a distance of 47.79 feet;

Thence South 46°54'06" East, a distance of 67.65 feet to the beginning of a curve radial to said line;

Thence northeasterly a distance of 113.58 feet along the curve concave to the northwest, having a radius of 5059.00 feet and a central angle of 1°17'11" to the **POINT OF BEGINNING**.

Described parcel containing 10,105 square feet, more or less, and as shown on Exhibit B attached hereto and made a part hereof.

The basis of bearings for this description is the California Coordinate System 1983 (CCS83), Zone 1, EPOCH 2010.00. Rotate grid bearings herein counterclockwise 01°21'52" to obtain geodetic (true) bearings. Distances herein are ground distances. Multiply by the combined factor of .99989877 to obtain grid distances.

Prepared by or under the supervision of:

7/13/21

Ronald C. Garton, PLS 7717
Humboldt County Surveyor

Date

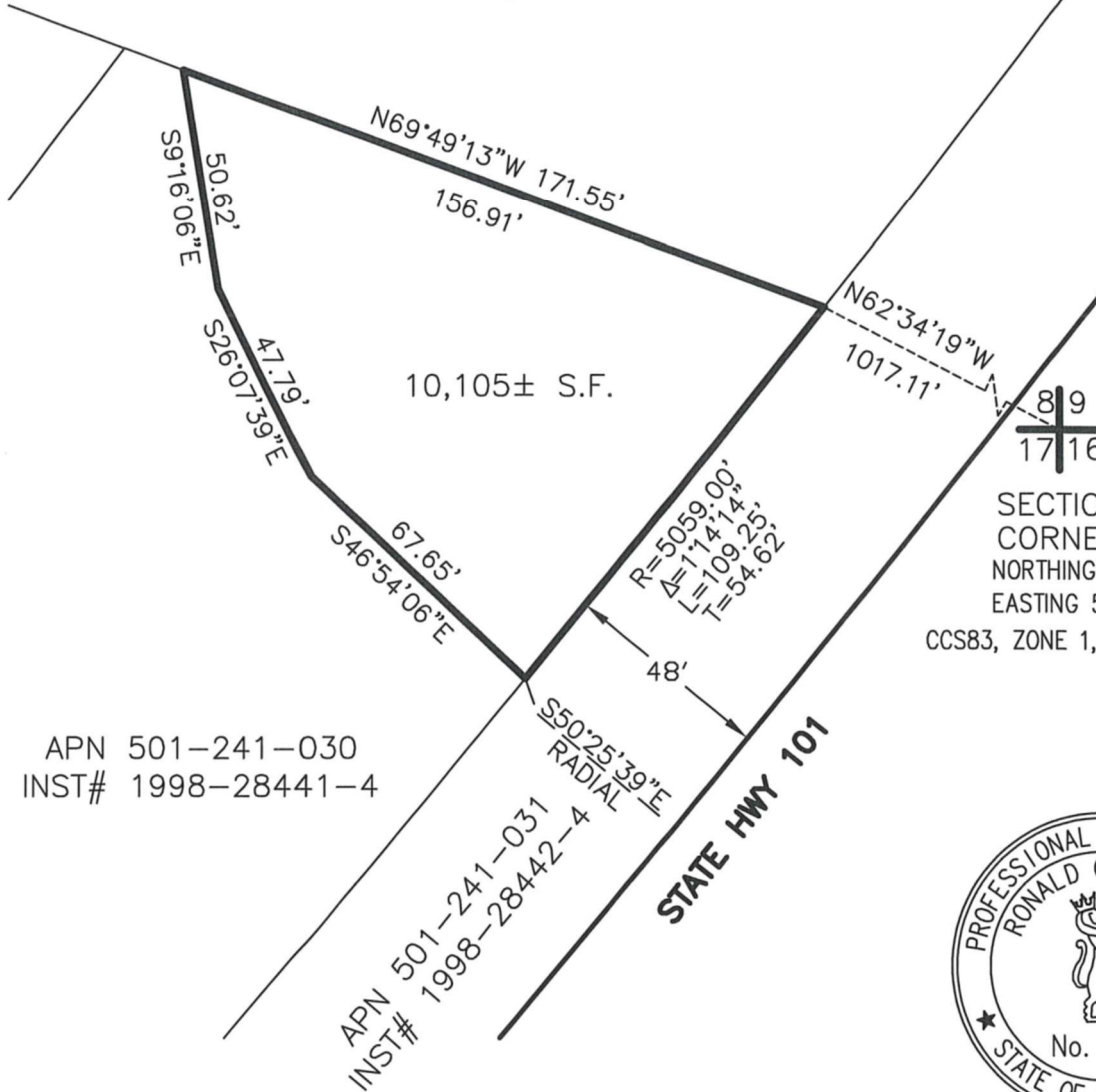
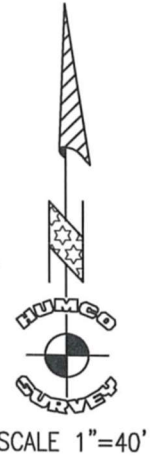


EXHIBIT B

SHEET 1 OF 1

PORTION SOUTHEAST QUARTER OF SECTION 8,
TOWNSHIP 5 NORTH, RANGE 1 EAST, HUMBOLDT MERIDIAN,
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

APN 501-241-033
INST# 1998-28443-6



89
1716

SECTION
CORNER (CALCULATED)
NORTHING 2190389.58'
EASTING 5985329.64'
CCS83, ZONE 1, EPOCH 2010.00

APN 501-241-030
INST# 1998-28441-4

APN 501-241-031
INST# 1998-28442-4

STATE HWY 101



PREPARED BY OR UNDER SUPERVISION OF:

RONALD GARTON, PLS 7717
HUMBOLDT COUNTY SURVEYOR

7/13/21

DATE

HUMBOLDT BAY TRAIL

EXCEPTION PARCEL
PROJECT NO. 715036



New fence
(6-foot welded wire)

