

**HUMBOLDT STATE UNIVERSITY CENTER
BOARD OF DIRECTORS**

Regular Meeting on Thursday, September 10, 2020

Zoom Meeting ID: <https://humboldtstate.zoom.us/j/91029628783>

5:15 PM PST

Minutes

Directors Present: Jeremiah Finley, Jourden Lamar, Steve Martin, Armeda Reitzel, Mark Rizzardi, Lynne Sandstrom, Eboni Turnbow, Amanda Hubacek

Directors Absent: None

SUBJECT: Approval of Agenda

MOTION: It was moved (Reitzel) and seconded (Sandstrom) to approve the Agenda.

ACTION: The motion was approved.

SUBJECT: Approval of Minutes of May 7, 2020 and August 6, 2020

MOTION: It was moved (Reitzel) and seconded (Martin) to approve the Minutes.

ACTION: The motion was approved.

Seating of New Board Members – Lamar reports a conflict of the appointee for UC. The bylaws state the AS President has to be present and they don't have a designee. Finley is the Student at Large position and he would like to keep that position. Lamar requests an amendment to allow Lopez to sit as the AS President.

Sandstrom questioned if the RHA position is not filled or if there is a vacancy to fill it.

Turnbow reports because there is no term or designee in the bylaws, Finley is recommending Lopez to be his designee and the motion would be to fill that. Turnbow recommended if Finley is the AS President it would make more sense for him to stay in that role and then Lopez serve as the member at large.

Finley reports in accordance with the UC bylaws, an AS member can also be elected as a Student at Large representative. Looking at the AS constitution when the Presidency is vacant or AS President is absent in their duties, the Vice President assumes their role. Finley states will not be taking the position of AS President on the UC Board, leaving that position absent.

Turnbow questioned why Finley can't serve as AS President on the UC Board.

Finley reported he is the AS President and the two-year representative and can't serve both positions.

Martin reports Finley's AS President term on the UC Board is a one year term and the Student at Large position is a two year term. It is Finley's preference to serve his two year term.

Sandstrom reports Finley is the AS President and the UC Board has seat for the AS President. It is not appropriate to decline one seat for another. With Finley filling the AS President seat, it leaves a vacant Student at Large seat which could be put out for recruitment.

Turnbow requested Lamar pulling up the UC bylaws to confirm it states the AS President has to serve on

the UC Board as the AS President position.

Lamar reports the Bylaws state: seven (7) students: four (4) shall be ex-officio members consisting of the AS President, AS Student Affairs Vices President, RHA President or designee, one other student appointed by the RHA, and three student at large.

Martin questioned why the bylaws state the RHA President or designee where as they state only AS President and that possibly the bylaws could be changed at some point to reflect AS President or designee.

Sandstrom requests reviewing the bylaws as a future agenda item.

MOTION: To seat Lamar as AS Student Affairs Vice President, Ex-Officio

ACTION: It was moved (Martin) and seconded (Reitzel)

MOTION: To seat Miller as RHA President, Ex-Officio

ACTION: It was moved (Reitzel) and seconded (Martin)

MOTION: To seat Finley as AS President

ACTION: It was moved (Martin) and seconded (Turnbow)

Official Reports:

Chair's Report-

Lamar reports wanting to make sure the rules are followed Roberts's Rules of Order and the following Zoom guidelines (e.g.: raise hands if you would like to request to speak. Voting: check yes in the participants list to indicate in favor, check no in the participants list to indicate not in favor & raise hands to indicate abstentions. Members of the public outside of public comment may only be allowed to address the board if a board member yields time and this is subject to the chairs approval)-please do not use the chat setting/feature to circumvent procedure, all chat items will not be considered as comments to be addressed by the Board of Directors & I encourage Board members to not endorse chat messages.

Acting Interim Director's Report-

Todd Larsen reports having a third UC management meeting. Dining is doing great with the J and College Creek Market Place open and averaging about 850 transactions a day. Chancellor's office audit has begun and 28 interviews are scheduled. The HBAC was visited last Friday and Larson met with Bridget, Mairead, and Deserie to go over goals and needs for the facility.

Election of Officers

MOTION: To seat Finley as UC Chair

ACTION: It was moved (Lamar) and seconded (Reitzel)

Vice Chair is tabled until the next Board Meeting

MOTION: To seat Sandstrom as Secretary/Treasurer

ACTION: It was moved (Martin) and seconded (Rizzardi)

Public Comment

Mairead Sardina expressed her concern over the ineffectiveness of the Board. The UC is in the middle of turmoil, stress and individual emotionally taxing change. HBAC has major changes happening that the Board needs to address.

Genevieve Marchand would like to raise some concerns regarding the situation at the HBAC. The lack of follow through with policies that are being asked of everyone else on campus and that were not followed for the HBAC. There are concerns regarding the safety for the students who are learning how to operate boats, how to run a facility and become professional outdoor leaders.

Martin requested Sardina to elaborate on some of her concerns at the HBAC. The changes at the HBAC were done unilaterally with no consultation with the Board.

Mairead Sardina reported concerns with the views of the water ways. There has always been two office to overlook the water and upstairs and downstairs. The Alumni and Advancement Foundation have commandeered the office. It is unsafe for the City to be putting patrons in the water without an office that overlooks the water and docks.

Lopez reports he use to have employment at Center Activities and saw all the amazing work they did. There are some concerns with everything going on with Center Activities. Not having these resources are effecting everyone.

Deserie Donae requests the USFAC advisor board do a deep look into the appropriate space that actually suites the needs of the HBAC. Room 203 should be designated for Fundraising and the space will now be designated for programs. Donae was informed the office space will be room 110 which faces the road.

Rizzardi reported a lease agreement with City of Eureka and HSU from 2003 and as far as he can, we're in total violation of that agreement. The UC should look into this and address this issue. Rizzardi is recommending this be an action item on the next agenda.

Martin reports reading the lease agreement and UC's violating it in multiple ways.

Special Presentation -

2019-20 Independent Audit Report -

Amanda McCleary-Moore, Melissa McMahon & Alise Horsley from Moss Adams reported the services performed this year are Financial Statements audits. A summarized report is provided over internal controls and any finding they may have had. The focus is on revenues, operating expenses, pension liability, OPEB assets and deferred and management override of controls. At the conclusion of the audit, two reports are issued. The first report is over the financial statements. Based on all of the test work, the financial statements management put out are materially correct. The second report issued is on internal controls and compliance. This reports any significant deficiency or material weakness. Tentatively this is finished and no instances of control deficiencies had been identified. The reason this report is tentative is during the week Moss Adams was provided with a memo from the President with some concerns. Since this information is known, a couple additional procedures need to be applied. Should something come out of this, it could change what come out in the reports.

At this point there is a clean opinion on the financial statements and no significant deficiencies have been identified.

MOTION: To extend the meeting until auditor can finish their presentation - Amended extend meeting to 7:30 PM.

ACTION: It was so moved (Sandstrom) and seconded (Turnbow) - Amended approved.

MOTION: To allow the audit committee to utilize the draft financial statements for the annual reporting.

ACTION: It was moved (Sandstrom) and seconded (Lamar)

Old Business

Meeting Schedule 2020-2021 –

MOTION: To approve the UC Board of Directors meeting schedule.

ACTION: It was moved (Reitzel) and seconded (Sandstrom)

MOTION: Amend the main motion of approving draft schedule as is and adding on two more spring semester meetings, April 29, 2020 and May 6, 2020.

ACTION: It was moved (Reitzel) and seconded (Sandstrom)

Legal Counsel –

A written motion was made regarding the recognition for independent legal counsel.

General Board Comments – Martin reports Randy Erickson emailed a document to the Board and asked that it be included the minutes (see attached). Martin request this be a topic on the next agenda.

Adjournment – 7:30pm

Minutes Submitted By:

Chele Shaw 9/25/2020
Chele Shaw, Accounting Technician (filling in for Admin Asst) Date

Minutes Approved By:

 9/25/2020
Jeremiah Finley, Board Chair Date

RECORDING REQUESTED BY

- APPENDIX A -

The Trustees of
The California State University
HUMBOLDT STATE UNIVERSITY

2003-18573-37

Recorded — Official Records
Humboldt County, California
Carolyn Crnich, Recorder
Recorded by HUMBOLDT ST UNIVERSITY
Exempt from payment of fees
Clerk: MM Total: 0.00
May 21, 2003 at 11:15

WHEN RECORDED MAIL TO

Contracts, Procurement & Risk Management
Humboldt State University
#1 Harpst Street
Arcata, California 95521-8299

Exempt from fees in accordance with
Section 27383 of the Government Code.

Space above this line for Recorder's Use

LEASE AGREEMENT

TITLE OF LEASE AGREEMENT: Humboldt State University Boating Instruction & Safety Center Lease Agreement

LEASE AGREEMENT DATE: February 10, 2003

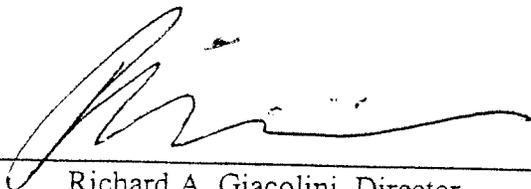
NAME OF LESSOR: City of Eureka

ADDRESS OF LESSOR: 531 "K" Street, Eureka, CA 95501

NAME OF LESSEE: Humboldt State University, California State University

ADDRESS OF LESSEE: #1 Harpst Street, Arcata, CA 95521-8299

Signed



Richard A. Giacolini, Director
Contracts, Procurement and Risk Management

May 20, 2003

**HUMBOLDT STATE UNIVERSITY BOATING INSTRUCTION & SAFETY CENTER
LEASE AGREEMENT**

This Lease is made and entered into on February 10, 2003 and shall be effective as of the date of the Notice to Proceed with Construction for the Humboldt State University Boating Instruction Safety Center (Effective Date), is entered into by and between the CITY OF EUREKA, a municipal corporation, as trustee of tidelands, (CITY) and TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, which is the State of California acting in its higher education capacity through its duly appointed and acting officer, on behalf of the HUMBOLDT STATE UNIVERSITY (collectively, CSU) with reference to the following facts:

WHEREAS, CITY and CSU share a mutual interest in promoting boating and water safety instruction in Humboldt Bay; and

WHEREAS, CITY AND CSU wish to arrange for the provision and maintenance of a Boating Instruction and Safety Center (BISC) on certain property owned by CITY and certain adjacent tidelands property held in trust by CITY; and

WHEREAS, CITY is agreeable to the lease of said property to CSU, and is further agreeable to the construction thereon of certain structures to enable CSU to provide a program of boating and water safety instruction and other educational uses to students, faculty and staff of Humboldt State University and boating and water safety instruction to the general public as well as recreational services, provided that such recreational use does not unreasonably interfere with the primary boating and water safety instructional activities.

