



North Coast Railroad Authority (NCRA)

APPLICATION (revised 2018)

Applicant Information

Company Name: Humboldt Bay Municipal Water District

Address: 828 7th Street
Eureka, CA 95501

Contact Person: Chris Harris, Business Manager
Telephone: (707) 443-5018
FAX:
Cell Phone:
Email: harris@hbmwd.com

Billing Information

Company Name: Humboldt Bay Municipal Water District

Address: 828 7th Street
Eureka, CA 95501-1114

Contact Person: Becky Moyle, Accounting/HR Specialist
Telephone: (707) 443-5018
FAX:
Cell Phone:
Email: moyle@hbmwd.com

Legal Information for Real Estate Lease

Name of Entity

Leasing Property: Humboldt Bay Municipal Water District

Type of Entity

Leasing Property: Municipal Water District

Address of Entity

Leasing Property: 828 7th Street
Eureka, CA 95501-1114

Notice Provision – To whom and where do you want your legal notices to be mailed

Name: Chris Harris
Address: 828 7th Street
Eureka, CA 95501-1114

Name and title of person that will be executing the Lease

Name: John Friedenbach
Title: General Manager

Business Information

- 1) Are you an owner or renter of adjacent real estate that will be used in conjunction with the Property to be leased

Owner XX Renter ____** Neither ____

- 2) Provide a copy of your business license for the business that is being operated on the property adjacent to NCRA's property

Information about the Property to be Leased

- 1) What is the intended use/nature of business to be operated on the Leased Property, i.e. parking, storage, landscape buffer, etc.

Describe HBMWD will site electrical switchgear and a surrounding housing and fence, to provide electrical service to its water treatment and operations facility, located on the property adjacent to the NCRA Right-of-Way



North Coast Railroad Authority
419 Talmage Road, Suite M
Ukiah, CA 95482
707-463-3280

October 20, 2016

Paul Helliker
General Manager
Humboldt Bay Municipal Water District
828 Seventh Street
Eureka, CA 95501

Dear Paul:

I would like to inform you that the Board of Directors of the North Coast Railroad Authority (NCRA) approved the attached license proposal on October 12, 2016. We are in the process of preparing a license agreement with the Humboldt Bay Municipal Water District (HBMWD), which we expect to provide to you by October 26, 2016. This license agreement will incorporate the details defined in the license proposal.

I would like to note that, although the Termination provisions of the license proposal define a situation in which the agreement would terminate if rail services resume which are incompatible with HBMWD's use of the property, we do not currently foresee such services resuming during the term of the agreement. Even if rail services were to be proposed and resumed, it is quite possible that NCRA's Right of Way is of adequate size to allow both HBMWD and NCRA the use the Right of Way in a compatible manner.

Thank you again for your interest in developing a licensing agreement. We look forward to an expeditious adoption of this agreement.

Sincerely,

A handwritten signature in black ink that reads "Mitch Stogner".

Mitch Stogner



Humboldt Bay Municipal Water District
Attention: Paul Helliker
828 7th Street
Eureka, CA 95501

11 Oct 2016

Re: License Proposal of North Coast Railroad Authority (NCRA) Owned Property

Mr. Helliker:

Outlined below is a proposal for the Humboldt Bay Municipal Water District to use a portion of the NCRA Right of Way (ROW) property located adjacent to: **7270 West End Road - Arcata, CA 95521**

The terms of the agreement would generally be as follows, and a completed lease application would be needed to finalize the terms and enter into an agreement:

