



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-20

For the meeting of: June 20, 2017

Date: June 5, 2017

To: Board of Supervisors

From: William F. Honsal, Sheriff

Subject: George N. Frykberg Trust Real Property Lease at 2618 Myrtle Avenue, Eureka
for the Period July 1, 2017 through June 30, 2023

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve Real Property Lease (Attachment 1) with George N. Frykberg Trust, Lessors, of facility located at 2618 Myrtle Avenue, Eureka, Assessor Parcel Number (APN) 016-222-016, for the period July 1, 2017 through June 30, 2023, for the purpose of maintaining the storage known as Boat Shed ; and
2. Authorize the Board of Supervisors Chair to sign the Lease, in duplicate (Attachment 1); and
3. Direct the Clerk of the Board to return two executed originals of the Lease to Real Property for transmittal to interested parties.

Prepared by *Norma S. Lorenzo*
Norma S. Lorenzo, Deputy Director Sheriff Admin

CAO Approval *Sean M. Hayes*

REVIEW:

Auditor *MSH*

County Counsel _____

Human Resources _____

Other *P*

TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Fennell*

Seconded by Supervisor *Wilson*

Ayes *Sundberg, Fennell, Bass, Bohn, Wilson*

Nays _____

Abstain _____

Absent _____

And carried by those members present, the Board hereby
approves the recommended action
contained in this report.

Dated: *June 20, 2017*

By: *Kathy Hayes*
Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

Sheriff's Office FY 2017-18 proposed budget in budget unit 221

DISCUSSION:

For several years the Humboldt County Sheriff's Office (HCSO) has leased and maintained a storage facility known as "the Boat Shed" on property located at 2618 Myrtle Avenue, Eureka. The facility consists of an approximately 7,666-square-foot building and a secure, paved parking area.

The facility is used for storage of the Sheriff's marine vessels, Sheriff's Posse rescue vehicles, ATVs and trailers utilized by the Drug Task Force, and personal property held as part of crime investigations or seizures.

The Real Property Lease (Attachment 1) is for a 6-year period beginning July 1, 2017 and ending on June 30, 2023 and replaces a prior lease that expires June 30, 2017. In order to continue occupancy of the Boat Shed facility, HCSO respectfully requests approval of the Real Property Lease (Attachment 1) by your Board.

FINANCIAL IMPACT:

Funds to cover the cost of leasing the Boat Shed storage facility at 2618 Myrtle Avenue have been included in the Sheriff's Office proposed budget for FY 2017-18 Sheriff's Operations Budget in budget unit 1100-221-2121 Rent & Lease – Structures.

Lease payments for the term of the lease include an increase of 2.5 percent per year and will be as follows:

Beginning July 1, 2017 through June 30, 2018, One Thousand Seven Hundred Eighty Six Dollars (\$1,786.00)

Beginning July 1, 2018 through June 30, 2019, One Thousand Eight Hundred Thirty One Dollars (\$1,831.00)

Beginning July 1, 2019 through June 30, 2020, One Thousand Eight Hundred Seventy Seven Dollars (\$1,877.00)

Beginning July 1, 2020 through June 30, 2021, One Thousand Nine Hundred Twenty Three Dollars (\$1,923.00)

Beginning July 1, 2021 through June 30, 2022, One Thousand Nine Hundred Seventy Two Dollars (\$1,972.00)

Beginning July 1, 2022 through June 30, 2023, Two Thousand Twenty One Dollars (\$2,021.00)

Approval of the Real Property Lease for the Boat Shed complies with the Board of Supervisors' Strategic Framework Plan by allowing the Sheriff to manage resources to ensure sustainability of services to the citizens of Humboldt County.

OTHER AGENCY INVOLVEMENT:

Humboldt County Department of Public Works Real Property Division

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could deny approval of the lease with the George N. Frykberg Trust for the period of July 1, 2017 through June 30, 2023, however, this is not recommended as it would require the Sheriff's Office to expend additional resources procuring a suitable secure location for the large amount of property and equipment currently at the location.