NOW, THEREFORE, in consideration of these premises, the parties agree as follows:

1. LEASED PREMISES.

Subject to Chapter 225, Statutes of 1945 as amended by Chapter 1086, Statutes of 1970 and Chapter 1095, Statutes of 1978, CITY hereby leases to CSU, on the terms, conditions and covenants set forth herein, that certain real property (Premises), generally described as follows:

That portion of the State tidelands held in trust by the CITY and described in **Exhibit A** of this Agreement (Description of Premises) and shown in **Exhibit B** of this Lease (Location Map of Premises) attached hereto and incorporated herein by reference

The CITY, its successors and assigns retains perpetual easements on the Premises leased to CSU in this Lease described and shown in **Exhibit C** of this Lease (CITY Easements) attached hereto and incorporated herein by reference. CSU agrees not to construct any buildings or structures on CITY easements.

There is hereby excepted and reserved to the State of California, all deposits of minerals,

including oil and gas, in said lands, and to the State of California or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said land.

2. TERM.

a. The term of this Lease shall be for forty-nine years (49) years, commencing on the Effective Date specified in the first paragraph of this Lease.

b. If DBW or DGS fails to start construction of the Facilities within a 5-year period following the Effective Date of this Lease, and unless otherwise agreed to by CITY and CSU, this Lease shall terminate.

c. If CSU, with CITY'S consent, remains in possession of the Premises and Facilities after expiration or termination of this Lease, such possession by CSU shall be deemed to be a month-to-month tenancy terminable on thirty (30) days' notice given at any time by either party. All provisions of this Lease, except those pertaining to the term and option to extend, shall apply to the month-to-month tenancy.

3. CONSIDERATION.

The consideration for the lease of the Premises shall be set as a flat fee of \$1.00 per year, forty-nine dollars (\$49.00) for the entire term of the lease. The entire forty-nine (\$49.00) dollars is due and payable on the first day of the first full month after the Effective Date, subject to refund on a pro-rated unexpired basis, if the Lease is terminated prior to the expiration of the full forty-nine year term hereof. The parties agree that the arrangement described above is good and adequate consideration, the receipt and adequacy of which is hereby acknowledged.

4. CONSTRUCTION AND LANDSCAPING.

DBW in conjunction with the DGS will undertake the construction and landscaping of the BISC. CSU and DBW have entered into an Agreement for Financing and Operation of the Humboldt State University Boating Instruction and Safety Center dated February 10, 2003 (Operating Agreement) whereby DBW agrees to finance and construct the BISC and CSU agrees to operate it for the term of the Operating Agreement.

CITY agrees at its expense to construct improvements for the extension of Waterfront Drive and other necessary street improvements, sewer, water, storm drainage and utilities stubbed approximately one foot behind sidewalk on or before DBW's approval is issued for final occupancy of the BISC.

Planned construction includes structures to accommodate boat storage, training, locker rooms, offices, parking and other necessary structures (Facilities), and to landscape the areas of the Premises surrounding the Facilities. In connection with such construction and landscaping, CSU and CITY agree to cooperate with DBW and DGS in complying with all applicable planning and building procedures, ordinances and codes.

5. USE OF PREMISES AND FACILITIES.

The Premises shall be used for the following specified purposes and shall not be used for any other purpose without first obtaining written consent of the CITY and the State Lands Commission (Lands Commission), which consent shall not be unreasonably withheld, if any such usage is consistent with the CITY's legislative grant and the public trust and is otherwise lawful and commercially reasonable.

CSU will use the Premises and Facilities to enable CSU to provide a program of boating and water safety instruction and other educational uses to students, faculty and staff of Humboldt State University and boating and water safety instruction to the general public, as well as recreational services, provided that such recreational use does not unreasonably interfere with the primary boating and water safety instructional activities.

CSU, or its approved auxiliary organization, shall operate the BISC in accordance with the Operating Agreement for the term of that agreement and thereafter in accordance with the reasonable and necessary operation of CSU.

6. ASSIGNMENT AND SUBLETTING.

a. CSU shall not assign, sublease or otherwise convey any interest in this Lease or arising hereunder to any person or persons, entity or entities, other than an affiliated CSU approved auxiliary organization, without prior written consent of CITY in its reasonable discretion, and any attempt to assign or sublet without such prior written consent shall be void. Unless otherwise agreed to by CITY, any such assignment or subletting shall only be for the same purposes and uses as those allowed to CSU under this Lease.

b. Consent to any such single assignment or subletting shall not constitute consent to any further assignment or subletting. CSU's interest hereunder shall not be assignable in bankruptcy, nor shall said interest be assignable by operation of law. Any document by which any such interest hereunder is conveyed with such consent shall provide that the person acquiring such interest acknowledges familiarity with the terms of this Lease and takes interest subject to the terms and conditions hereof and recognizes that upon expiration or termination of the interest of CSU, such interest shall also be expired or terminated and the site vacated. However, in the event of expiration or termination of this Lease, CITY at its sole option may elect to treat any assignee, subtenant or holder of an interest conveyed by CSU as CITY'S tenant.

7. MAINTENANCE OF SITE AND FACILITIES.

a. From the date this Lease is executed by the parties, to and including the Effective Date, the Premises and any improvements and landscaping thereon shall be maintained and shall be the sole responsibility of the CITY.

b. CSU shall have the sole responsibility for, and shall bear all costs of maintaining the Premises and Facilities, including landscaping, in reasonably good condition.

c. If CSU fails to maintain the Premises or Facilities in such good condition, CITY shall notify CSU, in writing, of the items and/or areas that are not in good condition, specifying in what manner each item and/or area is not in good condition and stating what maintenance is required. If CSU does not correct the condition within ninety (90) days after the date of receipt of CITY'S notice, CITY at its election, may perform the required maintenance at the expense of CSU. If the required maintenance cannot reasonably be completed by CSU within said ninety (90) day period, CSU shall not be in default of this Lease if CSU commences the maintenance within said ninety (90) day period and diligently and in good faith continues to perform the maintenance required.

d. CSU shall promptly repair any damage or correct any condition which imminently endangers the Premises, the Facilities, fixtures or equipment and/or which poses an imminent threat of injury to persons using the Premises or Facilities or adjacent CITY property. If CSU should fail to so repair such damage or correct such condition, after having actual knowledge or reasonable opportunity to have such knowledge of such damage or condition, CITY may make such repairs or corrections at the expense of CSU.

e. CSU expressly agrees, at its own cost and expense, to maintain and operate all of the Facilities and Premises in a clean, safe, wholesome, and sanitary condition free of trash, garbage or obstructions of any kind. CSU shall remedy without delay any defective, dangerous, or unsanitary conditions in compliance with any and all present and future laws, rules or regulations of any governmental authority now or in the future that has jurisdiction over the Facilities.

f. CSU agrees to forward to CITY, within thirty days of receipt thereof, a copy of any notice of default received by CSU under the Operating Agreement Article 6.

8. UTILITIES.

CSU shall pay the cost of all utility services to the Premises and Facilities, except that CITY shall waive hook-up fees for water and sewer lines to the Premises and Facilities and shall waive all user fees for water and sewer service to the Facilities and Premises for the five year period commencing on the date the Notice of Completion of the Facilities is recorded with Humboldt County. CITY and CSU agree to enter into good faith negotiations regarding subsequent water and sewer user fees to the Facilities and the Premises prior to the expiration of the above referenced five-year period.

9. TITLE TO IMPROVEMENTS.

During the initial or option terms of this Lease, to the extent permitted under the Operating Agreement, CSU shall be the sole owner of the Facilities, and all trade or other fixtures installed therein.

Upon written notice by either party to the other within 12 months prior to the expiration of the term of this lease that the party desires to enter into negotiations for a new lease for the Premises, CITY and CSU hereby agree to enter into good faith negotiations in an attempt to reach mutual agreement on a new lease.

Upon the expiration or earlier termination of this Lease or any extension thereof, CSU shall relinquish use of the Facilities and shall remove its property, both real and personal, within such reasonable time as CITY may designate, and upon its failure to do so, such property shall, at the election of CITY, become property of the CITY without compensation therefore.

10. TAXES.

CSU shall have the sole responsibility to pay applicable real property (including possessory interest), personal property, assessments, or any other taxes, and sewer service charges, imposed on the Premises, Facilities, or its operation.

11. INDEMNIFICATION.

CSU shall indemnify and hold harmless, defend and protect CITY and the Lands Commission, their respective officers, directors, agents, employees and invitees from any and all claims, losses, damages, demands, liabilities, suits, costs, expenses (including attorney fees), penalties, judgments or obligations whatsoever arising out of, or in any way related to activity conducted by or the omission of CSU with respect to the operation of the BISC, except to the extent the injury or damage was caused, suffered or resulted from the sole negligence or the intentional and willful misconduct of CITY and/or Lands Commission, their respective officers, directors, agents or employees.

12. INSURANCE.

CSU shall maintain in full force and effect during the term of this Lease the following insurance in the minimum amounts specified for the operation of the BISC:

Bodily Injury or Death	\$1,000,000 each person \$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence \$1,000,000 aggregate
Worker's Compensation	as required by law and Employer's Liability with limits of \$500,000 per occurrence (if employees are to be hired).

Policies listed under this paragraph shall all name CITY as an additional insured with respect to the operations performed under this Lease. The written policy of insurance shall not be canceled without THIRTY (30) days prior written notice to CITY. ”

CSU, or its assignee under the management agreement for the BISC with the DBW, shall provide protection through CSU's participation in a "risk management" plan, self-insurance program, insurance pooling arrangement, or any combination thereof.

With respect to providing the insurance described herein it is understood the State of California has elected to be self-insured for its general liability, motor vehicle liability, workers' compensation and property exposures through an annual appropriation from the General Fund. As a State agency, the California State University, Office of the Chancellor, the Trustees, and its system of campuses are included in this self-insured program.