- Licensed Premises:** An irregular shaped portion, averaging 57' x 25' in size, of NCRA's Eel River Division Line – Kobel/Annie Mary Branch Lead (**Property APN 504-201-004**) beginning approximately 15' south of the SE corner of the current Switchgear facility location. **In Addition:** Non-exclusive access (~ 550' x 20') to the license location from HBMWD's West End Road Entrance
- Term:** Initial license term of thirty (30) years automatically renewing after the initial term, for successive five (5) year term intervals unless rail services resume in the vicinity of the identified occupancy.
- Annual Fee:** One Thousand Two Hundred Dollars per year (\$1200) due upon license execution. Annual fee will be adjusted annually based upon the CONSUMER PRICE INDEX, or ("CPI"), All Urban Consumers, (1982-1984=100), now being published by the United States Department of Labor, Bureau of Labor Statistics.
- Purpose:** Facility Occupancy/Electrical Transmission Line Occupancy/Business Operations
- Termination:** Upon the occurrence of one of the following events:
- Thirty (30) years after the commencement of this agreement and either party chooses to terminate.
 - Rail services in the vicinity of the occupancy resume. Upon notification thereof and the crossing being deemed incompatible for use with the rail operations, a 180 day notification for termination will be provided.

T: 904-450-4830 | www.parallelinfrastructure.com
7411 Fullerton Street | Suite 301 | Jacksonville, FL 32256



- Application Fee:** \$1,000, payable upon application to license – see attached application form.
- Permitting:** The licensee is responsible for permitting/complying with applicable ordinances.
- Access:** In addition to the access road, temporary access to the Right of Way will be afforded for 1 year from commencement of the license to construct the facility and install the Transmission Line. The access limitation will be thirty (30) feet around the license location.
- Engineering:** Additional engineering review fees, as determined by NCRA, may be incurred if physical improvements are made to the licensed area
- Note:** The License Agreement is subject to final approval by NCRA. The proposed terms of the transaction set forth herein are non-binding and subject to change.

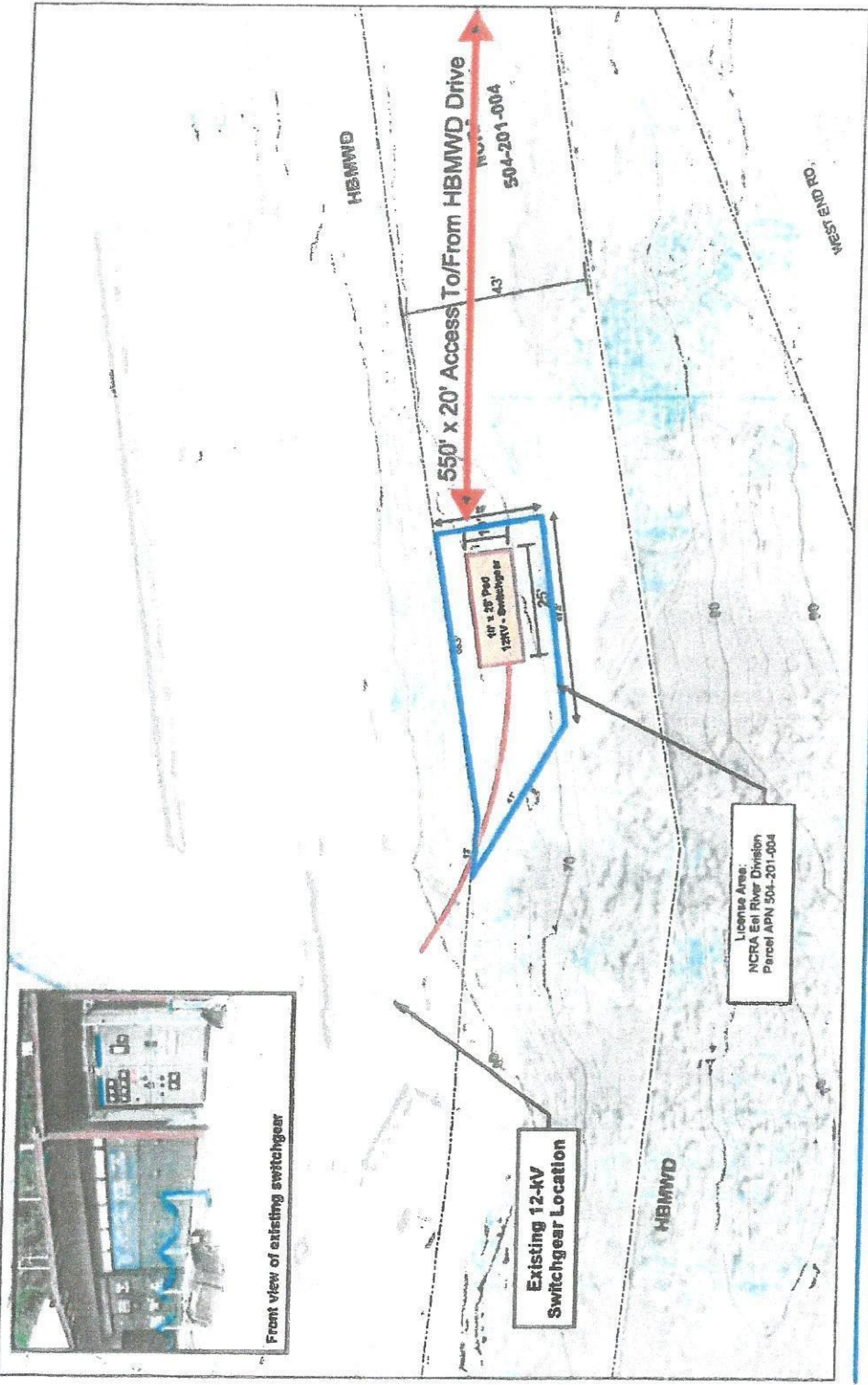
If the terms and conditions are acceptable and you would like to proceed with entering into an agreement with NCRA, please complete a lease application and return it to me at your earliest convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Dannelly".