New Fence Location

Bracut Industrial Park

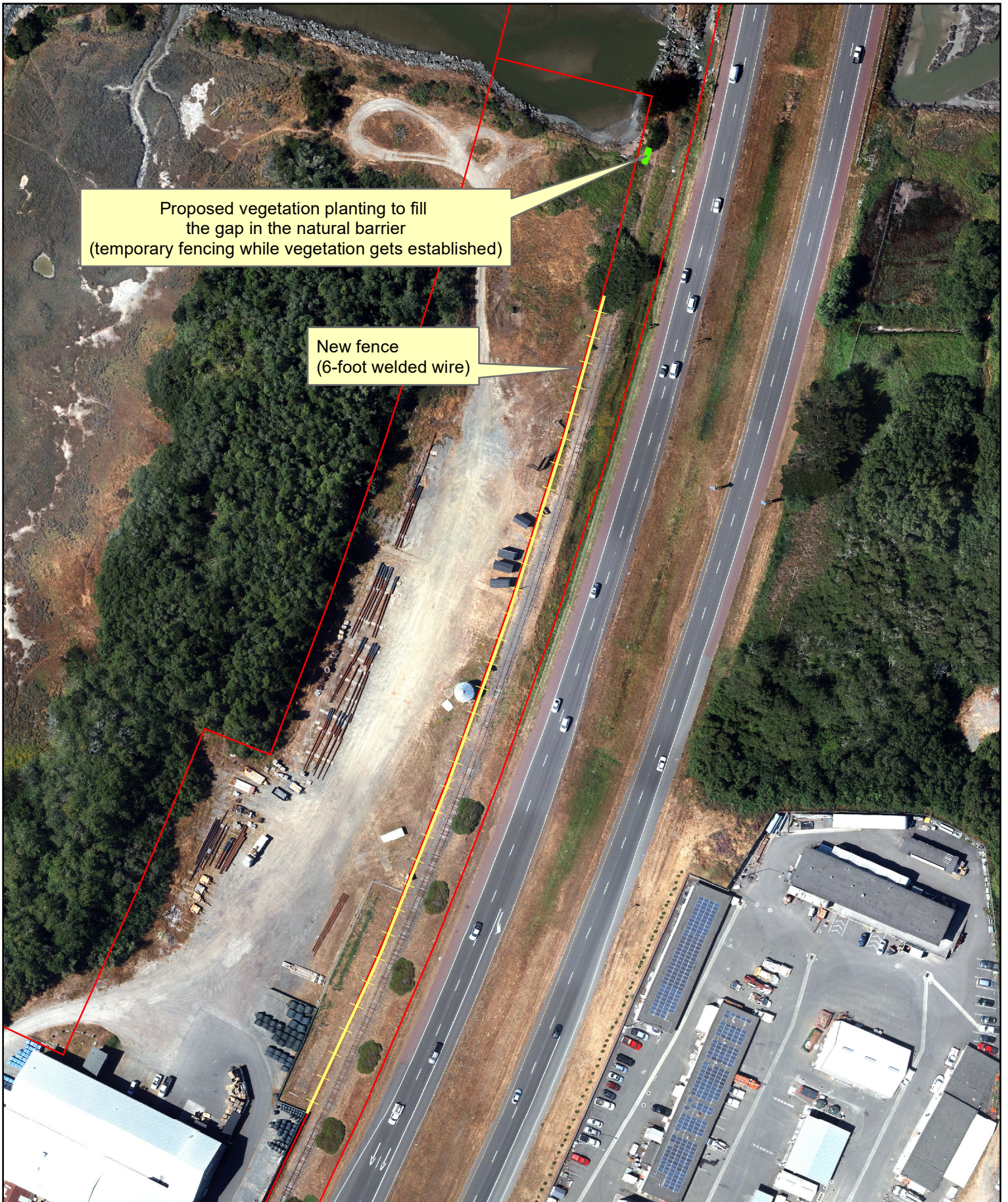


Imagery: 2019
Created: May 5, 2021
Humboldt County Public Works



0 65 130
Feet
1:1,500

Attachment 4a



Proposed vegetation planting to fill the gap in the natural barrier (temporary fencing while vegetation gets established)

New fence (6-foot welded wire)

New Fence Location

Bracut Industrial Park

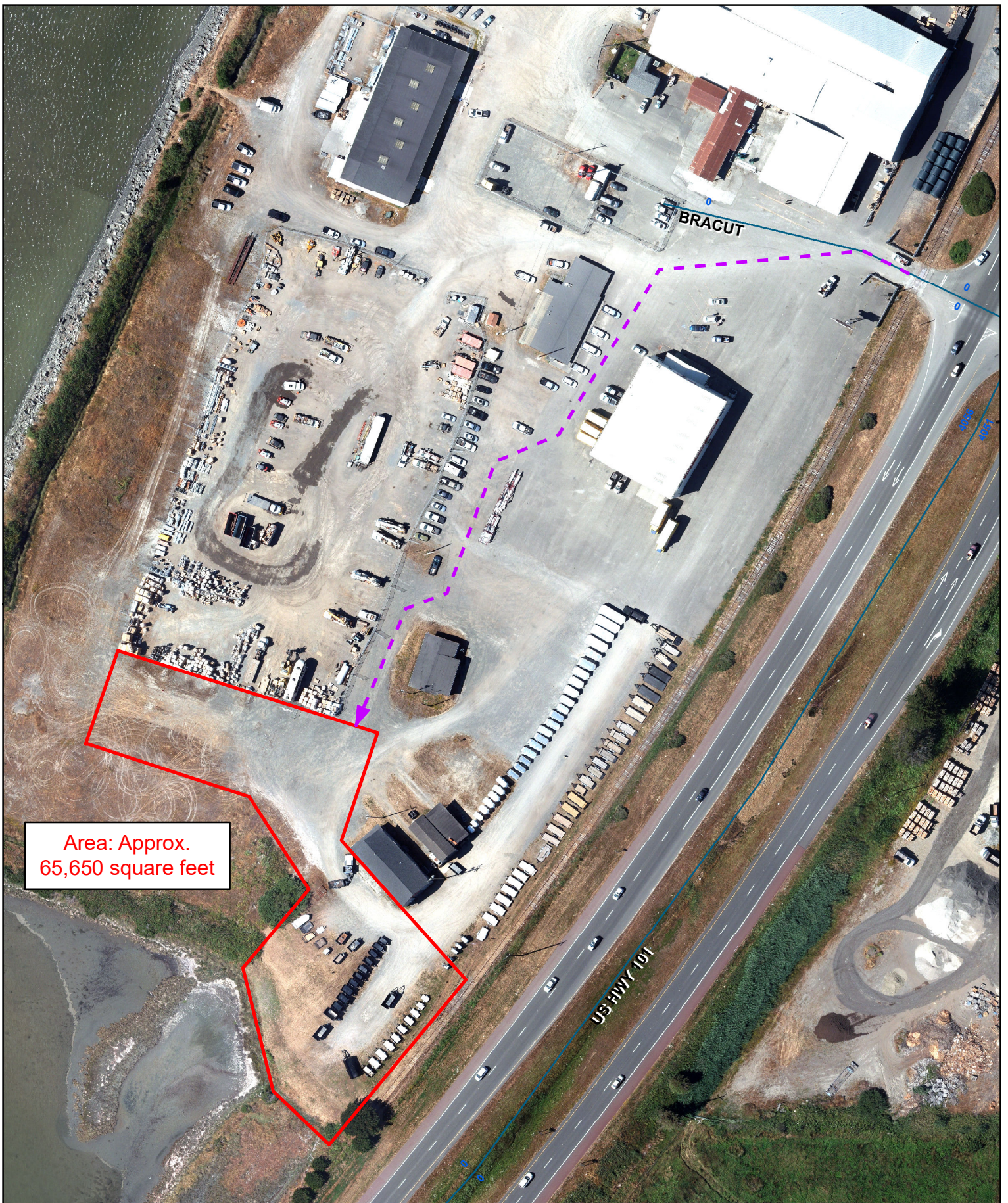


Imagery: 2019
Created: May 5, 2021
Humboldt County Public Works



0 65 130 Feet
1:1,500

Attachment 4b



Area: Approx.
65,650 square feet

Temporary Construction Easement

Bracut Industrial Park



Project: Humboldt Bay Trail South
Imagery Date: July 24, 2019
Map Date: October 25, 2021
Humboldt County Public Works



0 65 130
Feet
1:1,500

Attachment 5

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("**Lease**") dated _____, 2021 by and between Bracut Lumber Company, A California Corporation ("**Lessor**" or "**Landlord**") and Humboldt County, a political subdivision of California, by and through its Department of Public Works ("**Lessee**" or "**Tenant**").

1.2 **Premises:** A portion of that certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, located in the County of Humboldt, State of California, and generally described as that portion of BRACUT INDUSTRIAL PARK outlined in red on the map attached hereto as Exhibit "A" and comprising approximately 1.5 acres more or less of open land at the southwest end of the property. (See also Paragraph 2).