ATTACHMENTS:

Attachment 1 Real Property Lease – 2618 Myrtle Avenue, Eureka

ATTACHMENT 1

Real Property Lease
2618 Myrtle Avenue, Eureka

ORIGINAL

LEASE

This Lease is made and entered into this 20th day of June, 2017, by and between the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as COUNTY, and GEORGE N. FRYKBERG TRUST hereinafter referred to as LESSOR;

WHEREAS, COUNTY desires to lease premises for COUNTY offices and LESSOR desires to lease the premises described herein to COUNTY;

NOW, THEREFORE, it is mutually agreed as follows:

1. PREMISES

LESSOR leases to COUNTY and COUNTY leases from LESSOR the following described premises located in Eureka, County of Humboldt, State of California:

APN 016-222-016 located at 2618 Myrtle Ave., Eureka, as shown on Exhibit A, which is attached hereto and incorporated herein.

2. USE OF PREMISES

The premises shall be used by COUNTY for county offices as determined by COUNTY. At the commencement of this Lease COUNTY intends to use the premises for office space, vehicle storage, and for other items pertinent to the Sheriff's Department.

3. QUIET ENJOYMENT

Subject to the provisions of this Lease and conditioned upon performance of all the provisions performed by COUNTY hereunder, LESSOR shall secure to COUNTY during the term the quiet and peaceful possession of the premises and all rights and privileges appertaining thereto.

4. TERM OF LEASE

A. The initial term of this Lease shall be for a period of six (6) years commencing July 1, 2017 and ending June 30, 2023 unless terminated by either party pursuant to Paragraph (25).

B. Any holding over with LESSOR'S consent beyond the term of this Lease shall be a month to month tenancy, with all the terms and conditions of this Lease.

5. RENT

COUNTY shall pay to LESSOR as rent for the leased premises a monthly rental as follows:

Beginning July 1, 2017 through June 30, 2018, One Thousand Seven Hundred Eighty Six Dollars (\$1,786.00)

Beginning July 1, 2018 through June 30, 2019, One Thousand Eight Hundred Thirty One Dollars (\$1,831.00)

Beginning July 1, 2019 through June 30, 2020, One Thousand Eight Hundred Seventy Seven Dollars (\$1,877.00)

Beginning July 1, 2020 through June 30, 2021, One Thousand Nine Hundred Twenty Three Dollars (\$1,923.00)

Beginning July 1, 2021 through June 30, 2022, One Thousand Nine Hundred Seventy Two Dollars (\$1,972.00)

Beginning July 1, 2022 through June 30, 2023, Two Thousand Twenty One Dollars (\$2021.00)

Rent shall be paid in advance on the first day of each month, except in the event that COUNTY'S occupancy shall commence on a day other than the first day of the month, the rent for the first partial month shall be prorated at one-thirtieth (1/30) of the rental rate for each calendar day the premises are ready for occupancy during such month.

Rent and other charges under the Lease payable by either party shall be paid without offset or deduction.

6. BUILDING STANDARDS AND COMPLIANCE WITH LAWS

COUNTY shall, at its cost, comply with all statutes, ordinance and regulations now in force or hereafter applicable to COUNTY'S use of the premises.

7. SMOKING

Pursuant to Humboldt County Code §971-1 et seq., COUNTY owned or leased premises are smoke free. LESSOR shall comply with said provision.

8. UTILITIES

COUNTY agrees to pay for all charges for gas, refuse collection, electricity, water and sewer supplied to and used in the leased premises by COUNTY. COUNTY shall pay for its own telephone services.

9. JANITORIAL

COUNTY shall be responsible for janitorial services to the leased premises.

10. MAINTENANCE AND REPAIRS

COUNTY acknowledges that COUNTY was in possession of the premises prior to commencement of this Lease pursuant to previous Lease with LESSOR. COUNTY shall, at its cost, maintain in good condition and repair the interior and exterior of the premises, including, without limitation, the blacktop paving, sidewalks and landscaping. COUNTY'S obligations under this paragraph, however, is subject to paragraph (18) regarding damage and destruction and does not include making structural repairs.