Mike Dannelly
Corridor Management
904-565-4101 Office/904-309-0093 Mobile
mike@parallelinfrastructure.com

T: 904-450-4830 | www.parallelinfrastructure.com
7411 Fullerton Street | Suite 301 | Jacksonville, FL 32256



Front view of existing switchgear

Existing 12-kV
Switchgear Location

License Area:
NCRRA Est River Division
Parcel APN 504-201-004

Paper Size 8.5" x 11" (ANSI A)

Scale: 0 10 20 30 Feet

North Arrow

Map Sources: The Reddy Group, California State Horizontal Datum, North American Datum 1983, California State Plane California 1 FIPS 5001 Feet

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Proposed Switchgear*
Parcel Boundaries
Proposed New Electrical Line

*Fencing and other security measures will be installed around the new switchgear.

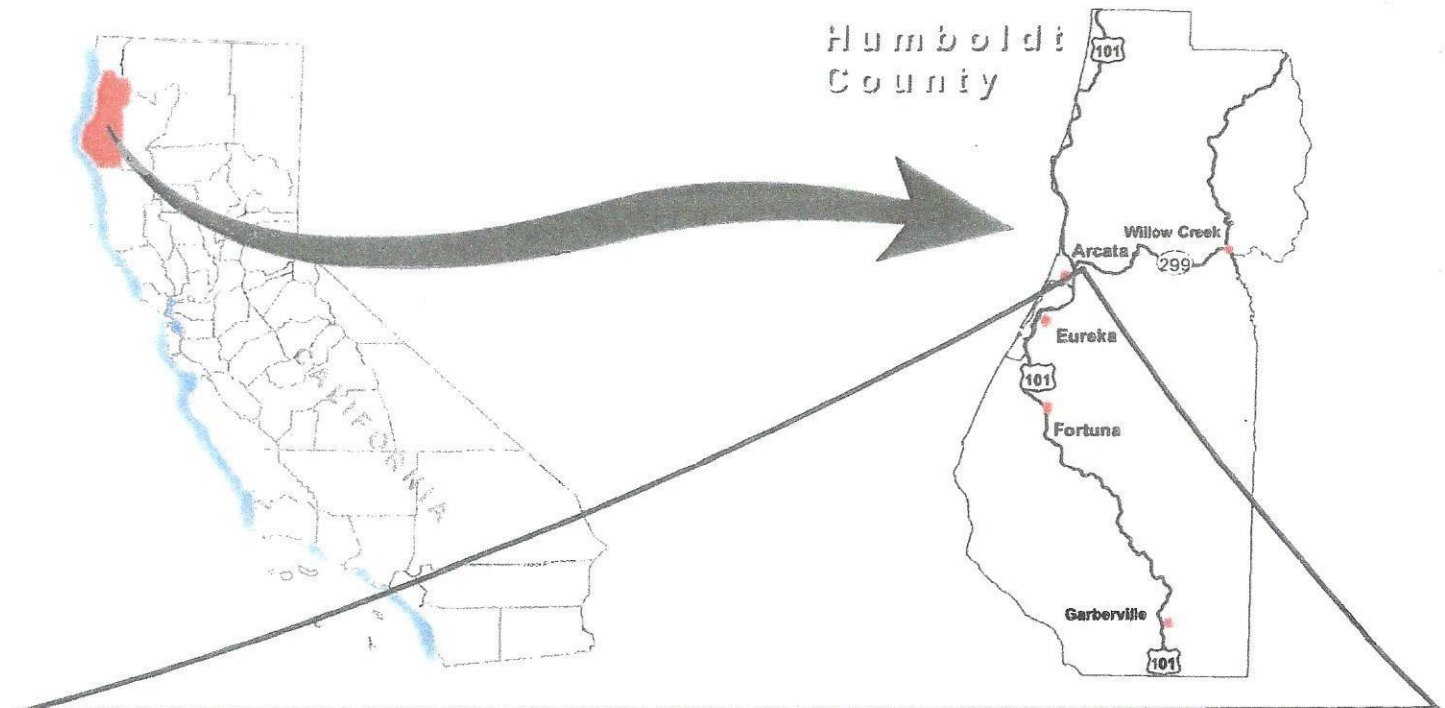
Index Contours (10 ft)
Index Contours (2 ft)