Tenant intends to use the Premises for the purpose of the Agreed Use as described below. (See Paragraph 6.1).

1.3 **Term:** The initial term shall be for a period of 30 months ("**Original Term**") commencing, TBD, ("**Commencement Date**") and ending TBD ("**Expiration Date**"). (See also Paragraph 3 for further provisions). Tenant, upon presenting proof of insurance, shall be allowed entry into the premises. Three percent (3%) rent increases, as described in Section 1.4 below, shall occur upon the commencement of any Renewal Term thereafter.

1.4 **Rent and Other Payments:** Rent and other related expenses are to be paid upfront prior to occupation. **The Base Rent to be paid upon execution is: Ninety-Eight Thousand and Four Hundred and Seventy-Five Dollars (\$98,475).** This rent includes any of Lessor's fees such as security deposits, taxes, common area maintenance fees, and the like.

(d) **Gate Key Deposit:** Gate keys require a deposit of \$35.00 each and written notice to Landlord of persons to whom the keys are issued. # of Keys # ____ If these keys are lost tenant agrees to cover the cost of re-keying gate lock and distribution of new keys to landlord's other tenants.

(See also Paragraph 5)

(f) **Total Amount Due Upon Execution of this Lease: \$98,475.00**

1.4	\$98,475
1.4a	\$0.00
1.4b	\$0.00
1.4c	\$0.00
1.4d	\$0.00
1.4e	\$0.00
1.4f	\$0.00

2. Premises.

2.1 **Fixtures.** All repairs, upgrades, modifications, alterations, and fixtures of any kind shall remain with the leased premises and become property of Landlord upon the termination of this Lease.

2.2 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the Term described above and upon all of the terms, covenants, and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation, which the Parties agree, is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less. **Lessee is advised to verify the actual size prior to executing this Lease.**

2.3 **Condition.** Lessor shall deliver the Premises to Lessee **AS IS** Broom Swept, on the Commencement Date. ~~Lessor agrees to allow Lessee to re-key all locks included in _____ with the agreement that all new keys will be returned to lessor with identification as to what locks they open.~~

2.4 **Compliance.** Lessor does not warrant that the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said representation also does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use, or to any Alterations or Utility Installations (as defined in Paragraph 7 made or to be made by Lessee). **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.**

2.5 **Acknowledgements.** Lessee acknowledges that: (a) it has been advised by Lessor to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act),

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Initials

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefore as the same relate to its occupancy of the Premises, and (c) neither Lessor nor Lessor's agents have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease.

2.6 **Parking.** All of lessees' employees will park inside the fenced open land depicted in Exhibits A-1 Any additional exterior land usage shall be considered additional storage and an additional rent shall be separately negotiated and charged as additional rent.

2.7 **Animals on property.** Lessee will not allow its employees or contractors to bring personal pets onto the Premises.

2.8 **Marijuana Policy:** Lessor does not permit the cultivation, processing, packaging, or sales of marijuana on the premises and Tenant agrees to this policy.

2.9 **Gate Policy:** Tenant agrees to aid the security of the premises by keeping main gates locked between the hours of 6 p.m. and 3 a.m. on Monday through Saturday and **all-day Sunday.**

2.10 **Permits for Alterations.** ALL permits must be presented to Lessor before any alterations to the Premises.

2.11 **Garbage.** Lessor does not provide garbage collection. Lessee is responsible for removal of all trash and waste from the Premises. Lessee additionally agrees to keep all debris out of the ditch on the inside of dike.

3. **Term.** The Commencement Date, Expiration Date, and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Delay in Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease.

3.3 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance, as described below in Section 8. Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Commencement Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Commencement Date, the Commencement Date shall occur, but Lessor may elect to withhold possession until such conditions are satisfied and Lessee shall pay rent starting on the Commencement Date.

4. Rent.

4.1. **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except as otherwise specified in Paragraph 1.4) are deemed to be Rent ("**Rent**").

4.2 **Payment.** Lessee shall cause payment of Rent for the entire 30-month term of the Lease to be received by Lessor in lawful money of the United States on or before the day on which it is due.

5. Deposits.

5.4 **Gate Key Deposit.** Entry onto the Premises includes passing through a gate which remains locked at sometimes elsewhere described herein. To obtain keys to this gate, Lessee agrees to provide a deposit of \$35.00 each and identification of persons to whom the gate keys are issued. Lessor agrees to refund this deposit upon the termination of this Lease when the Lessee returns the key(s) to Lessor. Lessee will forfeit the deposit and agrees to pay for the rekeying of gate lock and distribution of new keys to landlord's other tenants if the gate key(s) is/are lost or stolen. (See (See also Paragraph 1.4d)

6. Use.

6.1 **Agreed Use:** Lessor and Lessee agree that Premises **may be used by Humboldt County, its contractors, subcontractors, and assigns for Vehicle Parking, Material Storage (including Hazardous Substances), Equipment Staging, Placement of a Construction Trailer, and Railroad Corridor Access related to the construction of the Humboldt Bay Trail South Project and no other purpose.** Lessee may, upon prior written consent by Lessor, change the Agreed Use. Notwithstanding, Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste, or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same complies with Lessor's leasing policies and will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. Parties agree that by leasing Premises to Lessee, Lessor creates no easements by implication to any part of Lessor's property if not necessary to access Premises or otherwise mentioned herein. Further, the parties agree that Lessee shall access the Premises by entering the main gate of Bracut Industrial Park and following the route depicted with a purple arrow on Exhibit "A" attached hereto. Lessee shall ensure that the contractor for the project provides a portable restroom for their employees, removes garbage for off-site disposal in a timely manner, and maintains good housekeeping practices within the Premises. Lessee (and/or its contractor for the project) shall fence and secure the Premises as further described in Section 38 herein.

6.2 Hazardous Substances.

Reportable Uses Require Consent. The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common

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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises, which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. (a) **"Reportable Use"** shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any risk of contamination or damage or expose Lessor to any liability therefore. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit. (b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance. (c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party. (d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground Lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party. Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.** (e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. (f) **Investigations and Remediation.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7 below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities. (g) **Lessor Termination Option.** If a Hazardous Substance Condition occurs during the term of this Lease, unless Lessee is responsible therefore (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6 and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Rent or \$100,000, whichever is greater, give written notice to Lessee, of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation, as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise specifically stated in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to such requirements, without regard to whether such requirements are now in effect or become effective after the Commencement Date. Lessee shall, within 10 days after

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receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 Inspections; Compliance. Lessor and Lessor's Lender and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of a written request, therefore.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations. (a) **In General.** Subject to the provisions of Paragraph 2.3 (Condition), 2.4 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 13 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, walls (interior and exterior), ceilings, floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in or on the Premises. Lessee, in keeping the Premises in good order, condition, and repair, shall exercise and perform good maintenance practices. Lessee's obligations shall include restorations, replacements, renewals when necessary to keep the Premises and all improvements thereon, or a part thereof in good order, condition, and state of repair. (b) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Lease, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.3 (Condition), 2.4 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "**Utility Installations**" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "**Alterations**" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor.

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessor may also require a lien and completion bond in an amount equal to one and one-half (1 1/2) the estimated cost of the Alterations or installations, to insure Lessor against any liability for mechanics' and material men's liens and to ensure completion of the Alterations. Any Alterations or Utility Installations that Lessee shall desire to make shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or material men's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days' notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor, and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration. (a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as herein provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or

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any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises. (b) **Removal.** By delivery to Lessee of written notice from Lessor prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent. (c) **Surrender, Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Commencement Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance, or removal of Trade Fixtures, Lessee Owned Alterations and/or Utility Installations, furnishings, and equipment or storage tanks, etc. installed by or for Lessee. Lessee shall completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire and Lessee agrees to reimburse Lessor for any costs of removal thereof. The failure by Lessee to timely vacate the Premises in compliance with this paragraph without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 24 below.

