

**AGREEMENT OF PURCHASE AND SALE AND
JOINT ESCROW INSTRUCTIONS**

This **AGREEMENT OF PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS** (this “**Agreement**”) is made as of the ____ day of _____, 2026 (the “**Effective Date**”), by and between **Troy Elbert Land** and **Trudy Marilyn Ehmke** (“**Seller**”), and the **City of Fortuna**, a municipal corporation (“**Buyer**”).

RECITALS

A. WHEREAS, Seller is the owner of certain unimproved real property located within in the unincorporated area of the County of Humboldt, State of California depicted in **Exhibit A1**, attached hereto consisting of an approximate 46.58-acre portion of Humboldt County APN 200-362-005-000, and the entirety of Humboldt County APNs 106-091-040-000, 106-091-030-000, and 106-091-044-000, and fully described on **Exhibit A2**, attached hereto (the “**Property**”).

B. WHEREAS, Seller desires to sell the Property to Buyer, and Buyer desires to purchase the Property from Seller, all on the terms and conditions of this Agreement.

C. WHEREAS, pursuant to that separate AGREEMENT OF PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS between Buyer and Seller, Seller has agreed to sell to Buyer and Buyer has agreed to purchase from Seller, the remaining portion of APN 200-362-005-000, consisting of approximately 7.2 acres, under the terms and condition of the separate agreement (“**Remainder PSA**”). The sale of the Property is contingent on Buyer’s purchase of the Remainder PSA, which purchase shall be performed simultaneously with the close of escrow of the herein Property.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, the parties hereto agree as follows:

AGREEMENT

1. PURCHASE AND SALE. Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, on the terms and conditions hereinafter set forth in this Agreement.

2. PURCHASE PRICE. The total purchase price for the Property shall be determined pursuant to subsection “a”, below, and payable by Buyer to Seller as set forth in sub-sections “b” and “c”, below.

(a) **Purchase Price.** The purchase price for the Property shall mean the fair market value of the Property as determined by a licensed real property appraiser, mutually selected by the Parties hereto, which appraiser shall value the property and prepare a report (“**Valuation Report**”) in accordance with those Combined Coastal Conservancy and Department Of General Services (DGS) Environmental Appraisal Specifications, a copy of which is attached hereto as **Exhibit B**. The appraiser shall be instructed to send the Valuation Report to Buyer and Seller simultaneously.

(i) Upon actual receipt of the Valuation Report, either party shall have a period of thirty (30) calendar days to review the Valuation Report and, if desired, send written notice of the Party’s objection to the appraised value (“**Objection Notice**”).

- (ii) In the event Buyer of Seller sends a timely Objection Notice, the parties shall meet in good faith to resolve the objection. If the parties are unable to agree on the conclusion in the Valuation Report as the Purchase Price within fifteen (15) days after the Objection notice is sent, Buyer or Seller may elect to terminate this Agreement by providing written notice to the other party, in which case all deposits made by Buyer shall be refunded in full, and neither party shall have any further obligations under this Agreement.
- (iii) If neither Party sends a timely Objection nor terminates this Agreement in accordance with sub-subsection “ii”, above, the appraised value shall be deemed the Purchase Price.

(b) Within fifteen days (15) business days after the Effective Date, Buyer shall deliver to Escrow Holder (as defined in Paragraph 12.1 below), the amount of Ten Thousand Dollars (\$10,000.00) (the “Deposit”) by good check or wire transfer of immediately available funds. Five Thousand Dollars (\$5,000.00) of the Deposit shall be deemed to constitute the irrevocable property of Seller upon deposit into Escrow (the “Non-Refundable Portion of Deposit”) except as set forth in Section 4.2, below. The Non-Refundable Portion of Deposit shall be deemed to constitute consideration for Buyer’s option to terminate this Agreement at any time during the term of the Inspection Period (as defined in Section 4.1 of this Agreement, below). The Seller expressly deems the Non-Refundable Portion of Deposit to constitute adequate consideration in support of the enforceability of this Agreement, in its entirety, in accord with the adequacy of consideration principles discussed in [Steiner v. Thexton, 48 Cal. 4th 411 \(2010\)](#).

(c) The balance of the Purchase Price (i.e., the Purchase Price less the Deposit) shall be deposited in Escrow by Buyer prior to Close of Escrow for delivery to Seller by way of wire transfer of immediately available funds at the Close of Escrow.

(d) All costs and expenses incurred for or related to the preparation of the Valuation Report shall be paid exclusively by the Buyer.

(e) The Valuation Report shall provide separate values for the property east of the River being acquired by the City, the property under and west of the River and the mineral value of each of these components. The mineral value shall be determined by someone who is qualified and has experience in valuing aggregate extraction property.

(f) The map attached as Exhibit A depicts a hatched area between parcels 6 and 2, with the notation “Hatched Area Not Described in 2008-28504-5.” Parcels 6 and 2 are a portion of the Property. The hatched area is the location of the Eel River at the time of subdivision of the Township and was not subject to patent. The Valuation Report shall determine the value of the hatched area based on the likelihood that the Eel River moved from this location to its present location by gradual and natural movement so that the hatched area accreted the Sellers’ parcel on the west side of the hatched area and Seller’s would own this area and would not own the present bed of the Eel River.

3. TITLE / SURVEY.

3.1 Title. Title to the Property shall be conveyed to Buyer upon the Close of Escrow by a Grant Deed with title to the Property evidenced by the commitment of the Escrow Holder to issue a standard ALTA policy of title insurance with liability in the amount of the Purchase Price showing title to the Property vested in Buyer

(“Title Commitment”). Within thirty (30) days of the Effective Date, Seller and Buyer shall order a preliminary title report (“Preliminary Report”) from a national title insurance company of Buyer’s choice (“Title Company”), together with copies of all exceptions and the documents supporting exceptions shown in such Preliminary Report. Within sixty (60) days of receipt of the Preliminary Report, Buyer shall review the Preliminary Report and notify Seller in writing (the “Title Objection Notice”) of any title exceptions to which Buyer objects (“Title Objections”). Within five (5) business days of receipt of the Title Objection Notice (“Seller’s Title Response Date”), Seller shall notify Buyer as to which Title Objections, if any, Seller will cure prior to Close of Escrow (as defined in Paragraph 12.2 below). All monetary liens/encumbrances affecting the Property shall be deemed objected to by Buyer without further Title Objection Notice and Buyer shall be deemed to have to agree to have them paid at Close of Escrow. If Seller does not timely respond to the Title Objection Notice, then Seller shall be deemed to have elected to cure no Title Objections. If Seller does not elect to cure all Title Objections prior to Close of Escrow, then, at the option of Buyer, Buyer may (i) terminate this Agreement by providing written notice of such termination to Seller prior to 5:00 p.m. Pacific Time on the date that is five (5) business days following Seller’s Title Response Date, or (ii) proceed to close and take title subject to such Title Objections. In the event of termination as provided herein, the Deposit shall be returned to Buyer, Buyer shall pay all the escrow costs, and the parties shall have no further rights, duties, liabilities or obligations hereunder, except for those matters that specifically survive termination of this Agreement. Any exceptions to title to which Buyer does not object or which Seller does not agree to cure shall be deemed “Permitted Exceptions.”