HBMWD 12-kV Switchgear Relocation
NCRRA Easement

Job Number: 11121523
Revision: A
Date: 05 Oct 2016

718 Third Street, Suite 200, San Francisco, CA 94103 USA. T: 415 774 4444 F: 415 774 4444
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Figure 3



- Staging Area
- Project Area
- Roads
- Limited Access Highway

Paper Size ANSI A
 0 300 600 800 1,200 1,500
 Feet
 Map Projection: Mercator Auxiliary Sphere
 Horizontal Datum: WGS 1984
 Grid: WGS 1984 Web Mercator Auxiliary Sphere

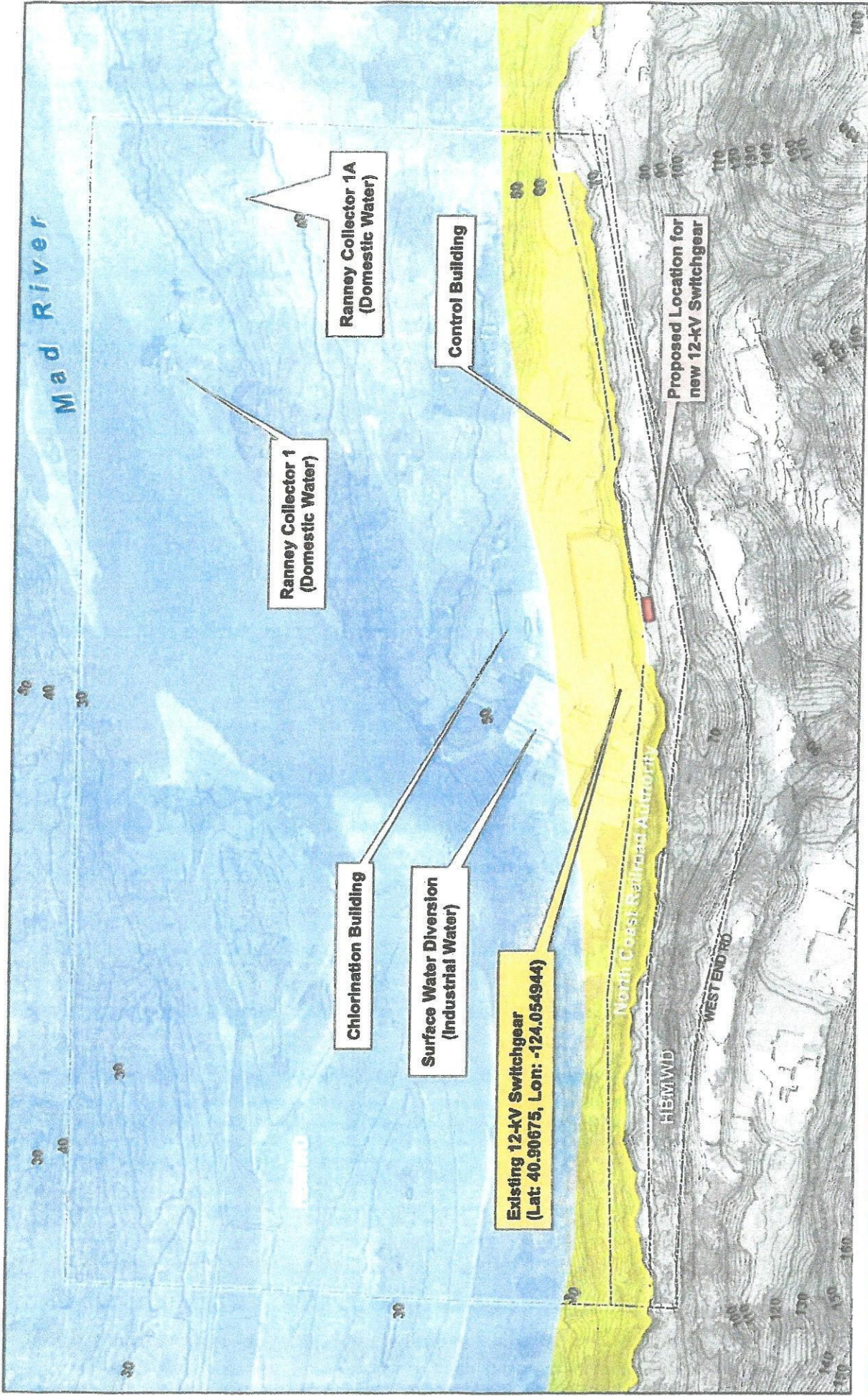


HBMWD 12-kV Switchgear Relocation
 NCRA Easement

Job Number 11121523
 Revision 1
 Date 20 May 2016

12-kV Switchgear Vicinity Map Figure 1

U:\gdn\ghd\US\Eureka\Projects\11111121523 HBMWD-12KV SG 2016 PDM Grant\08-GIS\Map\Figures\Hazard Mitigation Grant\F12-kV Switchgear Vicinity Map\Eureka, CA 95501 T 707 443 8326 F 707 444 8330 E eureka@ghd.com W www.ghd.com
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 Data source: ESRI: Street Map USA; USDA: NAIIP orthoimagery - 2014; HBMWD GIS: property boundaries. Created by: J.Clerk