8. Insurance; Indemnity. Lessee shall provide to Lessor proof of satisfactory insurance carried by Lessee upon demand at any time during the Term of the Lease and Lessee's failure to provide such proof shall be deemed a violation of this Lease. The maintenance of such insurance is a condition precedent to all Lessor obligations hereunder.

8.1 No Agency: Nothing in this Lease should be construed to create an agency relationship between the Lessor and Lessee. Lessee agrees to obtain insurance as described below as well as any workman's compensation insurance for which Lessor shall have no responsibility whatsoever.

8.2 Liability Insurance Carried by Lessee. Lessee shall obtain and keep in force, at Lessee's expense, a commercial general liability policy of insurance, satisfactory to Lessor, protecting Lessee and Lessor (as an additional named insured) against claims for bodily injury, personal injury, death, and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Bodily injury liability of \$2,000,000 for each accident; and property damage liability (including the operation of vehicles) of \$1,000,000 for each occurrence. Lessee shall have the right to self-insure with respect to the insurance requirements required under this agreement. Lessee's self-insurance program is in full force and effect and in compliance with and subject to the terms, agreements, covenants conditions and provisions of this Lease. Such policies shall show Lessor as an additional insured but without obligation for payment of premiums, the report of claims, or other obligations required of a "named insured". Lessee shall provide Lessor with proper evidence of such insurance coverage prior to use of Lessor's property. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be excess insurance only.

8.3 Property Insurance - Building, Improvements, and Rental Value. (a) **Building and Improvements.** All premium and other costs incurred by Lessor for obtaining and keeping in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-Lessor and to any Lender insuring loss or damage to the Premises are included in the CAM Charges. The amount of such insurance shall be equal to or greater than the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender. Such policy or policies shall insure against all risks of direct physical loss or damage including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction, or replacement of any portion of the Premises as the result of a covered loss. Lessee shall be liable for all deductibles in the event of an insured loss. As noted below, Lessee shall nonetheless be responsible for obtaining fire and "all risk" property damage insurance for any Lessee owned alterations and utility Installations, fixtures, and personal property located on the Leased Premises for full replacement cost. (b) **Rental Value.** Whether as part of the aforementioned policy or otherwise, Lessee shall reimburse Lessor for obtaining and keeping in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). The amount of said insurance coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12-month period. Lessee shall be liable for any deductible amount in the event of such loss. (c) **Adjacent Premises.** If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 Lessee's Property; Business Interruption Insurance. (a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage. Lessee shall use the proceeds from any such insurance for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force. (b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils. (c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

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8.5 Insurance Policies. Insurance required herein shall be by companies duly licensed or admitted transacting business in the state where the Premises are located and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide" or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything, which invalidates the required insurance policies. Lessee shall, prior to the Commencement Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If Lessee fails to procure and maintain the insurance required to be carried by it under this Lease, Lessor may, but shall not be required to, procure and maintain the same with the right of reimbursement by Lessee for such acquisition.

8.6 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground Lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.7 Exemption of Lessor from Liability. Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor nor from the failure of Lessor to enforce the provisions of any other lease. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit there from.

8.8 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain all insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Rent or \$100, whichever is greater. The parties agree that such increase in Rent represents fair and reasonable compensation for the additional risk/ costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) "**Premises Partial Damage**" shall mean damage or destruction to the improvements on the Premises, the repair of which shall be the responsibility of Lessor upon receipt of written notice that such a repair is necessary. on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 60 days from the date of the damage or destruction or notice thereof, whichever is later, as to whether or not the damage is Partial or Total. (b) "**Premises Total Destruction**" shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 60 days from the date of the damage or destruction or notice thereof, whichever is later, as to whether or not the damage is Partial or Total. (c) "**Insured Loss**" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which is covered by the insurance, irrespective of any deductible amounts or coverage limits involved. (d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation. (e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2, in, on, or under the Premises which requires repair, remediation, or restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to affect such repair, the insuring party shall promptly contribute the shortage in proceeds (except as to the

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deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefore. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 60 days after Lessor notice of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs, as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if Premises Total Destruction occurs, this Lease shall terminate immediately following such Destruction. If the damage or destruction was caused by the Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, subject to the provisions of Paragraph 8.

9.5 Premises Unusable. If as a result of causes, such as flood, strikes, riots, insurrection, or other similar or different causes beyond the control of Lessor and Lessee, the Premises become unusable from a practical standpoint for a period of thirty (30) consecutive days or longer, then Lessee may: (1) terminate the Lease upon seven (7) days written notice to Lessor, (2) by notice in writing to Lessor, call for a refund for the period of time the Premises are unusable from a practical standpoint, or (3) by notice in writing to Lessor at any time prior to the date when this Lease would otherwise terminate, further extend this Lease without the requirement of the payment of rent for the period of time which the Premises were unusable from a practical standpoint. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this Lease.

9.6 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Rent, whether or not an Insured Loss, Lessor may terminate this Lease with 30 days written notice.

9.7 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but only to an extent not to exceed the proceeds received by Lessor from the Rental Value insurance. Lessee hereunder shall perform all other obligations of Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair, or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "**Commence**" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.8 Termination; Advance Payments. Upon Lessor's termination of this Lease pursuant to Paragraph 6, Paragraph 9, or Paragraph 11, an equitable adjustment shall be made concerning advance Rent and any other advance payments made by Lessee to Lessor.

9.9 Waive Statutes. Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. Utilities and Services. Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair, or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

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11. Assignments and Subletting. Lessee shall not assign, transfer, mortgage or encumber, or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

12. Default; Breach; Remedies.

12.1 **Default; Breach.** A "**Default**" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or rules and regulations under this Lease. A "**Breach**" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period, which shall be 10 days unless otherwise noted or required by law: (a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described herein is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism. (b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. (c) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document reasonably requested by Landlord, (viii) material safety data sheets (MSDS), (ix) proof of satisfactory insurance, or (x) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee. (d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted by Landlord, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion. (e) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "**debtor**" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions. (f) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false. (g) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

12.2 **Remedies.** In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach: (a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate, and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent, which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result there from, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required herein. In such case, the applicable grace period required herein, and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute. (b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession. (c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The

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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

12.4 **Late Charges.** Rent for the entire 30-month term of this Lease is to be paid prior to occupation; therefore, late charges do not apply.

12.6 **Breach by Lessor / Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 60 days after written notice to Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

13. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages.

14. Brokerage Fees.

~~14.1 **Representations and Indemnities of Broker Relationships.** Upon execution of this Lease by both parties, Landlord shall pay to Wells Commercial Real Estate ("Broker") a fee as provided for in a separate agreement between Landlord and Broker. The parties warrant to each other that each has not dealt with any real estate agents or broker other than Broker. Each party agrees to indemnify, defend, and hold the other harmless from all loss, claim, cost, and expense incurred as a result of the breach of this warranty.~~

15. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge, and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party. (b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10-day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrances may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

16. **Definition of Lessor.** The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

17. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

18. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

19. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

20. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

21. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants that it has made, and is relying solely upon, its own investigation as to the nature, quality, character, and financial responsibility of the other Party to this Lease and as to the use, nature, quality, and character of the Premises.