3.2 Survey. Prior to the expiration of the Inspection Period, if elected by Buyer in Buyer’s discretion, Buyer shall obtain a current survey of the Property (or any portion of it selected for survey by Buyer) (the “Survey”), at Buyer’s sole cost and expense, and deliver to Seller a written statement (the “Survey Objection Notice”) of any matters disclosed by the Survey to which Buyer objects (the “Survey Objections”). Within five (5) business days following Seller’s receipt of the Survey Objection Notice (“Seller’s Survey Response Date”), Seller shall notify Buyer as to which Survey Objections Seller elects to cure prior to Close of Escrow. If Seller does not timely respond to the Survey Objection Notice, then Seller shall be deemed to have elected to cure no Survey Objections. If Seller does not elect to cure all Survey Objections prior to Close of Escrow, then, at the option of Buyer, Buyer may (i) terminate this Agreement by providing written notice of such termination to Seller prior to 5:00 p.m. Pacific Time on the date that is five (5) business days following Seller’s Survey Response Date, or (ii) proceed to close and take title subject to such Survey Objections. In the event of termination as provided herein, the refundable portion of the Deposit shall be returned to Buyer, Buyer and Seller shall each pay one-half (1/2) of the escrow costs, and the parties shall have no further rights, duties, liabilities or obligations hereunder, except for those matters that specifically survive termination of this Agreement. All survey matters to which Buyer does not object or which Seller does not agree to cure shall be deemed Permitted Exceptions.

4. CONTINGENCIES.

4.1 Buyer's obligation to purchase the Property is subject to the following contingencies described in subparagraphs (a) through (g) below in this Paragraph 4.1 (“Contingencies”). Each and all of the following Contingencies are for the sole benefit of Buyer and may be waived or deemed satisfied by Buyer in Buyer's sole and absolute discretion.

(a) Inspection/Due Diligence Contingency. Buyer's inspection and examination of the Condition of the Property (as defined in Paragraph 9.1 below). Buyer shall have access to the Property at reasonable times and shall have the right to conduct, at Buyer's expense, environmental investigations and such other studies with respect to the Condition of the Property as Buyer may desire. Subject to Buyer’s right to extend, as stated below, Buyer shall have until 5:00 p.m. Pacific Time on the date which is **one hundred and eighty (180) days** following the Effective Date (the “Inspection Period”), to conduct such tests and studies, and to give written notice to Seller

of any conditions unacceptable to Buyer. Buyer shall hold and save Seller harmless from and against any and all loss, cost, damage, liability, injury or expense, arising out of or in any way related to damage to property, injury to or death of persons, or the assertion of lien claims caused by such entry, inspection and implementation of environmental investigations and other studies with respect to the Condition of the Property. If Buyer elects to terminate this Agreement by reason of failure of the Contingency set forth in this subparagraph (a), Buyer shall promptly upon such election deliver to Seller all written reports, studies and information prepared by third parties for Buyer which pertain to the Condition of the Property. Notwithstanding the foregoing, Buyer shall have the right, by providing written notice to Seller before the date which is ninety (90) days following the Effective Date, to extend the inspection period by an additional ninety (90) days in the event that (i) Buyer is unable to obtain a Title Commitment or (ii) Seller has not cured the Title Objections it has agreed to cure.

(b) Parcel Confirmation Contingency. Buyer's determination that the portion of the Property depicted on Exhibit B hereto as the hatched area is included within the Property and that Seller is able to convey to Buyer fee simple interest in and to the hatched area at Closing.

(c) Additional Lien Contingency. No new liens or encumbrances shall exist against the Property other than the Permitted Exceptions.

(d) Appraisal Contingency. A written appraisal of the Property by a licensed or certified appraiser shall be obtained in accordance with Section 2(a), above. Buyer shall have until 5:00 p.m. Pacific Time on the date which is one hundred and twenty (120) days following the Effective Date (the "Appraisal Contingency Period"), to obtain such an appraisal.

(e) Concurrent Closing Contingency. Buyer shall purchase the real property that is the subject of the Remainder PSA from Seller and the closing of Buyer's purchase of the Property and the real property that is the subject of the Remainder PSA shall occur simultaneously. The contingency set forth in this paragraph shall remain in place up to the time of Close of Escrow to ensure simultaneous Closing. In the event that closing of the Property cannot occur because of a delay or other circumstances involving the closing of the real property that is the subject of the Remainder PSA, Buyer shall have the right to extend the closing of the Property for up to an additional thirty (30) days upon written notice to Seller.

(f) State Department of General Services Approval Contingency. Buyer and Seller agree and acknowledge that Buyer is purchasing the Property through a California Coastal Conservancy Grant Program. Buyer shall obtain approval and funding for the purchase from the State Department of General Service and the California Coastal Conservancy as a condition of the Closing. Seller agrees to cooperate with Buyer, the State Department of General Service, and California Coastal Conservancy as it relates to the processing and approval of the acquisition of the Property. The contingency set forth in this paragraph shall remain in place up to the time of Closing.

(g) Lot Split Contingency. A lot split, lot line adjustment, or minor subdivision and/or parcel map shall be approved whereby the Buyer can acquire the Property that is the subject of this Agreement separately from the Property described in the Remainder PSA. The lot split, lot line adjustment, or minor subdivision and/or parcel map shall be completed concurrent with or subsequent to the close of escrow.

(h) CEQA. Buyer's compliance with the California Environmental Quality Act and expiration of any applicable statute of limitations regarding the same prior to Closing. The contingency set forth in this paragraph shall remain in place up to the time of Close of Escrow.

(i) Title Insurance. This Agreement and the Buyer's obligation to close escrow are conditioned upon Buyer being able to obtain an ALTA Title Commitment in the manner described in Section 3.1, above, and is further conditioned upon Seller curing any Title Objections it agrees to cure pursuant to Section 3.1, above.

4.2 If Buyer disapproves of the satisfaction of any Contingency within the applicable time period provided above, Buyer's sole remedy shall be to terminate this Agreement and Seller shall have no obligation to remedy any Contingency which Buyer disapproves. If this Agreement terminates as a result of the failure of the satisfaction of any of the Contingencies other than the contingencies recited in Section 4.1(b), (c) or (i), above, all sums (other than the Non-Refundable Portion of Deposit which shall remain the property of the Seller) and documents deposited in Escrow shall be returned to the parties who respectively deposited the same, and Buyer shall pay the Escrow costs, and the parties shall have no further rights, duties, liabilities or obligations hereunder, except for those matters that specifically survive termination of this Agreement. If this Agreement terminates as a result of the failure of the satisfaction of the Contingencies recited in Section 4.1(b), (c) or (i), above, all sums (including the Non-Refundable Portion of Deposit which shall be returned to Buyer) and documents deposited in Escrow shall be returned to the parties who respectively deposited the same, and Buyer shall pay all of the Escrow costs, and the parties shall have no further rights, duties, liabilities or obligations hereunder, except for those matters that specifically survive termination of this Agreement.

4.3 If Buyer fails to give written notice to Seller of its disapproval of any Contingency within the respective applicable time limit set forth above in Paragraph 4.1, it shall conclusively be deemed that Buyer has waived such Contingency and such Contingency shall conclusively be deemed satisfied.