The office of Risk Management in the Chancellor's Office administers the general liability, property and worker's compensation programs. The State Office of Risk and Insurance Management administers the motor vehicle liability program.

Under this form of insurance, the State and its employees (as defined in Section 810.2 of the Government Code) are insured for any tort liability that may develop through carrying out official activities, including state official operations on non-state owned property. Should any claims arise by reason of such operations or under an official contract or license agreement, they should be referred to the State Board of Control, State of California, Tort Liability Section, 1515K Street, Sacramento, CA 95814. Any Claims regarding property are to be referred to the California State University, System-wide Risk Manager, 401 Golden Shore, 5th Floor, Long Beach, CA 90802-4210

The parties agree that this program of self-insurance satisfies the requirements of this Paragraph. Any alternative program of insurance undertaken by CSU in the future must comply with in all respects with this Paragraph.

CITY and CSU release each other and their respective authorized representatives, from any claims for damage to any person or to the Facilities that are caused by, or result from risks insured against under any insurance policies carried by the parties and enforced at the time of any such damage.

13. NONDISCRIMINATION.

CSU shall not discriminate because of race, religion, disability, color, sex or national origin, against any person by refusing to furnish such person any service or privilege offered to the general public. Nor shall CSU publicize such service or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person because of race, religion, color, disability, sex or national origin.

CSU shall not discriminate against any employee or applicant for employment, because of race, color, religion, disability, ancestry, sex or national origin. Such "employment" action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

14. WAIVER OF CONTRACT TERMS.

No delay or omission in the exercise of any right or remedy of CITY on any default by CSU shall impair such right or remedy or be construed as a waiver. CITY'S consent to or approval of any act by CSU requiring CITY'S consent or approval shall not be deemed to waive or render unnecessary CITY'S consent to or approval of any subsequent act by CSU.

15. CSU's Default/Abandonment .

a. The occurrence of any of the following shall constitute a default by CSU:

(i) Failure to perform any other provision of this Lease if the failure to perform is not cured within 45 days after notice has been given to CSU. If the default cannot reasonably be cured within 45 days, no default will occur if CSU commences to cure the default within the 45-day period and diligently and in good faith continues to cure the default.

(ii) If CSU becomes or files for insolvency or bankruptcy, either voluntarily or involuntarily.

b. Notices given under this paragraph shall specify the alleged default and the applicable provisions of this Lease, and shall demand that CSU perform the provisions of this Lease within the applicable period of time, or quit the premises. No such notice shall be deemed a forfeiture or a termination of this Lease unless CITY so elects in the notice.

c. CITY shall have the following remedies if CSU commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law:

(i) CITY can continue this Lease in full force and effect, and this Lease will continue in effect as long as CITY does not terminate CSU's right to possession.

(ii) CITY, at any time after CSU commits a default, can cure the default at CSU' cost. If CITY at any time, by reason of CSU's default, pays any sum or does any act that requires the payment of any sum, the sum paid by CITY shall be due immediately from CSU to CITY. At the time the sum is paid, and if paid at a later date, shall bear interest at the maximum rate an individual is permitted by law to charge from the date the sum is paid by CITY until CITY is reimbursed by CSU.

d. In the event CSU abandons the BISC during the term of this Lease, CSU shall relinquish use of the Facilities and shall remove its property, both real and personal, within such reasonable time as CITY may designate, and upon its failure to do so, such property shall, at the election of CITY become property of the CITY without compensation therefore.

e. Any waiver by CITY of any default must be in writing and shall not be a

waiver of any other default concerning the same or any other provision of the Lease.

16. RIGHT OF ENTRY.

Upon at least five (5) business days written notice to CSU (except in case of emergency) and with the consent of CSU (which consent shall not be unreasonably withheld), CITY and its authorized representatives shall have the right to enter the Premises and Facilities at all reasonable times for any of the following purposes:

- a. To determine whether the Premises and Facilities are in reasonably good condition and whether CSU is complying with its obligations under this Lease.
- b. To do any necessary maintenance and to make any restorations to the Premises and Facilities that CITY has the right to perform under the provisions of this Lease.
- c. To serve, post, or keep posted any notices required or allowed under the provisions of this Lease, or otherwise required by law.
- d. To enforce the law, prevent or investigate any criminal activity, or to protect the health and safety of persons or property, including but not limited to inspections for fire safety.

17. MODIFICATION OF AGREEMENT.

Notwithstanding any of the provisions of this Lease, the parties may hereafter, by mutual consent agree to modifications thereof or additions thereto in writing which are not forbidden by law. CITY shall have the right to grant reasonable extensions of time to CSU for any purpose or for the performance of any obligation of CSU hereunder.

18. NOTICES.

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party or any other persons shall be in writing and either served personally or by fax or sent prepaid, first class mail. Any notice, demand, request, consent, approval or communication that either party desires or is required to give the other party shall be addressed to the other party at the addresses set forth herein or to such other address as a party may subsequently direct in a written notice to the other party:

CITY OF EUREKA
531 "K" Street
Eureka, CA 95501
Attn: Property Manager
Fax: (707)-441-4202

HUMBOLDT STATE UNIVERSITY
1 Harpst St.
Arcata, CA 95521
Attn: Director of Contracts, Procurement &
Risk Management
Fax: (707) 826-3312

19. TIME OF ESSENCE.

Time is of the essence of each provision of this Lease.

20. CONSENT OF PARTIES.

Whenever consent or approval of either party is required, that party shall not unreasonably withhold such consent or approval.

21. SUCCESSORS.

This Lease shall be binding on and inure to the benefit of the parties and their successors and assignees, which are approved in writing by CITY.

22. EXHIBITS - INCORPORATION IN LEASE.

All exhibits referred to or attached to this Lease are incorporated by reference.

23. PROVISIONS OF COVENANTS AND CONDITIONS.

All provisions, whether covenants or condition on the part of CSU or CITY shall be deemed to be both covenants and conditions.

24. CAPTIONS FOR PARAGRAPHS.

The captions of this Lease shall have no effect on its interpretations.

25. SEVERABILITY.

The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid or illegal.

26. DISPUTES.

Both CSU and CITY shall act in good faith to reasonably interpret the provisions of this Lease and in discussing any disputes that arise. A party may, at any time request that a meeting be called to be attended by the CITY'S City Manager and the President of CSU or their authorized representatives. Such request shall be in writing, directed jointly to the CITY'S City Manager and the President of CSU, and shall specify the nature of the dispute. The request shall be sent to the other party. The parties shall schedule meetings as appropriate with the CITY'S City Manager and the President of CSU, or their authorized representatives, and the parties within thirty (30) days after receipt of the request. Should the parties fail to reach agreement in such meetings, they shall each be entitled to invoke their remedies at law and equity.

27. CHANGES OR AMENDMENTS.

Changes in, or amendments to, this Lease must be in writing and signed by the parties.

28. ADVICE OF COUNSEL.

Each party hereto has been provided full opportunity for review of this Lease by legal counsel. Therefore, no presumption or rule that ambiguity shall be construed against the drafting party shall apply to the interpretation or enforcement of this Lease.

29. INTERPRETATION OF CONTRACT.

This Lease is made under and is subject to the laws of the State of California in all respects as to interpretation, construction, operation, effect, and performance.

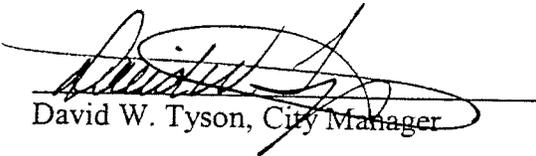
30. ENTIRE LEASE AGREEMENT.

This instrument contains the entire lease agreement of the parties relating to the rights granted and obligations assumed and supersedes all prior written and oral discussions.

IN WITNESS WHEREOF, this Lease is entered into by parties hereto and is effective on the date and year first hereinabove written.

CITY OF EUREKA

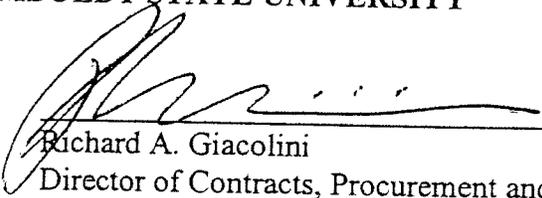
By:


David W. Tyson, City Manager

Date: April 29, 2003

HUMBOLDT STATE UNIVERSITY

By:

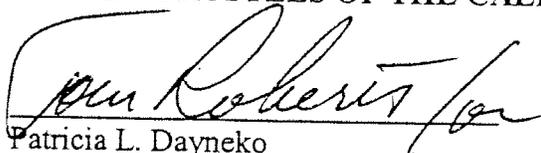

Richard A. Giacolini

Director of Contracts, Procurement and Risk Management

Date: April 16, 2003

APPROVED BY TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY

By:


Patricia L. Dayneko

Director, Contract Services and Procurement

Date: April 8, 2003
My

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Humboldt } ss.

On April 29, 2003 before me, Kathleen L. Franco Simmons, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared David W. Tyson

Name(s) of Signer(s)

- personally known to me
- 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.

WITNESS my hand and official seal.

Kathleen L. Franco Simmons
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Humboldt State University Boating Instruction & Safety Center Lease Agreement
Document Date: February 10, 2003 Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: David W. Tyson

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: City Manager

Signer Is Representing: City of Eureka



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

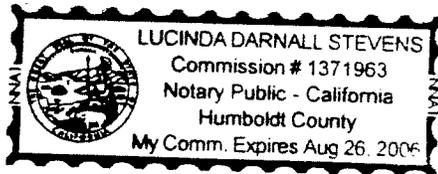
State of California }
County of Humboldt } ss.

On April 16, 2003 before me, Lucinda Darnall Stevens, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Richard A. Giacolini
Name(s) of Signer(s)

- personally known to me
- 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.



WITNESS my hand and official seal.

Lucinda Darnall Stevens
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Humboldt State University Boating Instruction & Safety Center Lease Agreement

Document Date: February 10, 2003 Number of Pages: 57

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Richard A. Giacolini

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: Director, Contracts, Procurement & Risk Mgmt.

Signer Is Representing: Humboldt State University



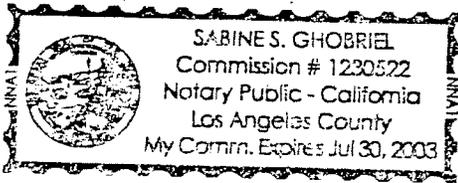
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Los Angeles } ss.