22. **Notices.**

22.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified, or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

22.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery, shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

23. **Waivers.** No waiver by Lessor of the default or breach of any term, covenant, or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent default or breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

24. **No Right to Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Rent shall be increased to 150% of the Rent applicable immediately preceding the expiration or termination. Lessor shall construe nothing contained herein as consent to any holding over by Lessee.

25. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

26. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

27. **Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the state of California. Any litigation between the Parties hereto concerning this Lease shall be initiated in Humboldt County, California.

28. **Subordination; Attornment.**

28.1 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device (i) Lessee shall attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of such new owner, this Lease shall automatically become a new Lease between Lessee and such new owner, upon all of the terms and conditions hereof, for the remainder of the term hereof, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations hereunder, except that such new owner shall not: (a) be liable for any act or omission of any prior Lessor or with respect to events occurring prior to acquisition of ownership; or (b) be subject to any offsets or defenses which Lessee might have against any prior Lessor.

28.2 **Self-Executing.** The agreements contained in this Paragraph 28 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale,

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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any attornment.

29. **Attorneys' Fees.** If any Party brings an action or proceeding involving the Premises or this Lease, whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

30. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect to Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

31. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

32. **Signs.** Lessor must approve any signage for size, style, and placement before installation, with the exception of signs related to construction site safety. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term of this Lease. Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with Applicable Requirements. Lessee agrees to post no political signs on property, unless inside the building they occupy.

33. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing sub tenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest shall constitute Lessor's election to have such event constitute the termination of such interest.

34. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation, therefore. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any than existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given.

35. **Guarantor. Intentionally Deleted.**

36. **No Recordation.** Neither party shall cause this Lease to be recorded.

37. **Multiple Options.** Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading, and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors, and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.

38. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. Lessee shall erect temporary fencing along the perimeter of Premises or a portion thereof. The temporary fence shall be located on or within the "red highlighted" line on Exhibit "A".

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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

39. **Reservations.** Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights, and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps, and restrictions do not unreasonably interfere with the rights conferred with this Lease upon Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map, or restrictions.

40. **Utility Bills.** Lessee is responsible for Lessee's own utility bills, however, upon agreement by the parties, Lessor may pay Lessee's utility bills and charge Lessee during the next month's billing cycle.

41. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, Limited Liability Company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each party shall, within 30 days after request, deliver to the other party satisfactory evidence of such authority. (b) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

42. **Conflict.** Any typewritten or handwritten provisions shall control in the event of conflict between the pre-printed provisions of this Lease and typewritten or handwritten provisions.

43. **Offer.** Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

44. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

45. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

46. LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT



EXHIBIT A

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TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at:
On (date):

Executed at:
On (date):

By LESSOR:

Bracut Lumber Company

Rick Hess, President
4338 Indigo Street Palm Springs, Ca 92262
707-499-2444

By LESSEE:

Humboldt County Department of Public Works

Thomas K. Mattson, Director
1106 Second Street, Eureka, CA 95501
707-445-7491

Signed: _____

Signed: _____

Printed: _____

Printed: _____

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ATTACHMENT 7

AFTER RECORDING RETURN TO:

DEPARTMENT OF PUBLIC WORKS
LAND USE DIVISION
3015 H STREET, ROOM 124
EUREKA CA 95501-4409

This instrument is for the benefit of the
County of Humboldt and is entitled to be
recorded without fee. (Govt. Code 27383)
and is exempt from filing a change in ownership
statement (Rev. and Taxation Code 480)

RE: HUMBOLDT BAY TRAIL SOUTH PROJECT
COUNTY PROJECT NO. 715036
A PORTION OF ASSESSOR PARCEL NO. 501-241-031

EASEMENT DEED

For a valuable consideration, COUNTY OF HUMBOLDT, a political subdivision of the State of California ("Grantor"), hereby grants and conveys to BRACUT LUMBER COMPANY (and its successors and assigns) ("Grantee") a permanent easement for ingress, egress and public utilities in, under, across and along the real property situated in the County of Humboldt, State of California, described as follows:

(SEE EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF)

Grantor and Grantee (collectively the "Parties") agree as follows:

1. The easement granted herein is a non-exclusive, perpetual easement intended to benefit Grantee and its tenants, guests, licensees and invitees, with respect to access to and from Grantee's land (known as Bracut Industrial Park and/or APN: 501-241-033).
2. The scope of the easement shall be interpreted to effectuate the purpose of allowing all activity consistent with use of the easement for roadway access, ingress, egress and public utilities and consistent with Grantor's construction, maintenance, and operation of a Class 1 bike path.
3. Grantor shall maintain the easement in a reasonable manner in a condition equal to or better than the current paved roadway to allow continued ingress/egress to and from Bracut Industrial Park.

4. Grantee reserves the right to change or move the path of ingress/egress between U.S. Highway 101 and Bracut Industrial Park. Grantee shall be solely responsible for obtaining all required permits for changing the path of ingress/egress, preparing the legal description and easement deed for the new location, and constructing all related improvements. Any new path of ingress/egress shall conform with the applicable design standards for driveway crossings of a Class 1 bike path as approved by Grantor. Grantor's approval of relocation of the driveway into Bracut Industrial Park shall not be unreasonably withheld or delayed.
5. If an action is instituted to enforce any of the agreements contained in this Easement Deed or if an action is commenced because of any breach hereof, then the prevailing party in such action shall be entitled to all of its costs and reasonable attorneys' fees as fixed by the trial and appellate courts in said action, in addition to any other relief that may be granted.

Dated this _____ day of _____, 2021

THOMAS K. MATTSON, DIRECTOR
COUNTY OF HUMBOLDT
PUBLIC WORKS DEPARTMENT

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____)

On _____ before me, _____ a Notary
(Date)

Public, personally appeared, _____, who 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/her/their** authorized capacity(ies), 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary) (Seal)

EXHIBIT A
LEGAL DESCRIPTION

A portion of that certain parcel of land as described in a document recorded November 2nd, 1998 as Instrument No. 1998-28442-4 Official Records of the County of Humboldt, State of California, located in the Southeast Quarter of Section 8, Township 5 North, Range 1 East, Humboldt Meridian and being more particularly described as follows:

BEGINNING at a point on the westerly right of way line of Highway 101, said point being the beginning of a Right curve from which the radius point bears North 62°30'09" West, the Southeast Corner of said Section bears South 17°55'40" East a distance of 1234.74 as calculated from field work based on a Record of Survey filed in Book 45 of Surveys at page 148, records of said County;

Thence southwesterly a distance of 83.42 feet, along the arc of said curve, concave to the northwest, having a radius of 5107.00 feet and a central angle of 0°56'09" to a point of cusp;

Thence, departing said curve and westerly right of way line, North 09°57'46" East, a distance of 13.12 feet to the beginning of a tangent curve, concave to the southwest, having a radius of 25.00 feet;

thence northerly and northwesterly, along the arc of said curve, a distance of 29.78 feet, through a central angle of 68°14'33";

thence North 58°16'47" West, a distance of 18.24 feet;

thence North 79°52'19" West, a distance of 3.63 feet to a point of cusp on a curve concave to the northwest having a radius of 5059.00 feet and a central angle of 0°22'37" a line radial to said curve at said point bears North 61°53'58" West;

thence northeasterly along said curve, a distance of 33.29 feet to a point of cusp;

thence South 51°13'53" East, a distance of 3.29 feet;

thence South 62°14'24" East, a distance of 16.52 feet to the beginning of a tangent curve, concave to the north, having a radius of 25.00 feet;

thence southeasterly, easterly and northeasterly, along the arc of said curve, an arc distance of 23.04 feet, through a central angle of 52°48'20";

thence North 64°57'16" East, a distance of 13.71 feet to the **POINT OF BEGINNING**.