11. IMPROVEMENTS AND ALTERATIONS

COUNTY may make non-structural alterations or improvements to the premises to accommodate COUNTY'S use of the premises. However, COUNTY shall not make any alterations or improvements to the leased premises without the prior written consent of LESSOR. Such consent shall not be unreasonably withheld.

COUNTY, at its own cost, may install in the premises the equipment needed for telecommunication system and computer terminals including, but not limited to, the following:

- A. Telephone cable;
- B. Key system units;
- C. Intercom system;
- D. Telephones;
- E. Answering machines; and
- F. Security system.

Upon termination of the Lease, COUNTY shall have the right to remove from the premises any such equipment installed by COUNTY.

12. INSTALLATION AND REMOVAL OF TRADE FIXTURES

COUNTY may cause or permit to be installed and/or affixed to the premises such fixtures, signs and equipment as COUNTY deems desirable and all such fixtures, signs and equipment shall remain the property of COUNTY and may be removed at any time provided that COUNTY, at its expense, shall repair any damage caused by reason of such removal. All such fixtures, signs and equipment that are exterior to the building shall be approved by LESSOR.

13. COUNTY'S RIGHT TO ERECT SIGNS

COUNTY shall have the exclusive right to erect and maintain upon the premises all signs that it deems appropriate. LESSOR agrees that no signs or advertising matter of any nature other than COUNTY'S shall be permitted upon any of the premises. LESSOR shall cooperate with COUNTY in obtaining any variances from restrictions placed on the use of signs by local authorities. LESSOR and COUNTY shall mutually agree as to the location, size, and style of any signs.

14. REAL PROPERTY TAXES

COUNTY shall pay all real property taxes and general and special assessments levied and assessed against the premises.

15. HOLD HARMLESS AND INDEMNIFICATION

COUNTY agrees to indemnify and hold harmless, and at its own risk, cost and expense, defend LESSOR from and against any and all liability expenses, including defense costs, legal fees, and claims for damages arising from COUNTY'S negligence, intentional acts, or breaches of this Lease. Indemnification with respect to defense costs shall be made at the time LESSOR incurs such costs.

LESSOR agrees to indemnify and hold harmless and, at its own risk, cost, and expense, defend COUNTY, its Board of Supervisors, officers, agents, and employees from and against any and all liability expenses, including defense costs, legal fees, and claims for damages arising from LESSOR'S negligence, intentional acts, or breaches of this Lease. Indemnification with respect to defense costs shall be made at the time COUNTY incurs such costs.

16. COUNTY'S INSURANCE

Without limiting COUNTY'S indemnification provided herein, COUNTY shall take out and maintain, throughout the period of this Lease, the following policies of insurance placed with insurers with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of COUNTY, its agents, employees, or sublessees:

A. Comprehensive/Liability Insurance

Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit. Said policy shall contain, or be endorsed with, the following provisions:

(1) LESSOR, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of COUNTY. The coverage shall contain no special limitations on the scope of protection afforded to LESSOR, its officers, agents, and employees.

(2) The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of the premium) to LESSOR by certified mail.

(3) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

(4) For claims related to this project, COUNTY'S insurance is primary coverage to LESSOR, and any insurance or self-insurance programs maintained by LESSOR are excess to COUNTY'S insurance and will not be called upon to contribute with it.

(5) Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to LESSOR, its officers, employees, and agents.

B. Property Insurance

COUNTY agrees to provide an all-risk property insurance for the contents of the property through COUNTY'S property insurance.

C. By its signature hereunder, COUNTY certifies that COUNTY is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and COUNTY will comply with such provisions in connection with any work performed on the premises. Any persons providing services with or on behalf of COUNTY shall be covered by workers' compensation (or qualified self-insurance).