5. EXCHANGE. Buyer and Seller acknowledge that Seller shall have the right to cause this Agreement to be modified so that Seller may effectuate an exchange under the Internal Revenue Code of 1954, and the California Revenue and Taxation Code. Seller shall exercise its right to modify this Agreement by giving Buyer written notice by no later than thirty (30) calendar days prior to the date scheduled for the close of Escrow. Buyer shall bear no additional cost, expense or liability (whether actual or contingent) as a result of the exchange transaction and shall not be required to take title to any other property as part of such exchange transaction. If the parties to this Agreement are unable to agree as to the terms of the modification of this Agreement to allow Seller to exchange the Property on or before the Close of Escrow, the Close of Escrow shall take place as if the Seller had not exercised its right to exchange the property for other property.

6. REPRESENTATIONS AND WARRANTIES BY SELLER.

6.1 Seller makes the representations and warranties in this Paragraph 6, each and all of which shall survive any and all inquiries and investigations made by Buyer and shall survive the Close of Escrow and recordation of the Grant Deed, up to a period of four (4) years.

6.1.1 The individual(s) signing this Agreement on behalf of Seller has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby.

6.1.2 To the best of Seller's knowledge, neither the entering into this Agreement nor the performance of any of Seller's obligations under this Agreement will violate the terms of any contract, agreement or instrument to which Seller is a party.

6.1.3 Definition of "Day." Any reference to a number of days herein, unless otherwise specifically stated, is a reference to calendar days. If a party is required to complete the performance of an obligation under this Agreement by a date certain or within a fixed number of days and such a date or

last day is a Saturday, Sunday, or Federal bank holiday (collectively, a Nonbusiness Day), then the date for the completion of such performance will be the next succeeding day that is not a Nonbusiness Day.

6.1.4 Seller has not been served (by means of formal, legal service of process as required by law) or formally notified in writing by any governmental or quasi-governmental authority (i) that the Property or any adjoining property, contains or may contain any “Hazardous Materials” in violation of any “Environmental Regulations” (as those terms are defined in this Paragraph 6.1.3, below); or (ii) that the Seller has stored, used or maintained Hazardous Materials or suffered, permitted, allowed or acquiesced in any storage, use or maintenance of Hazardous Materials on, in or under the Property in violation of any Environmental Regulations. As used in this Agreement, the terms “Environmental Regulations” and “Hazardous Materials” shall have the following meanings:

(a) “Environmental Regulations” shall mean all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, and similar items, of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof and all applicable judicial and administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation: (i) all requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials, whether solid, liquid or gaseous in nature, into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, whether solid, liquid or gaseous in nature; and (ii) all requirements pertaining to the protection of the health and safety of employees or the public.

(b) “Hazardous Materials” shall mean (i) any flammables, explosive or radioactive materials, hazardous wastes, toxic substances or related materials including, without limitation, substances defined as “hazardous substances,” “hazardous materials”, “toxic substances” or “solid waste” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, [42 U.S.C. Sec. 9601, et seq.](#); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Toxic Substances Control Act, [15 U.S.C., Section 2601 et seq.](#); the Resource Conservation and Recovery Act of 1976, [42 U.S.C. Section 6901 et seq.](#); and in the regulations adopted and publications promulgated pursuant to said laws; (ii) those substances listed in the United States Department of Transportation Table ([49 C.F.R. 172.101](#) and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. Part 302 and amendments thereto); (iii) those substances defined as “hazardous wastes,” “hazardous substances” or “toxic substances” in any similar federal, state or local laws or in the regulations adopted and publications promulgated pursuant to any of the foregoing laws or which otherwise are regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States of America, the State of California or any political subdivision thereof, (iv) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended; (v) petroleum or any by-products thereof; (vi) any radioactive material, including any source, special nuclear or by-product material as defined at [42 U.S.C. Sections 2011 et seq.](#), as amended, and in the regulations

adopted and publications promulgated pursuant to said law; (vii) asbestos in any form or condition; and (viii) polychlorinated biphenyls.

6.1.5 Until the Close of Escrow, the Property will continue to be operated in substantially the same manner as operated as of the Effective Date. Seller will not do or cause anything to be done that would change, alter or modify the operation of the Property without the prior written consent of Buyer.

6.1.6 Seller has neither engaged nor dealt with any broker or finder in connection with the sale contemplated by this Agreement. Seller shall pay, and shall hold Buyer harmless from and against, any commission or finder's fee payable to any agent or broker who represents or claims to represent Seller.

6.1.7 Seller will not alter the physical condition of the Property from and after the date of this Agreement, reasonable wear and tear excepted. If, through no fault of Seller, the physical condition of the Property is different on the date scheduled for the Close of Escrow as of the date of this Agreement, the terms and conditions of Paragraph 6.2, below shall apply.

6.1.8 On or before the fifteenth (15th) day following the Effective Date, Seller shall disclose to Buyer in writing and provide Buyer all information actually known to Seller which may be reasonably necessary to evaluate the condition or market desirability of the Property, other than matters that would be obvious and apparent to Buyer from a limited inspection of the property.

6.1.9 Seller is not aware of any claim or and has not received any notification from any person or entity claiming any right, title, or interest in and to the Property by way of adverse possession or other prescriptive rights. Seller, during the period of its ownership of the Property, has no knowledge of any uses made of the Property by any the person or entity without Seller's express permission. The City of Fortuna is using a portion of the Property for parking.

6.2 If, prior to the Close of Escrow, new events have occurred which were beyond the control of Seller and which render any previously true representation or warranty untrue, Seller shall, within three (3) days thereafter, disclose those matters by written notice to Buyer. Buyer shall have ten (10) days after the earlier of (i) such disclosure; or (ii) Buyer's independent discovery that such representation or warranty has become untrue, to elect, in its sole and absolute discretion, and as its sole remedy, by written notice to Seller within said ten (10) day period, whether (1) to purchase the Property or (2) terminate this Agreement. If Buyer elects to terminate this Agreement pursuant to this Paragraph 6.2, Escrow shall immediately terminate upon Seller's receipt of Buyer's notice of election to terminate this Agreement and all sums and documents deposited in Escrow (other than the Non-Refundable Portion of Deposit) shall be returned to the parties who deposited the same and Buyer shall pay Escrow costs. If Buyer fails to notify Seller and Escrow Holder of its election to terminate this Agreement within said ten (10) day time period provided above, Buyer shall be deemed to have accepted the modified representations and warranties and elected to purchase the Property.

6.3 Other than those express representations and warranties contained in Paragraphs 6.1 through 6.2 of this Agreement, above, Seller makes **no** warranty or representation, express or implied, including but not limited to, implied warranties of merchantability and fitness for a particular purpose, and all such other warranties are expressly disclaimed.

6.4 Except to the extent Seller has made a specific representation and warranty with respect thereto, no document or information provided by Seller to Buyer shall constitute a representation as to the completeness or accuracy of such documents or information.

7. REPRESENTATIONS AND WARRANTIES BY BUYER.

7.1 Buyer makes the following representations and warranties in this Paragraph 7, each and all of which shall survive any and all inquiries and investigations made by Seller and shall survive the Close of Escrow and recordation of the Grant Deed, up to a period of four years.

7.1.1 Buyer has neither engaged nor dealt with any broker or finder in connection with the sale contemplated by this Agreement. Buyer shall pay any commission or finder’s fee payable to any other party who represents or claims to represent Buyer.

7.1.2 Buyer is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of California, and has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The Buyer, and the specific, individual parties signing this Agreement on behalf of Buyer represent and warrant that the parties signing this Agreement on behalf of the Buyer have the full legal power, authority and right to execute and deliver this Agreement.