On May 8, 2003 before me, Sabine S. Ghobriel, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Tom Roberts

Name(s) of Signer(s)
 personally known to me
 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.



WITNESS my hand and official seal.
Sabine S. Ghobriel
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Humboldt State University Resting Instruction & Safety Center Lease Agreement
Document Date: 2/10/03 Number of Pages: 10

Signer(s) Other Than Named Above: -

Capacity(ies) Claimed by Signer

Signer's Name: Tom Roberts

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: Assistant Director, CSOP

Signer Is Representing: CSU Chancellor's Office
Signing for Pat Daynebo, Director CSOP

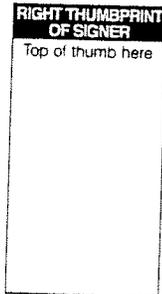


EXHIBIT "A"

Description of Premises

PARCEL 1
LEGAL DESCRIPTION
Total Area

All that property being a portion of the North half (N½) of Section 22, Township 5 North, Range 1 West, H.M., in the City of Eureka, Humboldt County, California described as follows:

Commencing at the southeast corner of Parcel 15 of Parcel Map No. 1852 on the westerly right-of-way of 'J' Street as shown on that map on file with the Humboldt County Recorder in Book 16 of Parcel Maps, Pages 57-61 (said corner is monumented by a ¾" iron pipe tagged "RCE 15504" as shown on that map on file with the Humboldt County Recorder in Book 50 of Land Surveys, Page 68); thence along said westerly right-of-way, North 10°46'00" West, 44.83 feet to the TRUE POINT OF BEGINNING;

- 1.) thence continuing along the same course, North 10°46'00" West, 90.37 feet;
- 2.) thence leaving said westerly right-of-way, North 67°44'00" East, 39.79 feet;
- 3.) thence North 73°00'00" East, 48.15 feet;
- 4.) thence North 80°33'33" East, 16.40 feet;
- 5.) thence South 88°51'00" East, 42.23 feet;
- 6.) thence North 87°25'00" East, 96.54 feet;
- 7.) thence North 43°26'00" East, 9.37 feet;
- 8.) thence North 89°04'00" East, 55.65 feet;
- 9.) thence North 85°52'00" East, 45.63 feet;
- 10.) thence South 10°14'00" East, 113.98 feet to a point (herein to be known as Point 'A') on a line that lies 45.00 feet northerly of and parallel with the north right-of-way of the Northwestern Pacific Railroad as shown on said Parcel Map;
- 11.) thence along said parallel line, South 84°47'14" West, 272.90 feet to the easterly right-of-way of said 'J' Street;
- 12.) thence North 88°37'43" West, 76.92 feet to the TRUE POINT OF BEGINNING.

Contains 39,676 square feet (0.911 acres), more or less.



4/22/02

2003-18573-37

EXHIBIT "B"

Location Map of Premises

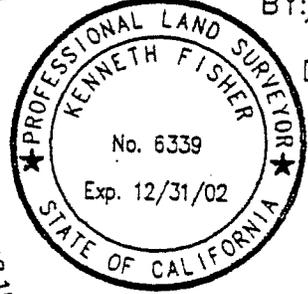
~~001-161-008~~
PARCEL 15
16 PM 57-61

PARCEL 14
16 PM 57-61

~~PARCEL 13~~
16 PM 57-61

BY: *Kenneth Fisher*

DATE: *4/22/02*



WESTERLY LINE OF J STREET
90.37'

N10°46'00"W
44.83'

N10°46'00"W

N67°44'00"E
39.79'

TRUE P.O.B.

37.6'

76.92'

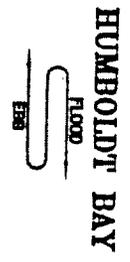
J STREET

37.6'

N88°37'43"W

N73°00'00"E
48.15'

N80°33'33"E
16.40'
42.23'
S88°51'00"E



U.S. BULKHEAD LINE PER U.S. ARMY CORPS OF ENGINEERS "HARBOR LINES" MAP #5-4-8 & 16 PM 57

45'

S84°47'14"W

N87°25'00"E
96.54'

PARCEL 1

39,676 sq.ft.
0.911 acres

~~001-161-010~~

N43°26'00"E
9.37'

NORTHWESTERN PACIFIC R.R.

S84°47'14"W

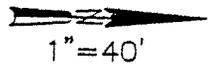
272.90'

N89°04'00"E
55.65'

APPROXIMATELY 1 FOOT SOUTHERLY FROM TOP OF BANK

~~001-161-011~~

~~001-161-012~~



30'

POINT 'A'

APPROXIMATELY 2 FEET EASTERLY FROM FACE OF CURB

N85°52'00"E
45.63'

S10°14'00"E

113.98'

- FD. 3/4" IP W/PLUG "RCE 15504"
- FD. 1.5" ALUMINUM CAP

CITY OF EUREKA
OVERALL PARCEL AREA

EXHIBIT 'B'



SHN 001274
APRIL, 2002
PARCEL 1

(18)

2003-18573-37

EXHIBIT "C"

CITY Easements

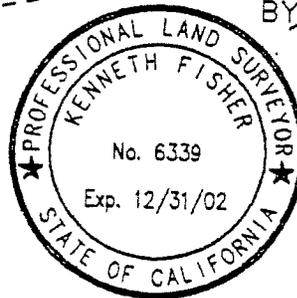
PARCEL 2

J ST. P.U.E.

WESTERLY LINE OF J STREET

BY: *Kenneth Fisher*

DATE: 4/22/02

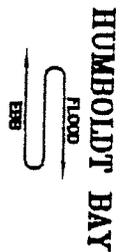


37.6'

37.6'

45'

J STREET

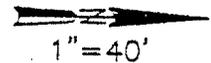


PARCEL 1
TOTAL PROPERTY

PARCEL 3
PUBLIC UTILITY & ACCESS EASEMENT

NORTHWESTERN PACIFIC R.R.

APPROXIMATELY 1 FOOT SOUTHERLY FROM TOP OF BANK



PARCEL 4
P.U.E.

APPROXIMATELY 2 FEET EASTERLY FROM FACE OF CURB

2003-18573-37

CITY OF EUREKA
SITE EASEMENTS

EXHIBIT 'A'

SHN 001274
APRIL, 2002

SN (70) **FIGURE 5**

PARCEL 2
LEGAL DESCRIPTION
'J' Street Public Utility Easement

All that property being a portion of the North half (N½) of Section 22, Township 5 North, Range 1 West, H.M., in the City of Eureka, Humboldt County, California described as follows:

Commencing at the southeast corner of Parcel 15 of Parcel Map No. 1852 on the westerly right-of-way of 'J' Street as shown on that map on file with the Humboldt County Recorder in Book 16 of Parcel Maps, Pages 57-61 (said corner is monumented by a ¾" iron pipe tagged "RCE 15504" as shown on that map on file with the Humboldt County Recorder in Book 50 of Land Surveys, Page 68); thence along said westerly right-of-way, North 10°46'00" West, 44.83 feet to the TRUE POINT OF BEGINNING;

- 1.) thence continuing along the same course, North 10°46'00" West, 90.37 feet;
- 2.) thence leaving said westerly right-of-way, North 67°44'00" East, 39.79 feet;
- 3.) thence North 73°00'00" East, 36.42 feet to the easterly right-of-way of said 'J' Street;
- 3.) thence along said easterly right-of-way, South 10°46'00" East, 118.43 feet to a point that lies 45.00 feet northerly of the northerly right-of-way of the Northwestern Pacific Railroad (when measured at right angles to said right-of-way) as shown on said Parcel Map;
- 4.) thence leaving said easterly right-of-way, North 88°37'43" West, 76.92 feet to the TRUE POINT OF BEGINNING.

Contains 7,917 square feet (0.182 acres), more or less.



2003-18573-37

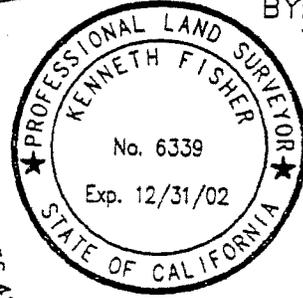
001-161-008
PARCEL 15
16 PM 57-61

PARCEL 14
16 PM 57-61

PARCEL 13
16 PM 57-61

BY: *Kenneth Fisher*

DATE: 4/22/02



N10°46'00"W
44.83'

WESTERLY LINE OF J STREET
90.37'

N67°41'00"E
39.79'

TRUE P.O.B.

J STREET

37.6'

76.92'

N73°00'00"E
39.12'

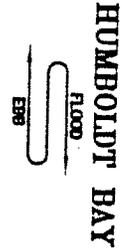
37.6'

N88°37'43"W

S10°46'00"E
118.43'

PARCEL 2

7,917 sq.ft.
0.182 acres



45'

U.S. BULKHEAD LINE PER U.S. ARMY CORPS OF ENGINEERS "HARBOR LINES" MAP #5-4-8 & 16 PM 57

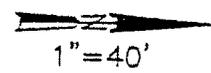
001-161-010

NORTHWESTERN PACIFIC R.R.