17. LESSOR'S INSURANCE

This Lease shall not be executed by COUNTY and LESSOR is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.

Without limiting LESSOR'S indemnification provided herein, LESSOR shall take out and maintain, throughout the period of this Lease, the following policies of insurance placed with insurers with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of LESSOR, its agents, employees or sublessors:

A. LESSOR is responsible for providing "All-Risk" Property Insurance for this location.

B. Workers' Compensation insurance meeting statutory limits of the California Labor Code which policy shall contain or be endorsed to contain a waiver of subrogation against COUNTY, its officers, agents, and employees and provide for thirty (30) days prior written notice in the event of cancellation. If LESSOR has no employees, LESSOR may sign and file the following certification in lieu of insurance:

"I am aware of the provisions of the California Labor Code Section 3700 which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with provisions

of that code before commencing with and during the performance of the work of this contract."

C. COUNTY reserves the right to obtain complete copies of the original insurance policies, if the County Risk Manager desires to do so.

D. If LESSOR does not keep the above mentioned insurance in full force and effect during the life of this Lease, COUNTY, at LESSOR'S expense, may elect to purchase the necessary insurance, and LESSOR agrees to pay the cost of said insurance or, in the alternative, COUNTY may elect to treat the failure to maintain requisite insurance as a breach of contract and terminate the Lease as provided herein.

18. DESTRUCTION OF PREMISES

In the event the premises are destroyed in whole or in part by fire or other casualty to the extent that they are substantially unusable, COUNTY reserves the right to forthwith terminate this Lease upon written notice within seven (7) days following the date of loss.

If such casualty occurs and a portion of said premises is still usable by COUNTY, the rent shall be prorated on a square footage basis of usable space until the premises are restored to their original condition. Payment of prorated rent shall not constitute a waiver of COUNTY'S right to terminate this Lease as provided in this paragraph (18).

In the event that the premises are destroyed in whole or in part by fire or other casualty, and the cost of restoring the same exceeds the then remaining rental for the unused portion of the term of this Lease, LESSOR shall have the option to rebuild or to terminate this Lease. Such option shall be exercised by LESSOR by notice in writing to COUNTY within seven (7) days following the date of loss. LESSOR'S option to rebuild shall not constitute a waiver of COUNTY'S right to terminate this Lease, as provided in this paragraph (18).

19. USE UNLAWFUL OR PREMISES CONDEMNED

If it becomes unlawful for COUNTY to conduct its intended operations on the premises, or if a portion of the premises or approaches thereto is condemned by public authority so that it becomes impossible to use the premises, or if any highway or street change is made diverting or re-routing traffic away from the premises so that the premises become impossible to use, COUNTY shall have the right at any time thereafter to terminate this Lease by giving LESSOR seven (7) days notice in writing of such termination.

20. 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, the premises shall become unusable from a practical standpoint for a period of ten (10) consecutive days or longer, then COUNTY may: (1) terminate the Lease upon seven (7) days written notice to LESSOR, (2) by notice in writing to LESSOR prorate the rent 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.

21. NUCLEAR FREE CLAUSE

LESSOR certifies by its signature below that LESSOR is not a nuclear weapons contractor, in that LESSOR 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. LESSOR agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this Lease if it determines that the foregoing certification is false or if LESSOR becomes a nuclear weapons contractor.

22. LESSOR DEFAULT

LESSOR shall be in default of this Lease if it fails or refuses to perform any material provision of this Lease that it is obligated to perform if the failure to perform is not cured within ten (10) days after written notice of the default has been given by COUNTY to LESSOR. If the default cannot reasonably be cured within ten (10) days, LESSOR shall not be in default of this Lease if LESSOR commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default.