7.1.3 Buyer has made or will make its own investigation concerning the Condition of the Property (as said term is defined in Paragraph 9.1 of this Agreement, below), the condition of title or any other matter pertaining to the Property, and, other than the specific representations and warranties made by Seller pursuant to Paragraphs 6.1 through 6.2 of this Agreement, above, Buyer is not relying on any representations, warranties or inducements of Seller or Seller's broker with respect to the Condition of the Property.

8. “AS-IS” SALE; ASSUMPTION OF RESPONSIBILITIES.

8.1 “As Is” Sale. Buyer and its representatives, prior to the Close of Escrow, will have been afforded the opportunity to make such inspections of the Property and matters related thereto as Buyer and its representatives desire, including, without limitation, governmental laws and regulations and actions to which the Property is subject, and Buyer shall accept the Property upon the basis of its review and determination of the applicability and effect of such laws and regulations (the “Condition of the Property”). Buyer acknowledges and agrees that the Property is to be sold and conveyed to and accepted by Buyer in an “AS IS” condition with all faults. Except for those limited representations and warranties stated in Paragraphs 6.1 through 6.4 of this Agreement, above, Seller does not make any representations or warranties, oral or written, past, present or future, of any kind whatsoever, either express or implied with respect to either the Property or the condition, value, or quality of the Property

9. LIQUIDATED DAMAGES. IF BUYER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY AS HEREIN PROVIDED BY REASON OF ANY DEFAULT OF BUYER, IT IS AGREED THAT THE DEPOSIT ACTUALLY MADE PURSUANT TO PARAGRAPH 2(a) OF THIS AGREEMENT (I.E., \$ 10,000.00 USD) SHALL BE NON-REFUNDABLE AND SELLER SHALL BE ENTITLED TO SUCH DEPOSIT, WHICH AMOUNTS SHALL BE ACCEPTED BY SELLER AS LIQUIDATED DAMAGES AND NOT AS A PENALTY AND (TOGETHER WITH THE RIGHT TO RECEIVE ATTORNEYS' FEES AS PROVIDED IN THIS AGREEMENT) SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY. IT IS AGREED THAT SAID AMOUNT CONSTITUTES A REASONABLE ESTIMATE OF THE DAMAGES TO

SELLER PURSUANT TO [CALIFORNIA CIVIL CODE SECTION 1671](#) ET SEQ. BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL OR IMPOSSIBLE TO PRESENTLY PREDICT WHAT MONETARY DAMAGES SELLER WOULD SUFFER UPON BUYER'S FAILURE TO COMPLETE ITS PURCHASE OF THE PROPERTY. BUYER DESIRES TO LIMIT THE MONETARY DAMAGES FOR WHICH IT MIGHT BE LIABLE HEREUNDER AND BUYER AND SELLER DESIRE TO AVOID THE COSTS AND DELAYS THEY WOULD INCUR IF A LAWSUIT WERE COMMENCED TO RECOVER DAMAGES OR OTHERWISE ENFORCE SELLER'S RIGHTS. IF FURTHER INSTRUCTIONS ARE REQUIRED BY ESCROW HOLDER TO EFFECTUATE THE TERMS OF THIS PARAGRAPH 10, BUYER AND SELLER AGREE TO EXECUTE THE SAME. THE PARTIES ACKNOWLEDGE THIS PROVISION BY PLACING THEIR INITIALS BELOW:

Initials: _____
BUYER _____ SELLER

10. BUYER'S RIGHT TO COMPEL SPECIFIC PERFORMANCE. In the event of any breach or violation of this Agreement by Seller, Buyer expressly reserves the right to seek specific performance of the sale and conveyance of the Property to Buyer, without limitation on any and all other rights and remedies available to Buyer at law or in equity.

11. ESCROW AND CLOSING.

11.1 As soon as possible after the Effective Date, Buyer and Seller shall open an escrow for the purpose of consummating the purchase and sale contemplated by this Agreement ("Escrow") by depositing an executed copy of this Agreement with _____ at _____ ("Escrow Holder"). This Agreement shall constitute escrow instructions to Escrow Holder. Seller and Buyer shall, promptly upon request by Escrow Holder, execute such additional escrow instructions as may be reasonably required by Escrow Holder, including Escrow Holder's standard printed conditions and stipulations with respect to escrows concerning the purchase and sale of real property; provided, however, that if there is any conflict between the provisions of this Agreement and the provisions of any such additional instructions, the provisions of this Agreement shall prevail. Upon delivery to Escrow of a fully executed copy of this Agreement by both parties, Escrow shall be deemed opened on the terms and conditions set forth in this Agreement.

11.2 Escrow shall close, and the Grant Deed shall be recorded in the Office of the County Recorder of Humboldt County, California on or before the date which is **sixty (60) days** following the expiration of the Inspection Period ("Close of Escrow").

11.3 Within the time set forth below, or if none is specified, prior to the Close of Escrow, Seller shall deliver to Escrow Holder, or if so indicated, to Buyer, the following documents and items:

- (a) At least one (1) day prior to the Close of Escrow, the duly executed and acknowledged Grant Deed.
- (b) At least one (1) day prior to Close of Escrow, Seller shall deliver such certifications, declarations or other documents as may be required under [Internal Revenue Code §1445](#) and [California Revenue and Tax Code §18662](#), together with any and all other documents required by law pertaining to foreign or out-of-state sellers.

11.4 Buyer shall deliver to Escrow Holder prior to the Close of Escrow the following documents and items:

(a) The balance of the cash portion of the Purchase Price set forth in Paragraph 2(c), together with an additional sum sufficient to cover Buyer's closing costs as set forth in Paragraph 12.7.1 , below.

11.5 On the Close of Escrow, the Escrow Holder shall record the Grant Deed and shall deliver the monies and instruments to which each party is entitled pursuant to this Agreement, only when the Title Company is in a position to issue its ALTA policy of title insurance subject only (i) to the Permitted Exceptions; and (ii) Title Company's standard pre-printed exceptions, with liability in the amount of the Purchase Price, showing title to the Property vested in Buyer (or as designated by Buyer) ("Title Policy").

11.6 Upon Close of Escrow, the Property shall be delivered to Buyer subject only to the Permitted Exceptions and the following items, documents and monies shall be delivered to the parties by Escrow Holder as set forth below:

(a) To Seller: the cash portion of the Purchase Price as set forth in Paragraph 2(b), reduced by the amount of Seller's closing costs as set forth in Paragraph 12.7.1, below .

(b) To Buyer: the Title Policy.

11.7 Upon Close of Escrow, Escrow and title charges shall be paid in the manner provided below.

11.7.1 Buyer shall pay:

(a) All recording fees; and

(b) The cost of any and all documentary transfer tax or stamps or other sales tax; and

(c) Escrow fees; and

(d) The cost of the Title Policy.

11.8 If Escrow fails to close as a result of the default of this Agreement by a party, the defaulting party shall pay all title and escrow charges; provided, however, that nothing in this Paragraph 12.8 shall be deemed to limit, and the provisions of this Paragraph 12.8 shall be in addition to, all other rights and remedies of the non-defaulting party pursuant to this Agreement.