30'

001-161-011

001-161-012



2003-18573-37

CITY OF EUREKA
'J' STREET PUBLIC UTILITY
EASEMENT

EXHIBIT 'C'

- FD. 3/4" IP W/PLUG "RCE 15504"
- FD. '1.5" ALUMINUM CAP

SHN 001274
APRIL, 2002



PARCEL 2

22

PARCEL 3
LEGAL DESCRIPTION
Public Utility & Access Easement (Walkway)

All that property being a portion of the North half (N½) of Section 22, Township 5 North, Range 1 West, H.M., in the City of Eureka, Humboldt County, California described as follows:

Commencing at the southeast corner of Parcel 15 of Parcel Map No. 1852 on the westerly right-of-way of 'J' Street as shown on that map on file with the Humboldt County Recorder in Book 16 of Parcel Maps, Pages 57-61 (said corner is monumented by a ¾" iron pipe tagged "RCE 15504" as shown on that map on file with the Humboldt County Recorder in Book 50 of Land Surveys, Page 68); thence along said westerly right-of-way, North 10°46'00" West, 119.97 feet to the **TRUE POINT OF BEGINNING**;

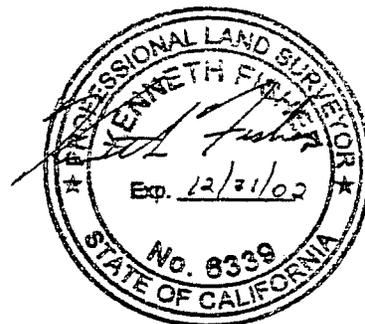
- 1.) thence continuing along the same course, North 10°46'00" West, 15.23 feet;
- 2.) thence leaving said westerly right-of-way, North 67°44'00" East, 39.79 feet;
- 3.) thence North 73°00'00" East, 48.15 feet;
- 4.) thence North 80°33'33" East, 16.40 feet;
- 5.) thence South 88°51'00" East, 42.23 feet;
- 6.) thence North 87°25'00" East, 96.54 feet;
- 7.) thence North 43°26'00" East, 9.37 feet;
- 8.) thence North 89°04'00" East, 55.65 feet;
- 9.) thence North 85°52'00" East, 45.63 feet;
- 10.) thence South 10°14'00" East, 14.45 feet;
- 11.) thence South 62°27'20" West, 1.66 feet to the beginning of a tangent 107.00 foot radius curve to the right;
- 12.) thence along said curve through a central angle of 38°19'53", an arc length of 71.58 feet to the beginning of a reverse 203.00 foot radius curve to the left;
- 13.) thence along said curve through a central angle of 15°59'59", an arc length of 56.69 feet to a point of tangency;
- 14.) thence South 84°47'14" West, 68.08 feet;
- 15.) thence South 86°32'54" West, 57.93 feet to the beginning of a tangent 105.00 foot radius curve to the left;

16.) thence along said curve through a central angle of $19^{\circ}32'02''$, an arc length of 35.80 feet to a point of tangency;

17.) thence South $67^{\circ}00'52''$ West, 34.12 feet;

18.) thence South $73^{\circ}28'01''$ West, 27.00 feet; to the TRUE POINT OF BEGINNING.

Contains 5,746 square feet (0.132 acres), more or less.



4/22/02

2003-18573-37

001-151-008
PARCEL 15
16 PM 57-51

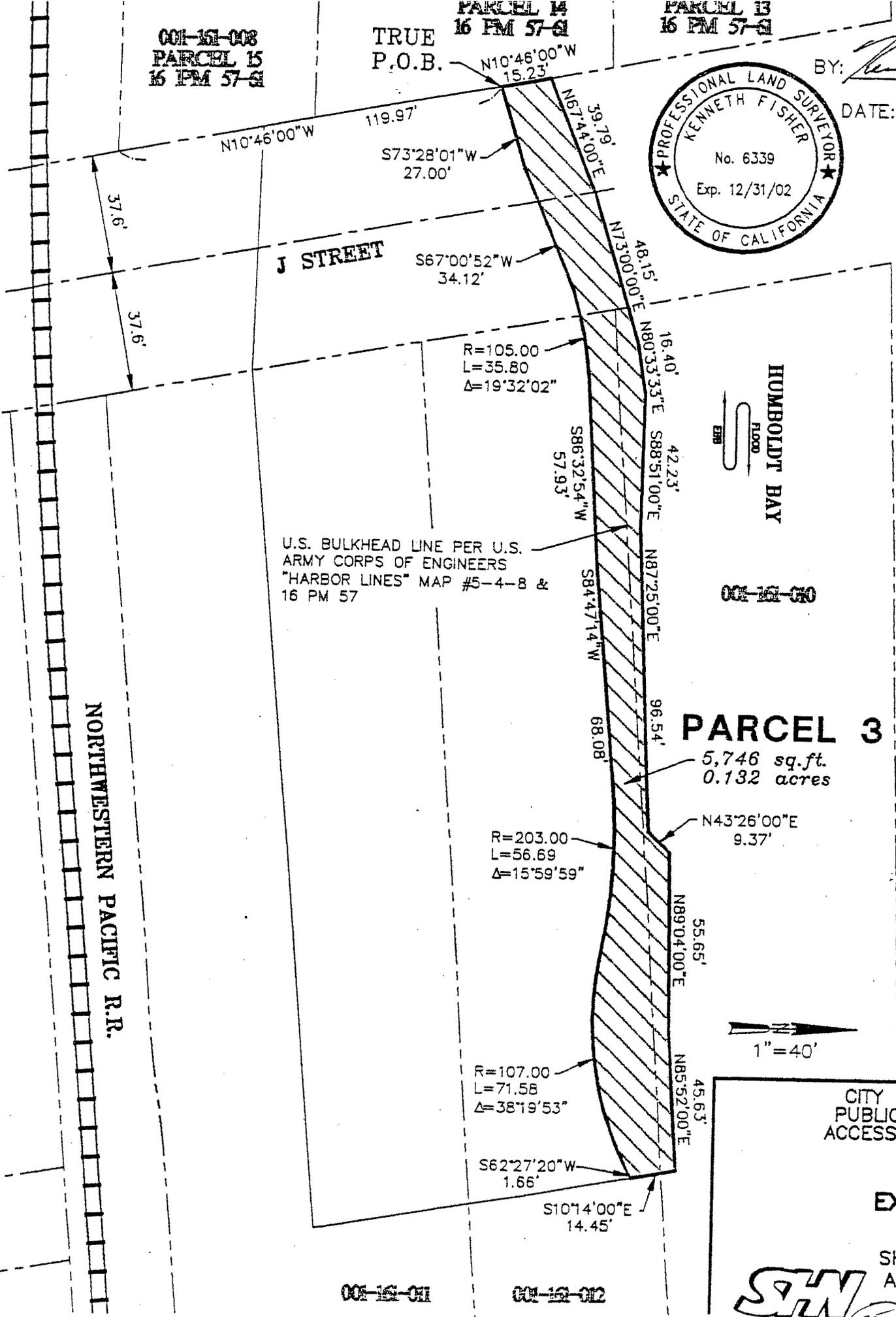
TRUE
P.O.B.

PARCEL 14
16 PM 57-51

PARCEL 13
16 PM 57-51

BY: *Kenneth Fisher*

DATE: 4/22/02



J STREET

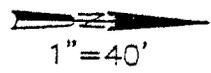
HUMBOLDT BAY

NORTHWESTERN PACIFIC R.R.

U.S. BULKHEAD LINE PER U.S. ARMY CORPS OF ENGINEERS "HARBOR LINES" MAP #5-4-8 & 16 PM 57

PARCEL 3

5,746 sq.ft.
0.132 acres



CITY OF EUREKA
PUBLIC UTILITY &
ACCESS EASEMENT

EXHIBIT 'D'

SHN 001274
APRIL, 2002



PARCEL 3

2003-18573-37

001-151-011

001-151-012

25

**PARCEL 4
LEGAL DESCRIPTION
Public Utility Easement**

All that property being a portion of the North half (N½) of Section 22, Township 5 North, Range 1 West, H.M., in the City of Eureka, Humboldt County, California described as follows:

Beginning at the TRUE POINT OF BEGINNING at said Point 'A';

- 1.) thence along a line that lies 45.00 feet northerly of and parallel with the northerly right-of-way of the Northwestern Pacific Railroad (when measured at right angles to said right-of-way as shown on Parcel Map No. 1852, on file with the Humboldt County Recorder in Book 16 of Parcel Maps, Pages 57-61), South 84°47'14" West, 21.50 feet;
- 2.) thence leaving said parallel line, North 10°14'00" West, 92.98 feet to the beginning of a non-tangent 107.00 foot radius curve to the left from which a radial line bears North 16°40'27" West;
- 3.) thence along said curve through a central angle of 10°52'12", an arc length of 20.30 feet to a point of tangency;
- 4.) thence North 62°27'20" East, 1.66 feet;
- 5.) thence South 10°14'00" East, 99.53 feet to the TRUE POINT OF BEGINNING.

Contains 2,054 square feet (0.047 acres), more or less.



4/29/02

2003-18573-37

26

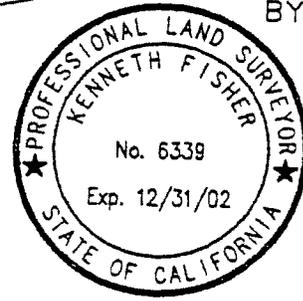
001-161-008
PARCEL 15
16 PM 57-61

001-161-009
PARCEL 14
16 PM 57-61

001-161-010
PARCEL 13
16 PM 57-61

BY: *Kenneth Fisher*

DATE: *4/29/02*



J STREET

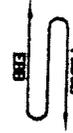
37.6'

37.6'

45'

001-161-011

001-161-012



HUMBOLDT BAY

U.S. BULKHEAD LINE PER U.S. ARMY CORPS OF ENGINEERS "HARBOR LINES" MAP #5-4-8 & 16 PM 57

001-161-010

NORTHWESTERN PACIFIC R.R.

N84°47'14"E

30'

PARCEL 4

2,054 sq.ft.
0.047 acres

R=107.00
L=20.30
Δ=10°52'12"
N16°40'27"W (R)

21.50'

S84°47'14"W

N107°4'00"W

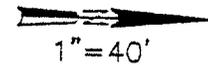
92.98'

S107°4'00"E

99.53'

N62°27'20"E
1.66'

TRUE P.O.B. (POINT 'A')



CITY OF EUREKA
PUBLIC UTILITY EASEMENT

EXHIBIT 'E'

SHN 001274
APRIL, 2002

SHN 27 PARCEL 4

2003-18573-37

**AGREEMENT FOR FINANCING AND OPERATION OF THE HUMBOLDT STATE
UNIVERSITY BOATING INSTRUCTION AND SAFETY CENTER**

This AGREEMENT is made and entered into on February 10, 2003 and shall be effective as of the date the Notice of Completion is recorded in the Humboldt County Recorder's Office (Effective Date) by and between the State of California, Department of Boating and Waterways (DEPARTMENT) and California State University, which is the state of California acting in its higher education capacity, on behalf of Humboldt State University (collectively, UNIVERSITY).

1. PURPOSE OF AGREEMENT

Pursuant to California Harbors and Navigation Code section 85.2, the DEPARTMENT is authorized and desires to provide funds for the design and construction of a boating instruction and safety center on Humboldt Bay in the City of Eureka (CITY).