Described parcel containing 1957 square feet, more or less, and as shown on Exhibit B attached hereto and made a part hereof.

The basis of bearings for this legal description is the California Coordinate System 1983 (CCS83), Zone 1, EPOCH 2010.00. Rotate grid bearings herein counterclockwise $01^{\circ}21'52''$ to obtain geodetic (true) bearings. Distances herein are ground distances. Multiply by the combined factor of .99989877 to obtain grid distances.

Prepared by or under the supervision of:

RCG 4/27/2021

Ronald C. Garton, PLS 7717
Humboldt County Surveyor

Date

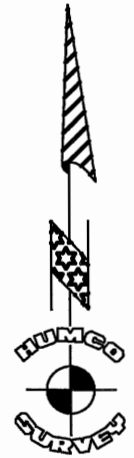


EXHIBIT B

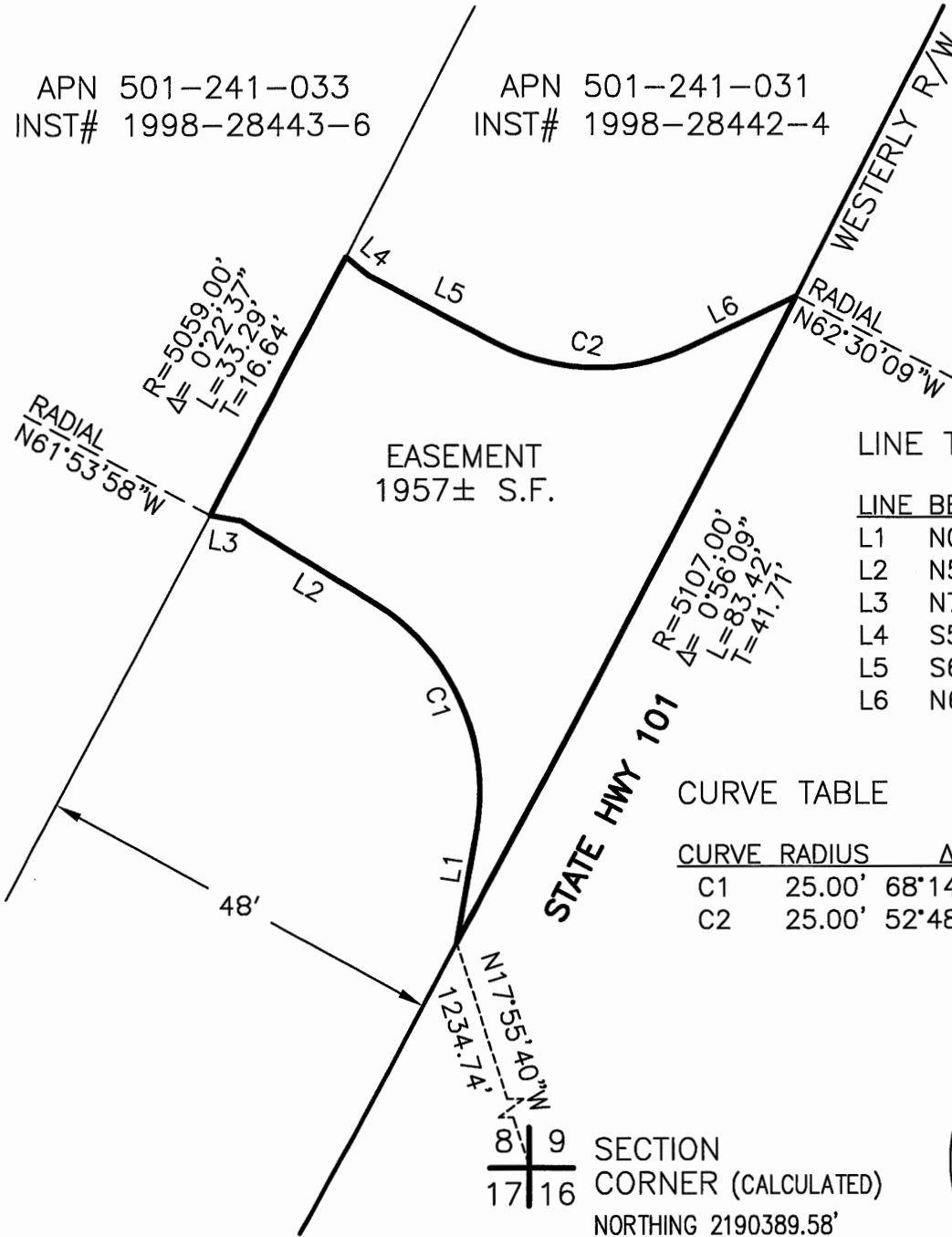
PORTION SOUTHEAST QUARTER OF SECTION 8,
TOWNSHIP 5 NORTH, RANGE 1 EAST, HUMBOLDT MERIDIAN,
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

APN 501-241-033
INST# 1998-28443-6

APN 501-241-031
INST# 1998-28442-4



SCALE 1"=20'



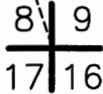
EASEMENT
1957± S.F.

LINE TABLE

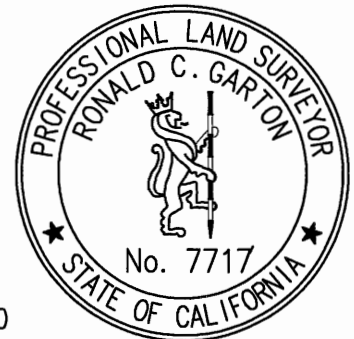
LINE	BEARING	DISTANCE
L1	N09°57'46"E	13.12'
L2	N58°16'47"W	18.24'
L3	N79°52'19"W	3.63'
L4	S51°13'53"E	3.29'
L5	S62°14'24"E	16.52'
L6	N64°57'16"E	13.71'

CURVE TABLE

CURVE	RADIUS	Δ	LENGTH	TANGENT
C1	25.00'	68°14'33"	29.78'	16.94'
C2	25.00'	52°48'20"	23.04'	12.41'



SECTION
CORNER (CALCULATED)
NORTHING 2190389.58'
EASTING 5985329.64'
CCS83, ZONE 1, EPOCH 2010.00



PREPARED BY OR UNDER SUPERVISION OF:

Ronald C. Garton

RONALD GARTON, PLS 7717
HUMBOLDT COUNTY SURVEYOR

4/27/2021

DATE

HUMBOLDT BAY TRAIL

DRIVEWAY EASEMENT
PROJECT NO. 715036

ATTACHMENT 8

AFTER RECORDING RETURN TO:

DEPARTMENT OF PUBLIC WORKS
LAND USE DIVISION
3015 H STREET, ROOM 124
EUREKA CA 95501-4409

This instrument is for the benefit of the
County of Humboldt and is entitled to be
recorded without fee. (Govt. Code 27383)
and is exempt from filing a change in ownership
statement (Rev. and Taxation Code 480)

RE: HUMBOLDT BAY TRAIL PROJECT
COUNTY PROJECT NO. 715036
ASSESSOR PARCEL NOS. 501-241-031 and 501-241-032

GRANT DEED

For a valuable consideration, BRACUT LUMBER COMPANY, a California corporation, hereby grants and conveys to COUNTY OF HUMBOLDT, a political subdivision of the State of California, the following described real property in the County of Humboldt, State of California, described as follows:

(SEE EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF)

Dated this _____ day of _____, 2021

RICK HESS, PRESIDENT
BRACUT LUMBER COMPANY,
A CORPORATION

**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL A

That portion of those parcels in Sections 8, 9 and 17, Township 5 North, Range 1 East, Humboldt Meridian, in the County of Humboldt, State of California, described in a document recorded November 2nd, 1998 as Instrument No. 1998-28441-4 Official Records, and also described in Deed dated May 30, 1986, recorded in Book 1799 of Official Records, Page 628, that lies South of a line that bears South 71 degrees 24 minutes East from a point which is 640.7 feet North and 1500.7 feet West from the corner common to Sections 8, 9, 16 and 17, Township 5 North, Range 1 East, Humboldt Meridian.