12. PRORATIONS AND POST-CLOSING OBLIGATIONS.

13.1 Prorations shall be made as of the Close of Escrow. All prorations shall be made on the basis of a thirty (30) day month and shall be paid in cash to Seller if it is entitled thereto, or shall be credited against the cash portion of the Purchase Price if Buyer is entitled thereto. Such prorations shall be made by Escrow Holder on the basis of a statement(s) approved by Buyer and Seller and deposited into the Escrow prior to the Close of Escrow. The date used for prorations is hereinafter referred to as the "Proration Date."

(a) All real estate taxes and all personal property taxes due and owing as of the Proration Date, and all penalties and interest thereon, shall be paid by Seller. Current real estate taxes, special assessments and

personal property taxes which are not yet due and owing shall be prorated based upon the most recent tax bill, so that the portion of current taxes allocable to the period from the beginning of such tax year through the Proration Date shall be charged to and paid by Seller and the portion of the current taxes allocable to the portion of such tax year from the Proration Date to the end of such tax year shall be charged to and paid by Buyer. Proration of taxes and assessments shall be final as of the Proration Date, regardless of the amount of taxes or assessments that actually are, or subsequently become, due.

(b) Expenses of operating the Property (other than insurance premiums, taxes and utility charges) which were prepaid by Seller for a period beyond the Proration Date.

13.2 Buyer shall be responsible for obtaining and paying for utility services from and after Close of Escrow.

13. DAMAGE OR DESTRUCTION PRIOR TO CLOSE OF ESCROW.

If the Property, or any portion thereof, is damaged or destroyed prior to the Close of Escrow from any cause whatsoever, whether an insured risk or not, including but not limited to, fire, flood, accident or other casualty which, according to the Buyer's and Seller's best estimate, would cost more than Fifty Thousand Dollars (\$50,000.00) to repair, Buyer shall have the option, upon written notice to Seller, to either (i) terminate this Agreement, or (ii) purchase the Property. If Buyer elects to terminate this Agreement, Escrow shall immediately terminate upon Seller's receipt of Buyer's notice of election to terminate and Escrow Holder shall thereupon promptly return all documents, items and monies in its possession to the party who shall have deposited same with Escrow Holder. In the event of such termination, Buyer shall pay the Escrow fees. Should any damage or destruction occur prior to the Close of Escrow, the date scheduled for the Close of Escrow shall be extended for a period of time not to exceed thirty (30) days, for the purpose of allowing Buyer and Seller sufficient time to estimate the cost of repair. If Buyer fails to notify Seller of its election under this Paragraph 14, Buyer shall be deemed to have elected to purchase the Property.

14. EMINENT DOMAIN.

14.1 The words "condemnation" or "condemned" as used in this Paragraph 15 shall mean the exercise of, or intent to exercise, the power of eminent domain expressed in writing, as well as the filing of any action or proceeding for such purpose, by any person, entity, body, agency or authority having the right or power of eminent domain (the "condemning authority").

14.2 If Seller receives written notice from a condemning authority advising of a condemnation of all or any portion of the Property ("Condemnation Notice"), Seller shall immediately advise Buyer of same in writing and deliver therewith a copy of the Condemnation Notice. Within ten (10) days after Buyer's receipt of the Condemnation Notice, Buyer shall notify Seller of its election to either (i) terminate this Agreement and the Escrow or (ii) purchase the Property. If Buyer elects to terminate this Agreement, Escrow shall immediately terminate upon Seller's receipt of Buyer's notice of election to terminate this Agreement and Escrow Holder shall thereupon promptly return all documents, items and monies in its possession to the party who shall have deposited same with Escrow Holder. In the event of such termination, Buyer shall pay the Escrow fees. If Buyer elects to purchase the Property, Seller shall transfer to Buyer at the Close of Escrow all proceeds from condemnation or Seller's right to receive all such proceeds. If Buyer fails to notify Seller of its election under this Paragraph 15, Buyer shall be deemed to have elected to purchase the Property.

15. SURVIVAL OF CLOSE OF ESCROW. All representations, warranties, covenants, conditions, agreements and obligations contained in or relating to this Agreement shall, except as expressly stated in this Agreement, survive the Close of Escrow and the recordation of the Grant Deed and shall not merge therein unless specifically stated otherwise in this Agreement.

16. NOTICES. All notices to be given pursuant to this Agreement shall be either (i) personally delivered; (ii) sent via certified or registered mail, postage prepaid; (iii) overnight courier (such as Federal Express, DHL, etc.); (iv) by electronic scan and transfer by e-mail; or (v) by telecopy transmittal. If sent via certified or registered mail, receipt shall be deemed effective forty-eight (48) hours after being deposited in the United States mail. If sent via telecopy transmission, a confirming copy shall be sent to the sender, and receipt of the telecopy transmittal shall be deemed effective at the time the telecopy is transmitted from the location where the transmission originates. If sent via overnight courier, receipt shall be deemed effective twenty-four (24) hours after the sending thereof. If sent via electronic scan and transfer by e-mail, receipt shall be deemed effective at the time the e-mail correspondence is transmitted from the location where the transmission originates; if the electronic scan and transfer by e-mail occurs on a Saturday, Sunday or Holiday (recognized by the California State Legislature), the transmission will not be deemed delivered until the next following business day. All notices to be given pursuant to this Agreement shall be given to the parties at the following respective address.

To Seller: Troy Land
5130 Mill Street
Fortuna, CA 95540

Trudy Ehmke
1113 West White Road
Spokane, WA 99224

With copy to: Richard Smith
The Harland Law Firm, LLP
212 G Street, Suite 201
Eureka, CA 95501

To Buyer: City of Fortuna
Attn: City Manager
621 11th Street
Fortuna, CA 95540
Telephone: (707) 668-5655
Facsimile: (707) 668-5916
Email: anilsen@ci.fortuna.ca.us

With copy to: Ryan T. Plotz
The Mitchell Law Firm, LLP
426 First Street
Eureka, CA 95501
E-mail: rplotz@mitchelllawfirm.com

17. ENTIRE AGREEMENT. This Agreement, and the Exhibits attached hereto, represent the entire Agreement between the parties in connection with the transactions contemplated hereby and the subject matter

hereof and this Agreement supersedes and replaces any and all prior and contemporaneous agreements, understandings and communications between the parties, whether oral or written, with regard to the subject matter hereof. There are no oral or written agreements, representations or inducements of any kind existing between the parties relating to this transaction which are not expressly set forth herein. This Agreement may not be modified except by a written agreement signed by both Buyer and Seller. Without limiting the foregoing, Buyer and Seller expressly acknowledge and agree that they have not relied on any written or oral statements made by the other party's real estate broker in entering into this Agreement.

18. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, legal representatives, administrators, successors in interest and assigns.

19. WAIVER. No waiver by any party at any time of any breach of any provision of this Agreement shall be deemed a waiver or a breach of any other provision herein or a consent to any subsequent breach of the same or another provision. If any action by any party shall require the consent or approval of another party, such consent or approval of such action on any one occasion shall not be deemed a consent to or approval of such action on any subsequent occasion or a consent to or approval of any other action.

20. CAPTIONS AND HEADINGS. The captions and paragraphs numbers appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe, or describe the scope or intent of this Agreement.

21. COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same instrument. Electronic scan signatures and/or facsimile signatures shall be deemed to constitute originals.

22. GOVERNING LAW. This Agreement has been prepared, negotiated and executed in, and shall be construed in accordance with, the laws of the State of California. Any action or proceeding relating to or arising out of this Agreement shall be filed, if a State action, in the Superior Court of the State of California for the County of Humboldt, or if a Federal action, in the District of the United States District Court in which the Property is located.