23. COUNTY'S REMEDIES ON LESSOR'S DEFAULT

COUNTY, at any time after LESSOR is in default, can terminate this Lease or can cure the default at LESSOR'S cost. If COUNTY at any time, by reason of LESSOR'S default, pays any sum or does any act that requires the payment of any sum, the sum paid by COUNTY shall be due from LESSOR to COUNTY within five (5) days of notice of such sum, and if paid at a later date shall bear interest

at the maximum rate COUNTY is permitted by law to charge from the date the sum is paid by COUNTY until COUNTY is reimbursed by LESSOR. If LESSOR fails to reimburse COUNTY as required by this paragraph, COUNTY shall have the right to withhold from future rent due the sum COUNTY has expended until COUNTY is reimbursed in full for the sum and interest on it. 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.

24. TERMINATION

COUNTY shall be in default of this Lease if the COUNTY fails or refuses to pay any sum due from COUNTY under this Lease and such sum is not paid within ten (10) days of delivery of written notice of delinquency from Lessor or if the COUNTY fails or refuses to perform any other provisions of this Lease that it is obligated to perform if the failure to perform is not cured within thirty (30) days after delivery of written notice of default from LESSOR to COUNTY. LESSOR shall have all rights and remedies under law or equity including those under California Civil Code Section 19541.4.

25. TERMINATION WITHOUT CAUSE

COUNTY or LESSOR may terminate this Lease without cause at any time by providing the other party six (6) months written notice of termination.

26. NOTICE

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail to the respective addresses set forth below. Notice shall be deemed communicated two (2) County working days from time of mailing if mailed as provided herein.

LESSOR: George N. Frykberg Trust
1000 Park Place, Suite P
San Mateo, CA 94403

COUNTY: County of Humboldt
Public Works
Real Property Division
1106 Second Street
Eureka, CA 95501

27. ASSIGNMENT

This Lease shall not be assigned by either party without the written consent of the other party. Such consent shall not be unreasonably withheld.

28. LEASE MODIFICATION

This Lease may be modified only by subsequent written agreement signed by COUNTY and LESSOR.

29. LESSOR NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY

While engaged in carrying out and complying with the terms and conditions of this Lease, LESSOR is an independent contractor and not an officer, employee, or agent of COUNTY.