EXCEPTING THEREFROM a strip of land 48 feet wide of which 33 feet lies along, East of and adjacent to; and 15 feet lies along, West of and adjacent to the railroad centerline, described as follows:

BEGINNING at a point 223 feet North of the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 17, Township 5 North, Range 1 East, Humboldt Meridian, which said point of beginning is Station 254 + 47.5 feet on the said centerline of railroad, and running thence North 55 degrees East, 632.5 feet;

Thence North 54 degrees 41 minutes East, 100 feet;

Thence North 53 degrees 33 minutes East, 100 feet;

Thence North 52 degrees 25 minutes East, 100 feet;

Thence North 51 degrees 17 minutes East, 100 feet;

Thence North 50 degrees 09 minutes East, 100 feet;

Thence North 49 degrees 01 minutes East, 100 feet;

Thence North 47 degrees 53 minutes East, 100 feet;

Thence North 46 degrees 45 minutes East, 100 feet;

Thence North 45 degrees 37 minutes East, 100 feet;

Thence North 44 degrees 29 minutes East, 100 feet;

Thence North 43 degrees 21 minutes East, 100 feet;

Thence North 42 degrees 13 minutes East, 100 feet;

Thence North 41 degrees 05 minutes East, 100 feet;

Thence North 39 degrees 57 minutes East, 100 feet;

Thence North 38 degrees 49 minutes East, 100 feet;
Thence North 37 degrees 41 minutes East, 100 feet;
Thence North 36 degrees 33 minutes East, 100 feet;
Thence North 35 degrees 25 minutes East, 100 feet;
Thence North 34 degrees 17 minutes East, 100 feet;
Thence North 33 degrees 09 minutes East, 100 feet;
Thence North 32 degrees 01 minutes East, 100 feet;
Thence North 30 degrees 53 minutes East, 100 feet;
Thence North 29 degrees 45 minutes East, 100 feet;
Thence North 28 degrees 37 minutes East, 50 feet to Station 284 + 30 on the said line of railroad; Thence North 28 degrees 37 minutes East, 50 feet;
Thence North 27 degrees 29 minutes East, 100 feet;
Thence North 26 degrees 21 minutes East, 100 feet.

ALSO EXCEPTING THEREFROM the following described parcel of land:

BEGINNING at a point on the westerly line of said strip of land 48 feet wide, the Northeast Corner of said Section 17 bears South 62°34'19" East a distance of 1017.11 feet as calculated from field work based on a Record of Survey filed in Book 45 of Surveys at page 148, records of said County;

Thence, departing said westerly line, North 69°49'13" West, a distance of 156.91 feet;

Thence South 9°16'06" East, a distance of 50.62 feet;

Thence South 26°07'39" East, a distance of 47.79 feet;

Thence South 46°54'06" East, a distance of 67.65 feet to the beginning of a curve radial to said line;

Thence northeasterly a distance of 113.58 feet along the curve concave to the northwest, having a radius of 5059.00 feet and a central angle of 1°17'11" to the **POINT OF BEGINNING**.

Described exception parcel containing 10,105 square feet, more or less, and as shown on Exhibit B attached hereto and made a part hereof.

The basis of bearings for this exception to Parcel B is the California Coordinate System 1983 (CCS83), Zone 1, EPOCH 2010.00. Rotate grid bearings herein counterclockwise 01°21'52" to

obtain geodetic (true) bearings. Distances herein are ground distances. Multiply by the combined factor of .99989877 to obtain grid distances.

PARCEL B

That certain parcel of land as described in a document recorded November 2nd, 1998 as Instrument No. 1998-28442-4 Official Records of the County of Humboldt, State of California, located in the Southeast Quarter of Section 8, Township 5 North, Range 1 East, Humboldt Meridian and being more particularly described as follows:

A strip of land 48 feet wide of which 33 feet, lies along, East of and adjacent to; and 15 feet lies along, West of and adjacent to the centerline of railroad, described as follows:

BEGINNING at a point 223 feet North of the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 17, Township 5 North, Range 1 East, Humboldt Meridian, which said point of beginning is Station 254 + 47.5 feet on the said centerline of railroad, and running thence North 55 degrees East, 632.5 feet;

Thence North 54 degrees 41 minutes East, 100 feet;

Thence North 53 degrees 33 minutes East, 100 feet;

Thence North 52 degrees 25 minutes East, 100 feet;

Thence North 51 degrees 17 minutes East, 100 feet;

Thence North 50 degrees 09 minutes East, 100 feet;

Thence North 49 degrees 01 minutes East, 100 feet;

Thence North 47 degrees 53 minutes East, 100 feet;

Thence North 46 degrees 45 minutes East, 100 feet;

Thence North 45 degrees 37 minutes East, 100 feet;

Thence North 44 degrees 29 minutes East, 100 feet;

Thence North 43 degrees 21 minutes East, 100 feet;

Thence North 42 degrees 13 minutes East, 100 feet;

Thence North 41 degrees 05 minutes East, 100 feet;

Thence North 39 degrees 57 minutes East, 100 feet;

Thence North 38 degrees 49 minutes East, 100 feet;

Thence North 37 degrees 41 minutes East, 100 feet;
Thence North 36 degrees 33 minutes East, 100 feet;
Thence North 35 degrees 25 minutes East, 100 feet;
Thence North 34 degrees 17 minutes East, 100 feet;
Thence North 33 degrees 09 minutes East, 100 feet;
Thence North 32 degrees 01 minutes East, 100 feet;
Thence North 30 degrees 53 minutes East, 100 feet;
Thence North 29 degrees 45 minutes East, 100 feet;
Thence North 28 degrees 37 minutes East, 50 feet to Station 284 + 30 on the said line of said railroad;
Thence North 28 degrees 37 minutes East, 50 feet;
Thence North 27 degrees 29 minutes East, 100 feet;
Thence North 26 degrees 21 minutes East, 100 feet;
Thence North 25 degrees 13 minutes East, 100 feet;
Thence North 24 degrees 05 minutes East, 100 feet ;
Thence North 22 degrees 57 minutes East, 100 feet;
Thence North 21 degrees 49 minutes East, 100 feet;
Thence North 20 degrees 41 minutes East, 100 feet;
Thence North 19 degrees 33 minutes East, 100 feet;
Thence North 18 degrees 25 minutes East, 100 feet;
Thence North 17 degrees 17 minutes East, 20 feet to Station 294 on the said line of said railroad;
Thence North 17 degrees 17 minutes East, 80 feet;
Thence North 16 degrees 09 minutes East, 100 feet;
Thence North 15 degrees 01 minutes East, 100 feet;
Thence North 13 degrees 53 minutes East, 100 feet;
Thence North 12 degrees 45 minutes East, 100 feet;
Thence North 11 degrees 37 minutes East, 100 feet;


Thence North 10 degrees 29 minutes East, 100 feet;

Thence North 09 degrees 21 minutes East, 100 feet;

Thence North 08 degrees 13 minutes East, 7.50 feet to the **POINT OF TERMINATION** in the North line of the Southwest Quarter of Section 9, Township 5 North, Range 1 East, Humboldt Meridian, which said point is Station 301 + 87.6 feet on the said line of said railroad.