Paper Size 8.5" x 11" (ANSI A)
 Map Projection: Lambert Conformal Conic
 Horizontal Datum: North
 Grid: NAD 1983 StatePlane California I FIPS 8401 Feet

0 40 80 120 160 200
 Feet

N

Parcel Boundaries
 100-year Flood Inundation (66 ft elevation)
 Dam Break Inundation (66 ft elevation)

Proposed Switchgear
 Index Contours (10 ft)
 Index Contours (2 ft)

HBIMWD 12-kV Switchgear Relocation
 NCRA Easement
 Job Number | 11121523
 Revision | A
 Date | 05 Oct 2016

12-kV Switchgear Site Map
Figure 2

718 Third Street Eureka CA 95501 USA T 707 443 8328 F 707 444 8330 E eureka@ghd.com W www.ghd.com
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 Data source: HBIMWD; property boundaries and water systems; Google Earth Imagery; Esri; Street Map USA; NOAA; elevation; 2013. Created by janz

NCRA COMMERCIAL LEASE

THIS COMMERCIAL LEASE ("Lease") is entered into as of the ____ day of _____, 2016 by and between the NORTH COAST RAILROAD AUTHORITY, a legislatively created state agency ("Lessor"), and, HUMBOLDT BAY MUNICIPAL WATER DISTRICT, a California _____ ("Lessee").