30. ATTORNEYS' FEES

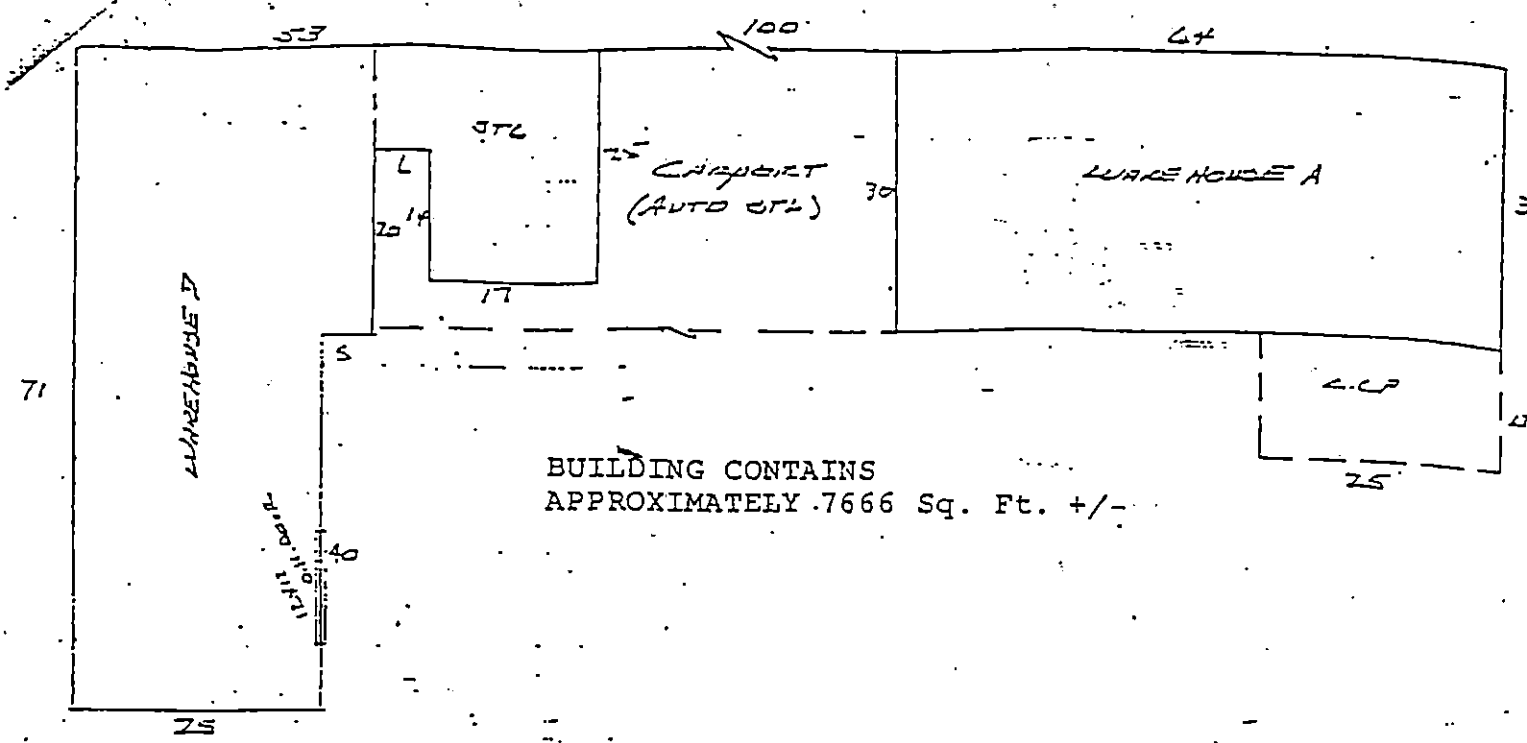
If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Lease to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorneys' fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, "the party prevailing" means the party who dismisses an action or proceeding 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.