TOGETHER WITH all that portion of those parcels in Sections 8, 9 and 17, Township 5 North, Range 1 East, Humboldt Meridian, in the County of Humboldt, State of California, and described in Deed dated May 30, 1986, recorded in Book 1799 of Official Records, Page 628, that lies North of a line that bears South 77 degrees 10 minutes East, from a point that is North 21 degrees 30 minutes East, 970 feet from a point that is 1757.2 feet North and 1060.9 feet West of the corner common to Sections 8, 9, 16 and 17, Township 5 North, Range 1 East, Humboldt Meridian.

Prepared by or under the supervision of:

 5/4/2021

Ronald C. Garton, PLS 7717
Humboldt County Surveyor

Date

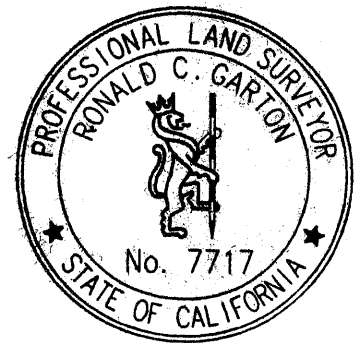
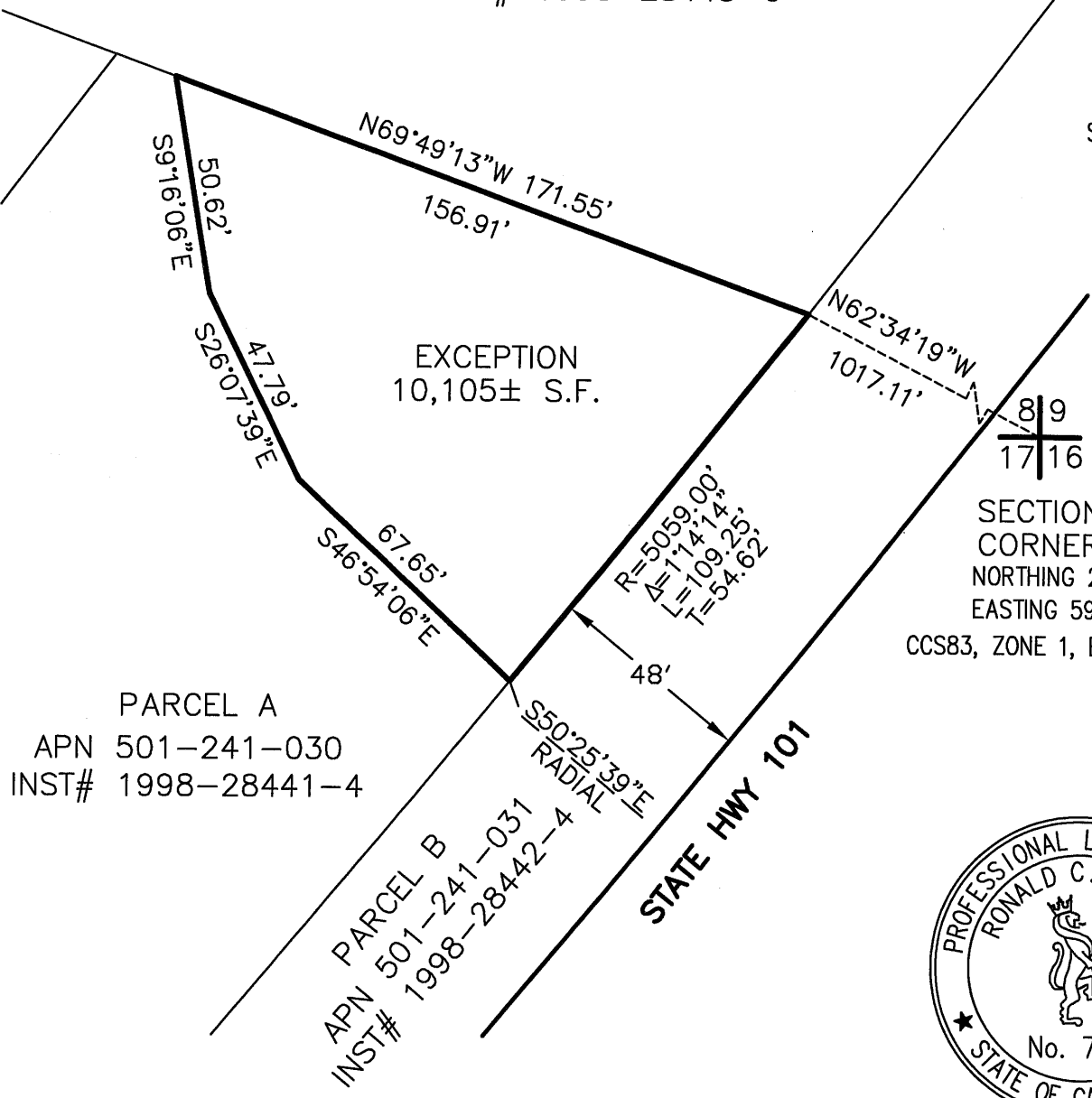
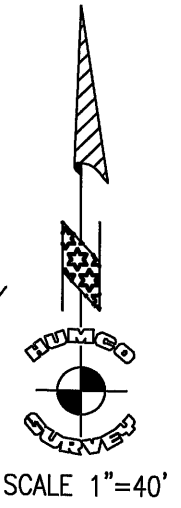


EXHIBIT B

PORTION SOUTHEAST QUARTER OF SECTION 8,
TOWNSHIP 5 NORTH, RANGE 1 EAST, HUMBOLDT MERIDIAN,
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

APN 501-241-033
INST# 1998-28443-6



EXCEPTION
10,105± S.F.

PARCEL A
APN 501-241-030
INST# 1998-28441-4

PARCEL B
APN 501-241-031
INST# 1998-28442-4

SECTION CORNER (CALCULATED)
NORTHING 2190389.58'
EASTING 5985329.64'
CCS83, ZONE 1, EPOCH 2010.00



PREPARED BY OR UNDER SUPERVISION OF:

RONALD GARTON, PLS 7717
HUMBOLDT COUNTY SURVEYOR

5/4/2021

DATE

HUMBOLDT BAY TRAIL

EXCEPTION PARCEL
PROJECT NO. 715036

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____)

On _____ before me, _____ a Notary
(Date)
Public, personally appeared, _____, who
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/her/their** authorized capacity(ies), 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary) (Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed herein to the County of Humboldt, a political subdivision of the State of California, is hereby accepted by the undersigned officer on behalf of the Board of Supervisors of the County of Humboldt pursuant to authority conferred by Ordinance No. 2611 of the Board of Supervisors of the County of Humboldt adopted on September 11, 2018, and Resolution No. 06-120 of the Board of Supervisors of the County of Humboldt adopted on December 12, 2006, and the grantee consents to recordation thereof by its duly authorized officer.

THOMAS K. MATTSON,
DIRECTOR OF PUBLIC WORKS
COUNTY OF HUMBOLDT

Date: _____, 2021