CITY and UNIVERSITY have entered into a lease agreement, a copy of which is attached as **EXHIBIT A (LEASE)**, for the lease of certain property on which the PROJECT will be built (PROJECT AREA), as more particularly described in Exhibits A and B to the Lease.

2. DEFINITIONS

- A. PROJECT means the BOATING INSTRUCTION AND SAFETY CENTER consists of a new two story, Boating Instruction and Safety Center containing approximately 16,500 square feet, including boat storage bays, a reception/entry area, training rooms, conference rooms, locker/shower/restrooms, laundry, director's office, storage and equipment rooms, a multipurpose room with kitchen, and a fenced boat operations area (8,550 sq. ft.), a parking lot (10,000 sq. ft.), walkways, and landscaping. All as more particularly described in **EXHIBITS B and C**.
- B. PROJECT AREA means the area delineated in **EXHIBIT C** to this AGREEMENT and attachments A and B to the LEASE, within which the PROJECT will be constructed.
- C. PROJECT FUNDS means the funds provided by the DEPARTMENT pursuant to Harbors and Navigation Code section 85.2(a) to finance all or part of the PROJECT.

3. PROJECT FUNDS - CONSTRUCTION.

DEPARTMENT is authorized to provide PROJECT FUNDS in the amount of \$4,067,000 for the purpose of constructing the PROJECT.

DEPARTMENT will cause the PROJECT to be constructed consistent with **EXHIBIT B and C**.

UNIVERSITY hereby grants to DEPARTMENT the use of PROJECT AREA for the purpose of constructing the PROJECT. DEPARTMENT, in the exercise of the license granted, shall at all times comply with the conditions of the LEASE. This temporary use permit shall terminate upon completion of the PROJECT and acceptance by UNIVERSITY.

Upon completion of the PROJECT, DEPARTMENT shall grant and UNIVERSITY shall accept full title, right and interest to the PROJECT, including all rights to enforce any warranties or other rights that DEPARTMENT may have against contractors and subcontractors in connection with the construction of the PROJECT.

4. TERM OF AGREEMENT

- A. This AGREEMENT, subject to any provision for prior termination, shall begin on the Effective Date of this AGREEMENT and shall continue for TWENTY-FIVE (25) years.
- B. This AGREEMENT may be extended, or amended, or canceled upon written agreement of DEPARTMENT and the UNIVERSITY.

5. OPERATION OF PROJECT

- A. UNIVERSITY shall operate the PROJECT as a Boating Instruction and Safety Center providing the following PROJECT activities:
 - 1. Boating and water safety instruction for the general public in addition to students, faculty and staff of UNIVERSITY.
 - 2. Recreational services for the general public consistent with UNIVERSITY rules, provided that such use does not interfere with the primary boating and water safety instructional activities.
- B. UNIVERSITY shall continue the PROJECT activities described in paragraph 5A for the full term of this AGREEMENT, unless approved in writing by DEPARTMENT. DEPARTMENT shall not unreasonably withhold approval of proposed changes to PROJECT activities.
- C. UNIVERSITY shall maintain and repair or cause to be maintained in good repair and condition any and all buildings, structures or other improvements, which are located in the PROJECT AREA. DEPARTMENT shall not be liable for any costs of such maintenance or repair. DEPARTMENT agrees to cooperate with UNIVERSITY to enforce any warranties or rights against contractors or subcontractors in connection with the construction of the PROJECT or to recover for any construction defects.
- D. All facilities located within the PROJECT AREA shall be maintained and operated with due regard to public safety and in accordance with all applicable laws, ordinances, and regulations and permits.

6. BREACH OF CONTRACT

DEPARTMENT shall provide ninety-days (90) written notice to UNIVERSITY to remedy any breach of this AGREEMENT. DEPARTMENT may extend the time permitting remedy if UNIVERSITY begins such remedy within the notice period. However, if UNIVERSITY fails to fully remedy the breach within the time allowed, DEPARTMENT may take either of the following steps:

- (1) DEPARTMENT may remedy the breach and charge UNIVERSITY with all costs, including administrative costs, incurred in the course of the remedy.
- (2) Upon a breach of Paragraph 5A or 5B of this AGREEMENT, DEPARTMENT may require the UNIVERSITY to repay DEPARTMENT, on a prorated unexpired term basis, all costs incurred or expended by DEPARTMENT to construct the PROJECT. UNIVERSITY shall make such repayment no later than one year after the close of the fiscal year within which DEPARTMENT makes a written demand for repayment. UNIVERSITY shall not be liable for repayment if its breach is the result of *force majeure*.

7. LIABILITY INSURANCE

UNIVERSITY shall provide liability insurance covering the PROJECT through either of the following alternatives, subject to the prior approval of DEPARTMENT.

A. ALTERNATE I

UNIVERSITY, prior to acceptance and operation of the project, shall procure and maintain in full force and effect during the term of this AGREEMENT the following insurance in the minimum amounts specified and increased every 5 years for inflation:

Bodily Injury or Death	\$1,000,000 each person
	\$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
	\$1,000,000 aggregate
Fire Insurance	90% of the full insurable of all components of the PROJECT. Loss under said fire insurance policy or policies shall be payable to UNIVERSITY for repair or reconstruction of the destroyed facilities, unless the parties mutually agree otherwise.

The written policy of insurance shall contain the following endorsement: "The State of California, its officers, employees and agents are hereby declared to be additionally insured under the terms of this policy, as to activities of both UNIVERSITY and DEPARTMENT in respect to the PROJECT, and this policy shall not be canceled without THIRTY (30) days prior written notice to DEPARTMENT." The DEPARTMENT shall not be liable for the payment of any premiums or assessments.

B. ALTERNATE II

UNIVERSITY shall provide protection comparable to Alternative 1 through UNIVERSITY's participation in a "risk management" plan, self insurance program, insurance pooling arrangement, or any combination thereof.

8. INSTALLATION OF OTHER FACILITIES

- A. UNIVERSITY may at its own expense place or cause to be placed within the PROJECT AREA any structure or structures, or make any material alterations or improvements in addition to those set forth herein, provided that such facilities:
1. shall be constructed, maintained and operated for the use, enjoyment, protection and service users of the BOATING INSTRUCTION AND SAFETY CENTER and/or the general public;
 2. do not directly or indirectly reduce the service facilities of the PROJECT, including the sanitary and parking facilities, and
 3. have the prior written approval of the DEPARTMENT, which shall not be unreasonably withheld.
- B. The DEPARTMENT shall not be obligated to make or cause to be made any alterations, improvements, or repairs to any facilities within the PROJECT AREA during the term of this AGREEMENT other than the original construction of the PROJECT as provided for herein.

9. SIGN REFERRING TO DEPARTMENT FINANCING

UNIVERSITY shall maintain a permanent sign for the duration of this AGREEMENT within the PROJECT AREA, which shall include a statement that the PROJECT was financed by the DEPARTMENT. At UNIVERSITY's option, the sign may contain additional statements, which recognize the participation of other government agencies in the PROJECT.

10. DIRECTIONAL SIGNS

UNIVERSITY shall seek from appropriate authorities the installation of permanent signs on major roads in the area and in as close proximity as possible to freeway exits to provide adequate directions to the public for reaching the PROJECT AREA. The locations and make-up of the signs, including the dimensions, materials, and lettering, may be consistent with the appropriate authority's policies and regulations with input by the DEPARTMENT prior to installation.

11. LIABILITY

- A. UNIVERSITY waives all claims and recourse against the DEPARTMENT including the right to contribution for any loss or damage arising from, growing out of, or any way connected with or incident to this AGREEMENT, except claims arising from the negligence of DEPARTMENT, its officers, agents and employees.
- B. UNIVERSITY shall indemnify, hold harmless, and defend DEPARTMENT, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability arising out of the operation and maintenance of the PROJECT except claims arising from the negligence of DEPARTMENT, its officers, agents and employees.

- C. If the DEPARTMENT is named as a co-defendant pursuant to Government Code Sections 895, et seq., and UNIVERSITY is obligated under Section B above to indemnify, hold harmless, and defend DEPARTMENT and its officers, agents and employees, UNIVERSITY shall notify DEPARTMENT and represent it unless the DEPARTMENT elects to represent itself. If DEPARTMENT undertakes its own defense, it shall bear its own litigation costs, expenses and attorney's fees.

12. WAIVER OF RIGHTS

It is the intention of the parties hereto that from time to time either party may waive certain of its rights under this AGREEMENT. Any waiver at any time by either party hereto of its rights with respect to a default or any other matter arising in connection with the AGREEMENT, shall not be deemed to be a waiver with respect to any other default or matter.

13. REMEDIES NOT EXCLUSIVE

The use by either DEPARTMENT or UNIVERSITY of any remedy specified in the AGREEMENT for the enforcement of the AGREEMENT is not exclusive and shall not deprive either party of the right to use, or limit the application of, any other remedy provided by law.

14. OPINIONS AND DETERMINATIONS

Where the terms of this AGREEMENT provide for action to be based upon the opinion, judgment, approval, review, or determination of either DEPARTMENT or UNIVERSITY, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious or unreasonable.

15. SUCCESSORS AND ASSIGNS OBLIGATED

This AGREEMENT and all of its provisions shall be binding on each party's successors and assigns.

16. ASSIGNMENT

CSU may not assign or transfer this AGREEMENT or any part hereof, or rights hereunder, or interest herein unless and until approved in writing by the DEPARTMENT and made subject to such reasonable terms and conditions as the DEPARTMENT may impose; provided however, that UNIVERSITY may assign this AGREEMENT without such approval by DEPARTMENT to an approved UNIVERSITY auxiliary organization. Nothing in this Article shall prohibit UNIVERSITY or its assignee from contracting with a third party to manage the PROJECT, provided that UNIVERSITY or its assignee remains bound by the terms of this AGREEMENT.

17. INSPECTION OF BOOKS, RECORDS, AND REPORTS

During regular office hours, each of the parties or their duly authorized representatives shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this AGREEMENT or matters related hereto. Both parties shall maintain and make available for such inspection accurate records of all of its costs, disbursements, and receipts with respect to its activities under this AGREEMENT.

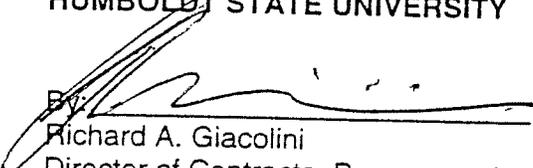
This AGREEMENT is entered into by the parties and is effective on the date and year first above written.