31. WAIVER OF BREACH

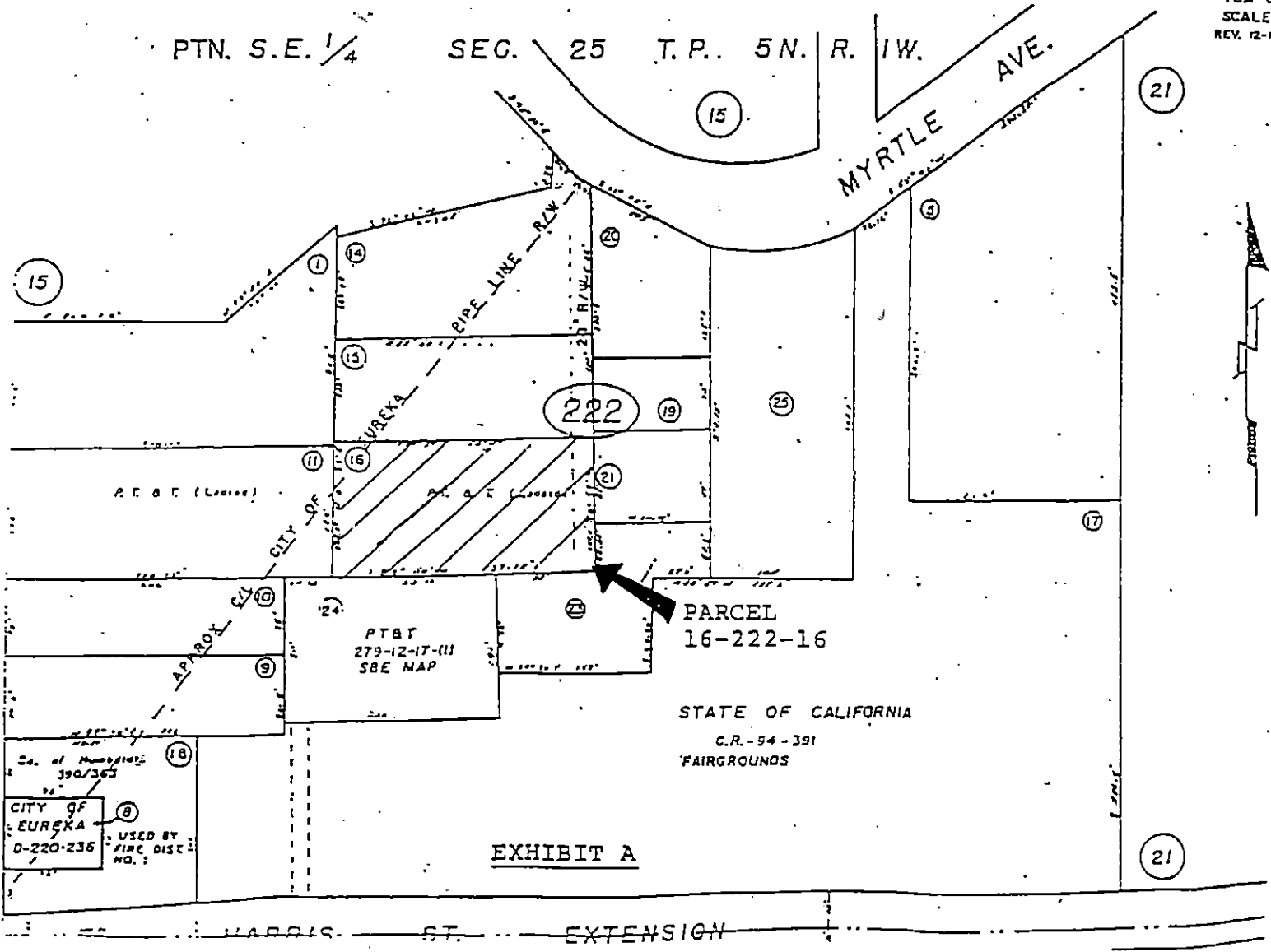
The waiver by COUNTY of any breach of any provisions of this Lease shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this Lease.

32. BREACH, REMEDY FOR

In the event of breach of this Lease by LESSOR or COUNTY, COUNTY and/or LESSOR shall have all rights and remedies provided by law.



16-
TCA &
SCALE:
REV. 12-11



hereto upon the date first written above.

(SEAL)

ATTEST:
CLERK OF THE BOARD

COUNTY OF HUMBOLDT

BY *Anne Hurlburt*

BY *Wagner Bass*
CHAIRPERSON
BOARD OF SUPERVISORS
COUNTY OF HUMBOLDT
STATE OF CALIFORNIA

LESSOR: GEORGE N. FRYKBERG TRUST

BY *Georgia N. Guntzen*
TITLE *Trustee*

BY *Clifford A. Fryberg*
TITLE *Trustee*

BY *Marie S. Lybborg*
TITLE *Trustee*

33. SURRENDER OF PREMISES

Upon termination of this Lease, COUNTY shall surrender the premises to LESSOR in the same condition as COUNTY received it at the commencement of COUNTY'S occupancy of the premises, ordinary wear and tear excepted. LESSOR will permit COUNTY, at COUNTY'S expense, during the term of this Lease to remove from the premises any and all office fixtures and fittings and any and all lighting fixtures and air conditioning, heating and cooling equipment which COUNTY installed in or on the premises; provided, however, that such removal shall be done in a good and workmanlike manner and any and all damage caused by such removal shall be properly repaired by COUNTY at COUNTY'S expense.

34. BINDING EFFECT

All provisions of this Lease shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, successors, and assigns.

35. JURISDICTION AND APPLICABLE LAWS

This Lease shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this Lease shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §§ 394 and 395.

36. INTERPRETATION

As this Lease was jointly prepared by both parties, the language in all parts of this Lease shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

IN WITNESS WHEREOF, this Lease has been executed by the parties

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