23. ATTORNEYS FEES. If either party named herein brings an action or proceeding to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action (or proceeding), on trial or appeal, shall be entitled to its reasonable attorneys' fees to be paid by the losing party as fixed by the Court.

24. TIME OF ESSENCE. Time is of the essence with respect to all matters contained in this Agreement.

25. DATE OF AGREEMENT. All references in this Agreement to the "Effective Date", "the date of this Agreement" or "the date hereof" shall be deemed to refer to the date set forth in the first paragraph of this Agreement.

26. INVALIDITY OF ANY PROVISION. If any provision (or any portion of any provision) of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction under present or future laws effective during the term of this Agreement, the legality, validity, and enforceability of the remaining provisions (or the balance of such provision) shall not be affected thereby.

27. NO RECORDATION. Buyer shall not record this Agreement, any memorandum of this Agreement, any assignment of this Agreement, or any other document which would cause a cloud on the title to the Property.

28. DRAFTING OF AGREEMENT. Buyer and Seller acknowledge that this Agreement has been negotiated at arm's length, that each party has been represented by independent counsel and that this Agreement has been drafted by both parties and no one party shall be construed as the draftsman.

29. NO THIRD PARTY BENEFICIARY RIGHTS. This Agreement is entered into for the sole benefit of Buyer and Seller and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

30. INCORPORATION OF EXHIBITS. Each and all of the exhibits attached to this Agreement are incorporated herein as if set forth in full in this Agreement.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth in the first paragraph of this Agreement.

SIGNATURES

SELLER:

Troy Elbert Land

TRUDY MARILYN EHMKE

BUYER: City of Fortuna

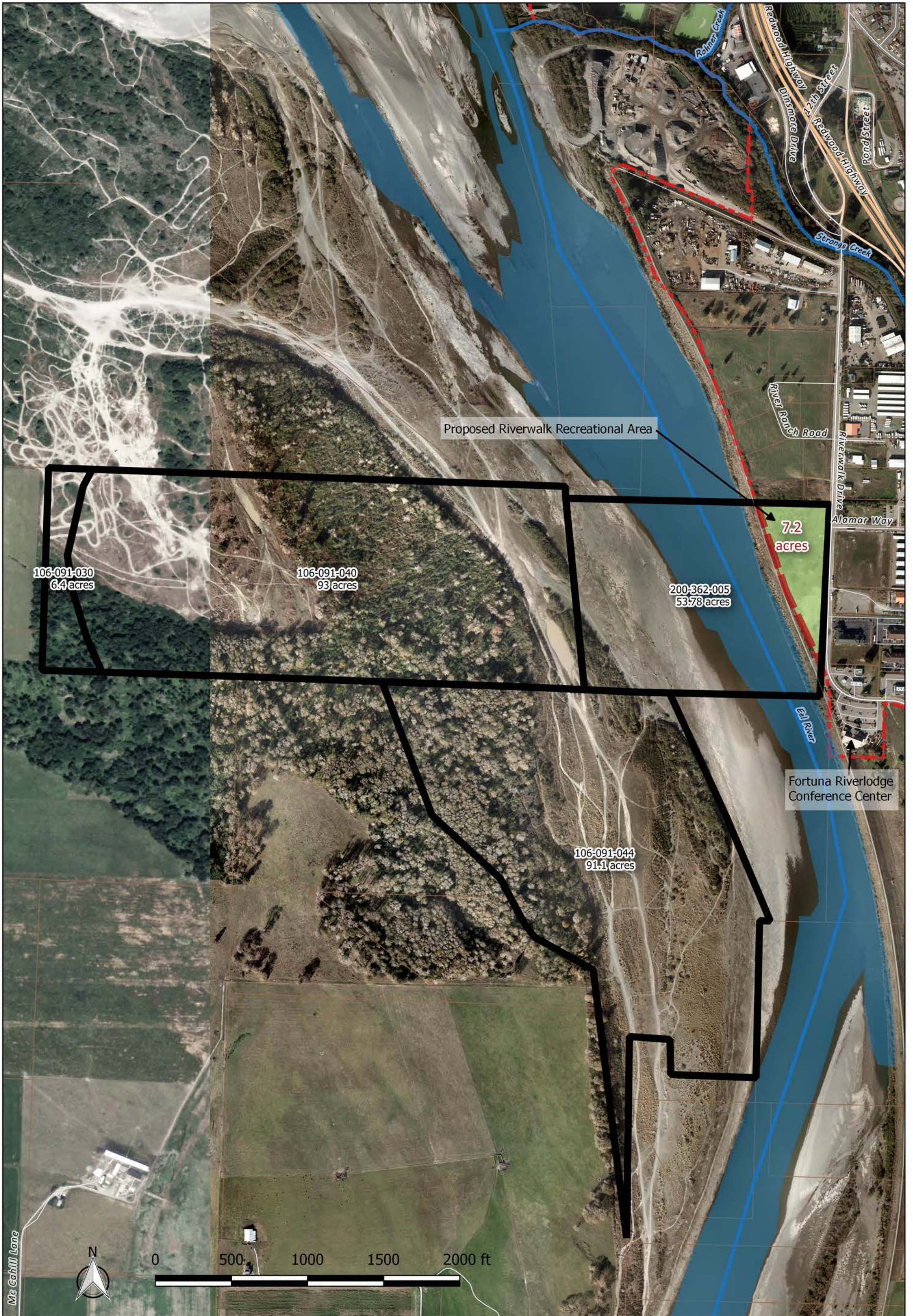
BY: _____
AMY NILSEN, CITY MANAGER

SCHEDULE OF EXHIBITS

- Exhibit A1 Depiction of Portion of Property to be Conveyed
- Exhibit A2 Legal Description of Property
- Exhibit B Combined Coastal Conservancy and Department Of General Services (DGS) Environmental Appraisal Specifications

Exhibit A1 Depiction of Portion of Property to be Conveyed

[EXHIBIT FOLLOWS THIS PAGE]



CITY OF FORTUNA
 Proposed Riverwalk Recreational Area
 and
 Other Parcels Owned by Troy E Land & Trudy M Ehmke

Data Sources:
 City of Fortuna GIS
 County of Humboldt Parcel GIS
 Open Street Maps

City of Fortuna assumes no liability for errors, omissions, or inaccuracies of information provided. Mapping and data provided are for planning purposes only

Exhibit A2 Legal Description of Property

For APN/Parcel ID(s): 200-362-005, 106-091-040, 106-091-030 and 106-091-044

Real property in the unincorporated area of the County of Humboldt, State of California, described as follows:

PARCEL ONE

A portion of the Southwest Quarter of the Southwest Quarter of Section 2, and a portion of Lot 3 of Section 3, all in Township 2 North, Range 1 West, Humboldt Meridian, being more particularly described as a whole, as follows:

BEGINNING on the East line of the Southwest Quarter of the Southwest Quarter of said Section 2, at a point distant thereon 2 rods South from the Northeast corner thereof;
thence West, along the South line of that certain strip of land 2 rods wide, as described in the deed from William Burnett to Thomas Deveshire, recorded January 7, 1874 in Book O of Deeds at page 99, and along any Westerly prolongation of said South line to the West line of said Lot 3;
thence Southerly along the West line of said Lot 3, to the South line of said Section 3;
thence East, along the South lines of said Sections 3 and 2, respectively to the Southeast corner of said Southwest Quarter of Southwest Quarter of Section 2;
thence North, along the East line of said Southwest Quarter of Southwest Quarter of Section 2, to the point of beginning.