STATE OF CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS

By: 
Ray Tsuneyoshi, Director

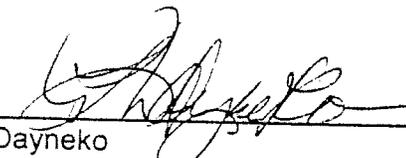
Date: February 18, 2003

HUMBOLDT STATE UNIVERSITY

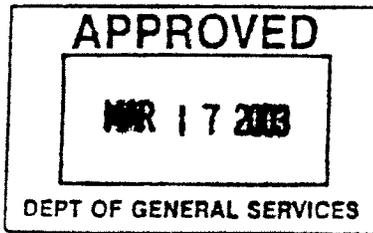
By: 
Richard A. Giacolini
Director of Contracts, Procurement and Risk Management

Date: ~~February~~ Mar 24, 2003

APPROVED: TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY

By: 
Pat Dayneko
Director, Contract Services and Procurement

Date: February 10, 2003



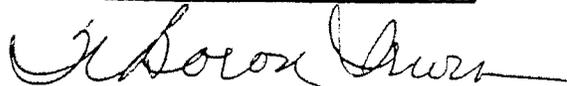


EXHIBIT B
Elevations

2003-18573-37

State of California
Department of General Services
DG
Project Management Bureau
100 Capitol Mall, Suite 2
Sacramento, CA 95833
Project Director: DEBORAH CO
(916) 318-1822 Fax
(916) 318-1811
deborah.jones@dgs.ca.gov

PRELIMINARY

Division of the State Architect
ACCESS COMPLIANCE

Project: HUMBOLDT RAY BOATING INSTRUCTION AND SAFETY CENTER
EUREKA, CALIFORNIA HUMBOLDT COUNTY CALIFORNIA STATE FIRE MARSHAL APPROVED

Approved for use as shown on these plans and subject to the provisions of the California State Fire Marshal Act, Chapter 418 of the Statutes of the State of California, and any amendments thereto.

Approved by: _____ Date: _____
Reviewed by: _____ Date: _____

No.	Date	Description
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2	11/10/10	FOR PERMITS SUBMITTING

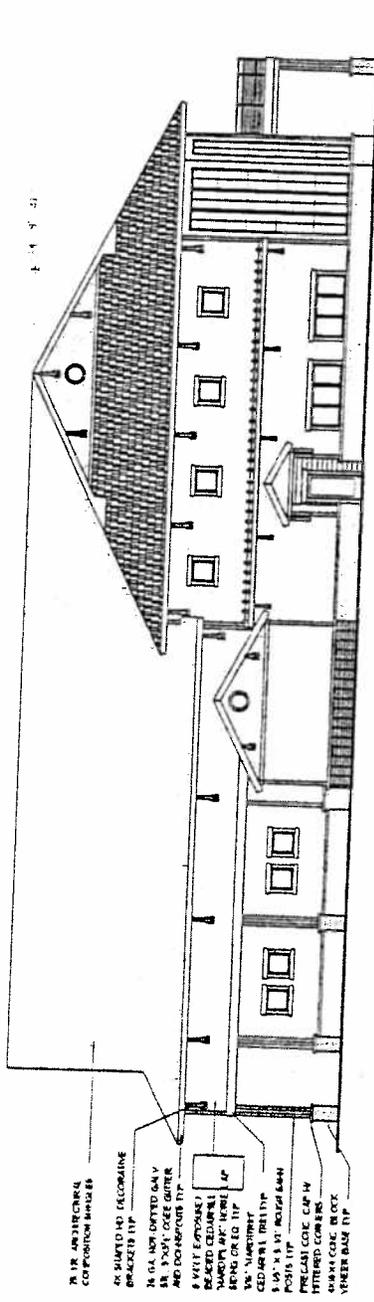
Project: HUMBOLDT RAY BOATING INSTRUCTION AND SAFETY CENTER
EUREKA, CALIFORNIA HUMBOLDT COUNTY CALIFORNIA STATE FIRE MARSHAL APPROVED

Approved for use as shown on these plans and subject to the provisions of the California State Fire Marshal Act, Chapter 418 of the Statutes of the State of California, and any amendments thereto.

Approved by: _____ Date: _____
Reviewed by: _____ Date: _____

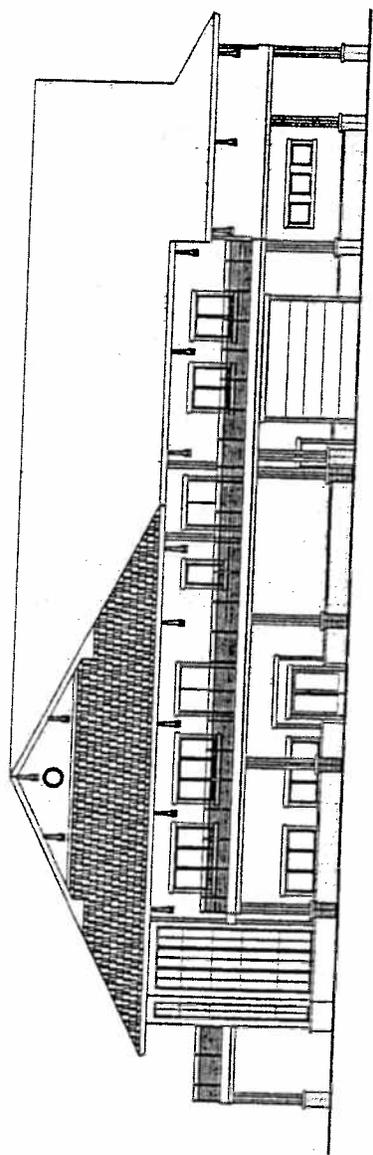
No.	Date	Description
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2	11/10/10	FOR PERMITS SUBMITTING

Sheet Title: ELEVATIONS
Scale: 1/8" = 1'-0"

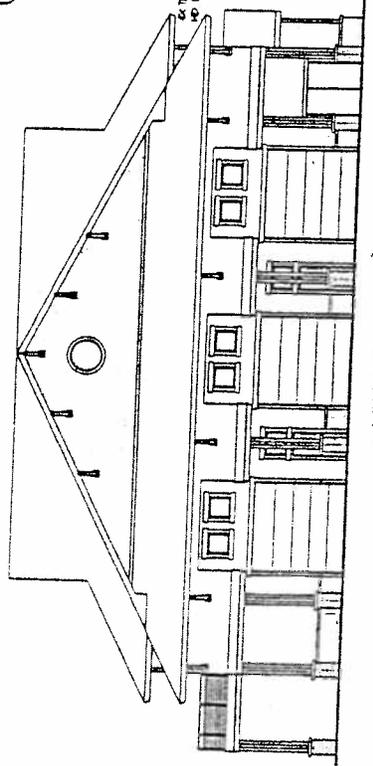


1 SOUTH ELEVATION
1/8" = 1'-0"

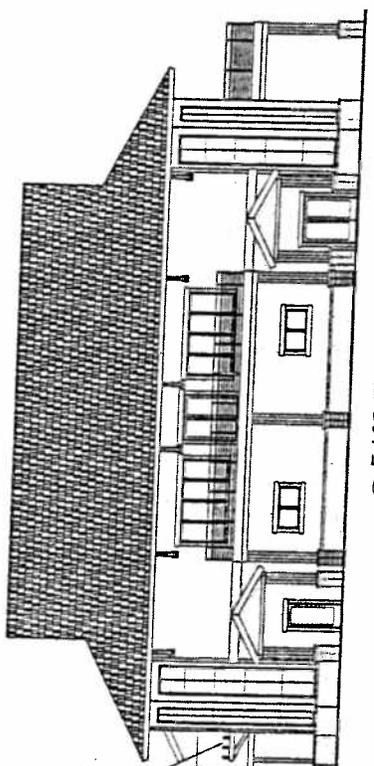
- 2x 12 UNFINISHED COMPOSITION BRACKETS
- 4x SHUNTO 40' DECOMLINE BRACKETS TYP
- 1/4" GA. UNFINISHED GAVY BR. 3"x3", COGE GUTTER AND DOWNSPOUT TYP
- 5 VINY EMPORAKI BEADED CEDAR SILL AND FINISH TRIM TYP
- 3/4" x 3/4" x 1/2" WOOD BARN POSTS TYP
- 5/8" x 3/4" x 1/2" WOOD BARN POSTS TYP
- PRECAST COGE CAP IV
- WETTED CORNER
- 1/2" x 1/2" x 1/2" WOOD VENER BALK TYP



2 NORTH ELEVATION
1/8" = 1'-0"



3 WEST ELEVATION
1/8" = 1'-0"



4 EAST ELEVATION
1/8" = 1'-0"



2003-18573-37

Original on file in the office of Contracts, Procurement & Risk Management, Humboldt State University, 1 Harpst Street, Arcata, California 95521-8299.