PARCEL TWO

All that portion of the South Half of the South East Quarter of Section 3, Township 2 North, Range 1 West, Humboldt Meridian, known as Swamp and Overflowed Land Location No. 3518 (Survey No. 340), being more particularly described as follows:

BEGINNING at the U.S. Meander Post, 9.50 chains West of the corner common to Section 2, 3, 10 and 11 of Township 2 North, Range 1 West Humboldt Meridian;
thence as follows: North 8 degrees West 19.72 chains, West 24.09 chains, South 16 1/4 degrees East 8.63 chains, South 24 degrees 25 minutes East 11.77 chains, South 29 1/2 degrees East 0.62 chains and East 19.25 chains to the point of beginning.

PARCEL THREE

All that portion of the Northeast Quarter of Section 10, Township 2 North, Range 1 West, Humboldt Meridian, known as Swamp and Overflowed Land Location No. 3516 (Survey No. 339) being more particularly described as follows:

BEGINNING at the United States Meander post located 9.50 chains West of the corner common to Section 2, 3, 10 and 11 of Township 2 North, Range 1 West, Humboldt Meridian;
thence from said point of beginning South 8 degrees 50 minutes East along the United States meander line, as same existed on October 24, 1899, being the date of above mentioned Survey No. 339, for a distance of 23.00 chains;
thence North 67 degrees West 12.10 chains;
thence North 39 3/4 degrees West 3.14 chains;
thence North 32 degrees 55 minutes West 11.46 chains;

thence North 29 1/2 degrees West 6.85 chains;
thence East 19.25 chains to the point of beginning.

EXCEPTING THEREFROM any portion thereof lying within the natural bed of the Eel River, being that portion excepted in the Patent from the State of California to Oscalon H. Willsie, dated October 18, 1960 and recorded October 25, 1960 in Book 608 of Official Records, Page 197, under Recorder's File No. 17398, Humboldt County Records.

PARCEL FOUR

That portion of Section 10, Township 2 North, Range 1 West, Humboldt Meridian, described as follows:

BEGINNING at the Northeast corner of said Section 10;
thence West on the Section line 9.50 chains to the U.S. Meander line;
thence South 09 degrees East to the intersection with the East line of said Section 10;
thence North on the Section line to the point of beginning.

PARCEL FIVE

The West Half of the Northwest Quarter of Section 11, Township 2 North, Range 1 West, Humboldt Meridian.

EXCEPTING THEREFROM the lands more particularly described as follows:

(a) Commencing at the Southwest corner of the Northwest Quarter of Section 11, in Township 2 North, Range 1 West, Humboldt Meridian;
running thence North on the Section line 25 feet;
thence East 50 rods, more or less to the County Road;
thence South 25 feet to the Quarter Section line;
thence West on said Quarter Section line to the point of beginning.

Containing 1/2 acre, more or less.

(b) Commencing at a point 25 feet North of the Southwest corner of the Northwest Quarter of Section 11, Township 2 North, Range 1 West, Humboldt Meridian;
running thence North on said Section line 25 rods;

thence South 25 rods;
thence West 16 rods to the point of beginning.

Containing 2 1/2 acres of land, more or less.

Said excepted parcels being the same as described in the Tax Deed to D. A. Brinkley, recorded July 20, 1978, in Book 1504, Page 41, under Recorder's Serial No. 164146, Humboldt County Records.

PARCEL SIX

All that portion of the Southeast Quarter of the Southwest Quarter of Section 3, Township 2 North Range 1 West, Humboldt Meridian, known as Swamp and Overflowed Land Location No. 2833 (Survey No. 310) being more particularly described as follows:

BEGINNING at the Northeast corner of the Southwest Quarter of the Southwest Quarter of said Section 3;
thence East 3.25 chains to the bank of the Eel River, as same existed on August 13, 1888, being the date

of said Survey No. 310 above mentioned;
thence along the margin of same as follows: South 9 degrees West 7.00 chains, South 10 degrees East
8.10 chains South 21 degrees East 5.47 chains to a Section line. Thence West 5.50 chains. Thence North
20.00 chains to the place of beginning.

EXCEPTING THEREFROM that portion, if any, lying outside the boundaries of said Southeast Quarter of
Southwest Quarter above referred to.

Exhibit B Hatched Area

[EXHIBIT FOLLOWS THIS PAGE]



**COMBINED COASTAL CONSERVANCY AND
DEPARTMENT OF GENERAL SERVICES (DGS)
ENVIRONMENTAL APPRAISAL SPECIFICATIONS**

The appraisal must be completed and signed by a State of California Certified General Real Estate Appraiser who certifies that the appraisal is in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) as currently adopted by the Appraisal Standards Board of the Appraisal Foundation.

The principal appraiser who is responsible for developing the appraisal report must certify that he/she has inspected the subject property and comparable properties whenever physically possible. The following specifications are required when applicable to the assignment:

1. Title page with sufficient identification of appraisal project.
2. Letter of transmittal summarizing important assumptions and conclusions, value estimate, date of value, date of report, etc.
3. Table of contents.
4. Assumptions and Limiting Conditions.
5. Description of the scope of work, including the extent of data collection and limitations, if any, in obtaining relevant data.
6. Definition of Fair Market Value as follows: "The most probable price which a property should bring in a competitive and open market under all conditions requisite to a sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus."
7. Photographs of subject property and comparable data, including significant physical features and the interior of structural units if applicable.
8. Copies of assessor's plat maps with the subject parcels marked and an assemblage of all contiguous assessor's parcels that depicts the ownership.
9. A legal description of the subject property if available.

1515 Clay Street, 10th Floor
Oakland, California 94612-1401
510•286•1015 Fax: 510•286•0470

10. For large, remote, or inaccessible parcels, aerial photographs or topographical maps depicting the subject boundaries.
11. Three-year subject property history, including sales, listings, leases, options, zoning, applications for permits, or other documents or facts that might indicate or affect use or value.
12. Discussion of any current agreement of sale, option, or listing of subject. This issue requires increased diligence since State agencies often utilize nonprofit organizations to quickly acquire sensitive-habitat parcels using option agreements. However, due to confidentiality clauses, the terms of the option are often not disclosed to the State. If the appraiser discovers evidence of an option, or the possible existence of an option, and the terms cannot be disclosed due to a confidentiality clause, then the appraiser is to cease work and contact the client. Current DGS policy requires disclosure of any option or purchase agreement. If the agreement is not made available, DGS will not review the appraisal.
13. Regional, area, and neighborhood analyses.
14. Market conditions and trends including identification of the relevant market area, a discussion of supply and demand within the relevant market area (or other areas of competition), and a discussion of the relevant market factors affecting demand for site acquisition and leasing within the relevant market area.
15. Discussion of subject land/site characteristics (size, topography, current use, zoning and land-use issues, development entitlements, General Plan designations, utilities, offsite improvements, access, easements and restrictions, flood and earthquake information, toxic hazards, taxes and assessments, etc.).
16. Description of subject improvements, including all structures, square footage, physical age, type of construction, quality of construction, condition, site improvements, etc.
17. Subject leasing and operating cost history.
18. Opinion of highest and best use for the subject property, based on an in-depth analysis supporting the concluded use. Such support typically requires a discussion of the four criteria or tests utilized to determine the highest and best use of a property. If alternative feasible uses exist, explain and support market, development, cash-flow, and risk factors leading to an ultimate highest and best use decision.
19. All approaches to market value applicable to the property type and in the subject market. Explain and support the exclusion of any usual approaches to value.
20. Map(s) showing all comparable properties in relation to subject property.
21. Photographs and plat maps of comparable properties.