35

EXHIBIT C
Site Plan

PRELIMINARY

Division of the State Architect
ACCESS COMPLIANCE
App. No. _____
Reviewed By: _____
Date: _____

California State P.A. Memorial
APPROVED
Approved by: _____
Date: _____

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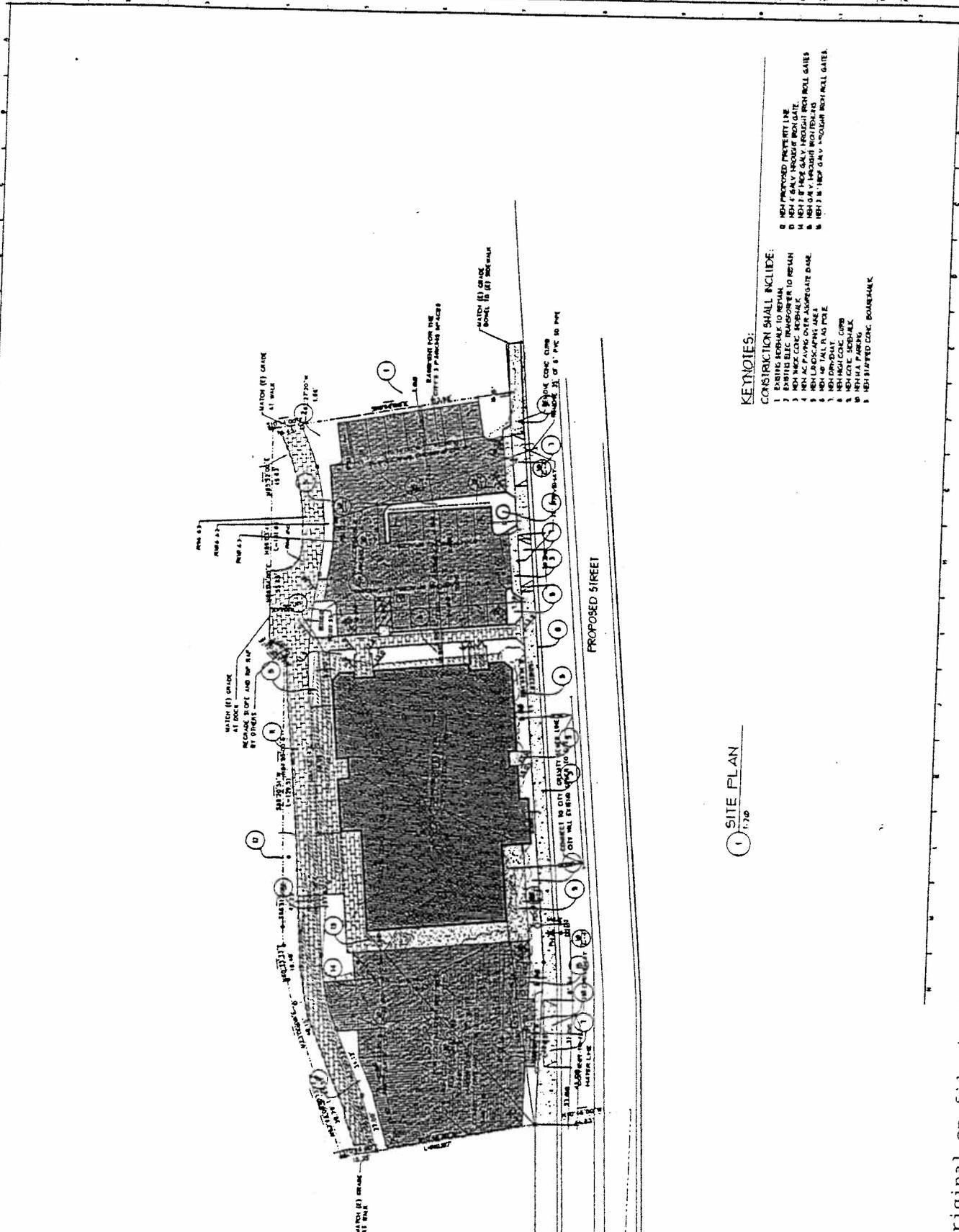
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- KEYNOTES:**
- CONSTRUCTION SHALL INCLUDE:
1. EXISTING CURB TO REMAIN
 2. NEW 6" CONC. SIDEWALK
 3. NEW 6" CONC. SIDEWALK
 4. NEW 6" CONC. SIDEWALK
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- NON-PROPOSED PROPERTY USE:
1. NEW 6" CONC. SIDEWALK
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 9. NEW 6" CONC. SIDEWALK
 10. NEW 6" CONC. SIDEWALK

1 SITE PLAN
1:750

2003-18573-37

Original on file in the office of Contracts, Procurement & Risk Management, Humboldt State University,
1 Harpst Street, Arcata, California 95521-8299



- APPENDIX B -

2878 Camino Del Rio South, Suite 115 | San Diego, California 92108

September 8, 2020

Humboldt State University Center
Board of Directors
1 Harpst Street
Arcata, CA 95521

Re: Statement Responding to Inaccurate Public Statements, With Permission from UC Board

Dear Members of the Humboldt State University Center Board of Directors, students of Humboldt State University, and members the community:

It has come to my attention that on Thursday, August 27, 2020, during the public session held by the University Center (UC) Board of Directors, the UC's acting interim executive director indicated that I somehow acted "unethically" or compromised my professional ethics. While honoring the attorney-client privilege, and with the permission of the UC Board, the following statement is being submitted for public consideration to correct the record and the defamatory statements that were made at a public meeting.

Specifically, at the UC Board meeting on August 27, 2020, the UC acting interim executive director indicated that he believed he was not treated with due respect when, after asking that a legal review I was preparing be presented only to him and not to the UC Board, I informed him that the UC Board was my client and that my obligation was to advise and represent the UC Board. The acting interim executive director further indicated that it was unprofessional and unethical for me to submit my opinion directly to the UC Board. As indicated below, not only was my conduct ethical and professional, it was mandatory under the circumstances.

Generally, a corporation may have shareholders, directors, officers, and employees (known as a "constituents"). (Upjohn Company v. United States (1981) 449 U.S. 383; CRPC 1.13.) Under California law, however, the activities and affairs of a California nonprofit public benefit corporation are "conducted and all corporate powers [are] exercised by or under the direction of the [governing] board." (Corp. Code § 5210(a).) Generally, members of the governing board exercise plenary authority collectively; no individual director or officer is authorized to exercise these "corporate powers" on the behalf of the corporation unless lawfully delegated by the governing board. (Corp. Code §§ 5047; 5140; 5210.) Corporate powers include the ability to enter into contracts. (Corp. Code § 5140.) The governing body is able to designate any individual, employee, committee, or company as its representative. (Corp. Code § 5210.)

The legal and ethical obligations of California attorneys are governed by statute, case law and the California Rules of Professional Conduct ("CRPC"), which are propounded by the State Bar of California and authorized by the California Supreme Court. (See "State Bar Act," Bus. & Prof. Code §§ 6000 *et seq.*) The principal obligations of an attorney include diligence, competence, communication and fidelity to the client. (CRPC 1.1, 1.3, and 1.4; Flatt v. Superior Court (1994) 9 Cal.4th 275, 289.) The duty of loyalty requires, with few exceptions, a lawyer "to protect his client in every possible way." (Anderson v. Eaton (1930) 211 Cal. 113, 116.) California law further provides statutory privilege for attorney-client communication and declares all communications presumptively confidential. (Evid. Code §§ 917, 954.)

The CRPC specifically governs the relationship between an attorney and a client that is an organization. (See CRPC 1.13.) Attorneys representing an organization must conform their representation “to the concept that the client is the organization itself, acting through its duly authorized directors, officers, employees, members, shareholders or other constituents overseeing the particular engagement.” (CRPC 1.13(a); see also, Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96.) An attorney must also recognize that an organizational client can only act through individuals who are authorized to conduct its affairs. (CRPC 1.13 [Comment 1]; see also Insurance Co. of North America v. Superior Court (1980) 108 Cal.App.3d 758, 761.)

At the UC Board meeting on August 27, 2020, the UC acting interim executive director expressed displeasure that, after his request that my legal opinion be presented only to him and not the UC Board, I informed him that the UC Board was my client and that my obligation was to advise and represent the UC Board. However, this is required. Specifically, the Rules of Professional Conduct require:

In dealing with an organization’s constituents, a lawyer representing the organization shall explain the identity of the lawyer’s client whenever the lawyer knows* or reasonably should know* that the organization’s interests are adverse to those of the constituent(s) with whom the lawyer is dealing. [Emphasis added.]

(CRPC 1.13(f).)

As in the instant matter, “when control of a corporation changes, and particularly when control of the corporation is challenged, attorneys will often confront complicated decisions involving personal and institutional relationships and loyalties.” (Venture Law Group, supra, at p. 103.) Nevertheless, in such circumstances, an attorney “must insure that his or her recommendations for action are clearly based on the best interests of the corporation.” (Id.)

The acting interim executive director has further publicly asserted that it was unprofessional and potentially unethical for me to provide my opinion directly to the UC Board. However, without divulging privileged communications or information, under the circumstances, it was my opinion that this was required. California Rules of Professional Conduct Rule 1.13(b) provides the following ethical guidance for attorneys where the client is an organization:

If a lawyer representing an organization knows* that a constituent is acting, intends to act or refuses to act in a matter related to the representation in a manner that the lawyer knows* or reasonably should know* is (i) a violation of a legal obligation to the organization or a violation of law reasonably* imputable to the organization, and (ii) likely to result in substantial* injury to the organization, the lawyer shall proceed as is reasonably* necessary in the best lawful interest of the organization. Unless the lawyer reasonably believes* that it is not necessary in the best lawful interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

(Id.; NOTE: “*” refers to terms defined in the CRPC.)

Further, Rule 1.13(e) expressly provides:

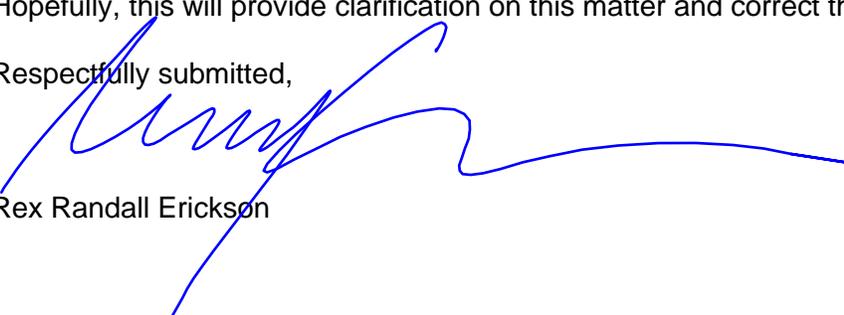
A lawyer who reasonably believes* that he or she has been discharged because of the lawyer's actions taken pursuant to paragraph (b), or who resigns or withdraws under circumstances described in paragraph (d), shall proceed as the lawyer reasonably believes* necessary to assure that the organization's highest authority is informed of the lawyer's discharge, resignation, or withdrawal.

Accordingly, under California law and the applicable Rules of Professional Conduct, I was required to inform the UC acting interim executive director that I served the interests of the UC Board, that the UC Board was my client, and that my role was to represent and advise the UC Board.

Similarly, after being informed that my legal services are being terminated, it was neither unethical nor unprofessional for me to provide my review directly to the UC Board. In fact, it was my ethical obligation "to assure that the organization's highest authority is informed of the lawyer's discharge," and reasonably believed it to be necessary to refer the matter to the highest authority authorized to act on the behalf of the corporation – the UC Board.

Hopefully, this will provide clarification on this matter and correct the record.

Respectfully submitted,



Rex Randall Erickson