22. In-depth discussion of comparable properties, similarities and differences, and comparisons and adjustments to the comparable data, and discussion of the reliability and credibility of the data as they relate to the indicated subject property value.
23. Comparable data sheets: 1) For sales, include information on grantor/grantee, sale/recording dates, listed or asking price as of date of sale, financing, conditions of sale, buyer motivation, sufficient location information (street address, post mile, and/or distance from local landmarks such as bridges, road intersections, structures, etc.), land/site characteristics, improvements, source of any allocation of sale price between land and improvements, and confirming source. 2) For listings, also include market time from list date to effective date of the appraisal, original list price, changes in list price, and broker feedback, if available. 3) For leases, include significant information such as lessor/lessee, lease date and term, type of lease, rent and escalation, expenses, size of space leased, tenant improvement allowance, concessions, use restrictions, options, and confirming source.
24. Discussion of construction cost methodology, data source used, costs included and excluded, depreciation methodology, a discussion of accrued depreciation from all causes, and remaining economic life.
25. Copies of construction cost data, including section and pages of cost manual (date of estimate or date of publication of cost manual must be provided if not indicated on page), copies of cost estimate if provided from another source, and supporting calculations including worksheets or spreadsheets.
26. In partial take situations, a discussion of special benefit and severance damage.
27. Effect of title exceptions on fair market value. **A PRELIMINARY TITLE REPORT MUST BE INCLUDED IN THE APPRAISAL REPORT.** The preliminary title report should predate the effective date of the appraisal by no more than one year.
28. Reconciliation and final value estimate. Explain and support conclusions reached.
29. Discussion of any departures taken in the development of the appraisal.
30. Signed Certification consistent with language found in USPAP.

In addition to the above:

31. The appraiser shall investigate whether the appraised property is subject to implied dedications, prescriptive rights, occupancy rights, or other unrecorded easements as described in Sections 801 to 813, inclusive, and Sections 1006 to 1009, inclusive, of the Civil Code. (Regarding implied dedications, see, for example, *Gion v. City of Santa Cruz* (1970), 2 Cal.3d 29.) The appraisal report shall state the appraiser's conclusions as to the existence of any such interests and detail the factual basis for the conclusions and the appraiser's opinion as to the effect of any such interests on market value.
32. The property owner or a designated representative shall be offered the opportunity to accompany the appraiser during the appraiser's inspection of the property. The appraiser

- shall include a statement in the appraisal that on a certain date the owner or the designated representative was given the opportunity to accompany the appraiser and either accepted or declined. If accepted, the appraiser shall indicate the date on which the property was inspected with the owner or the representative.
33. If the appraiser's investigation or the preliminary title report reveals any information related to the public trust, the appraiser shall contact the State Lands Commission to determine the effect on the value of the property. The appraiser shall include in the appraisal report all pertinent facts and the appraiser's conclusion as to the effect, if any, on market value.
 34. In the course of the appraiser's investigation of the property and review of related documents, the appraiser shall look for evidence of hazardous substances. The appraiser shall include in the appraisal report all facts and suspicions related to hazardous substances on the property. If the appraiser knows or can calculate the effect of such hazardous substances on value, the appraiser shall discuss these facts and the appraiser's conclusions in the appraisal report.
 35. In the course of the appraiser's investigation of the property and review of related documents, the appraiser shall review the Local Coastal Program (or Plan), the Land-Use Plan, and other documents as appropriate to determine whether they delineate the approximate location or size of any sensitive areas on the property, including, but not limited to, riparian areas, wetlands, habitat for species recognized under federal or state endangered species acts, or Environmentally Sensitive Habitat Areas. The appraiser shall note any identified or obvious wetlands (whether or not referred to in any document as listed on the National Wetland Inventory of the U.S. Fish and Wildlife Service). Additionally, the appraiser shall note references to existing conservation easements and areas subject to agricultural protection, whether or not under the Williamson Act. The appraiser shall include in the appraisal report all facts and suspicions related to the existence of such areas on the property. If the appraiser knows or can calculate the effect of the existence such areas or designations on value, the appraiser shall discuss these facts and the appraiser's conclusions in the appraisal report.
 36. If the property's valuation is based on its development potential, the appraisal shall include the following: (a) verifiable data on the development potential of the land; (b) a description of what would be required for a development project to proceed, such as legal entitlements and infrastructure needs; and (c) presentation of evidence that sufficient demand exists, or is likely to exist in the future, to provide market support for the development.
 37. An appraisal report that includes more than nominal value for specialty interests shall include a separate valuation prepared and signed by a certified or registered professional qualified in the field of specialty interest. This valuation shall be reviewed and approved by a second qualified, certified or registered professional, considered by the appraiser, and appended to the appraisal report. "Specialty interests" means those partial property interests that may exist on a property and that can require specialized knowledge and experience to value, including, but not limited to, timber, water, minerals, or carbon credits.
 38. On and after January 1, 2015, a landowner shall not be named as a co-client of the appraiser or firm preparing the appraisal. A landowner, however, may contribute to the costs of the appraisal and be identified as an intended user of the appraisal.

39. If the appraised property is acquired by the State or with funding from the State, the appraisal report will be subject to review by the public after close of escrow.
40. If the appraisal is of a “major acquisition” (i.e., an acquisition for which one or more State agencies propose to spend more than \$15,000,000 of State funds), the appraisal report will be subject to review by the State Department of General Services as well as an independent appraiser retained by the State. The independent review report will be made available for public review not less than 30 days before an acquisition agency holds a public hearing for the purpose of authorizing the acquisition of the appraised property.
41. If applicable, in addition to the above, appraisals of telecommunications sites must also provide:
 - A discussion of market conditions and trends including identification of the relevant market, a discussion of supply and demand within the relevant market area, and a discussion of the relevant market factors affecting demand for site acquisition and leasing within the relevant market area.
 - An analysis of other (ground and vault) leases comparable to subject property. Factors to be discussed in the analysis include the latitude, longitude, type of tower, tower height, number of rack spaces, number of racks occupied, placement of racks, power source and adequacy, back-up power, vault and site improvements description and location on site, other utilities, access, and road maintenance costs.
42. On occasions where properties involve personal property, business interests, water rights, minerals, or merchantable timber, separate valuations may be necessary. If the appraiser determines that there are such property interests or rights requiring a separate valuation, the appraiser shall notify his/her client. The client may choose to modify the appraisal request to include a separate valuation by an appropriate credentialed subject matter specialist. In such cases, the appraisal package submitted to DGS for review shall include the real estate appraisal and a separate valuation of the personal property, business interests, water rights, minerals, or merchantable timber by a credentialed subject matter specialist, together with a review of this separate appraisal/valuation by a second credentialed subject matter specialist.

Questions regarding these appraisal specifications may be directed to Prentiss Williams, Coastal Conservancy, at (510) 286-3773 or prentiss.williams@scc.ca.gov.

Revised 12/19/12.