Premises

Subject to the terms and conditions set forth herein Lessor hereby leases to Lessee, and Lessee leases from Lessor, the real property and any improvements thereon located near the Cities of; Arcata, County of Humboldt, State of California ("Premises") consisting of a 57' x 25' area of land located at APN 504-201-004, together with a non-exclusive access area approximately 550' x 20' located along the Kobel/Annie Mary Branch Lead, on or near 7270 West End Road, consisting of land for the purpose of installing and maintaining an electrical switchgear facility with surrounding housing and fencing, and access, as depicted on Exhibit A, attached to this Lease and incorporated into it by this reference.

Effective Date

This Lease shall take effect on _____, 2016 ("Effective Date"), and supersedes any prior lease existing between the parties or their predecessors.

Term

This Lease shall be for a of term thirty (30) years ("Lease Term") from the Effective Date, and shall automatically renew for successive five (5) year terms thereafter, as provided in Section 11 hereof, unless sooner terminated as provided herein.

Termination for Transit Activities

Either party may terminate this Lease by giving one hundred eighty (180) calendar days written notice. Lessor may require Lessee to remove any or all of Lessee's Alterations upon termination, pursuant to the Section 24 below. LESSEE HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO RECEIVE BENEFITS UNDER FEDERAL AND STATE UNIFORM RELOCATION ACTS (UNITED STATES CODE, SECTION 7260, ET SEQ.) AS A RESULT OF LESSOR'S USE OR POSSESSION OF ANY PORTION OF THE PREMISIS.

Lessee

1. Use

The Premises shall be used by Lessee solely and exclusively for installing and maintaining an electrical switchgear facility with surrounding housing and fencing, and access, *as specified on Exhibit "A"* ("permitted Use"). Lessee shall not use the Premises for any other use other than the Permitted Use without Lessor's prior written consent, which consent may be withheld by Lessor in its sole discretion.

Restriction on Use

Lessee shall not permit any damage, nuisance or waste on the premises; nor permit to be placed upon the Premises any gasoline, diesel fuel, oil, other petroleum products, or any hazardous or explosive material, waste or substance.

Regulatory Approvals

Lessee, at Lessee's expense, shall arrange for the filing of any map required under any subdivision map act and of any environmental impact report required, or other requirements imposed by any governmental body having jurisdiction in the matter. If any governmental body seeks to impose any condition on approval of Lessee's use of the Premises, Lessor may terminate this lease forthwith if any such condition shall effect any other property of Lessor or shall affect the Premises after this Lease is no longer in effect.

Compliance with Laws

Lessee at Lessee's expense, shall at all times during the Term comply with all applicable laws, regulations, rules and orders with respect to Lessee's use and/or improvement of the Premises, regardless of when they become or became effective, including, without limitation, those relating to construction, grading, signage, health, disability accommodation (including the Americans with Disabilities Act), safety, noise, environmental protection, waste disposal, and water and air quality. Lessee shall furnish satisfactory evidence of such compliance upon request of Lessor.

Prior Rights

This Lease is made subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens, and claims of title that may affect the Premises in effect as of the Effective Date of the Lease. The word "Lease" shall not be construed as a covenant against the existence of any of these.

2. Condition of Premises

"AS IS" Rental. Lessor leases the Premises to Lessee on an "AS IS" basis, and Lessee acknowledges that Lessor has made no representations of any kind in connection with soils, improvements, or physical conditions on the Premises, or bearing on the use of the Premises, whether express or implied.

3. Inspections

Lessee shall be solely responsible for conducting any inspections it may deem necessary or appropriate in determining whether to enter this Lease. Prior to the Effective Date, Lessee may examine and inspect all matters with respect to taxes, operating expenses, insurance costs, bonds, permissible uses, historical uses, zoning, covenants, conditions and restrictions and all other matters which in Lessee's judgment might bear upon the value and suitability of the Premises for Lessee's purposes or Lessee's willingness to enter into this Lease. Lessee acknowledges that Lessor has made no representations and warranties regarding these matters, whether express or implied, and the Lessee has relied on its own inspections and examinations contemplated in this Section 3 and Lessee be deemed to have accepted the Premises "AS IS" with all faults.

4. Rent

Commencing as of the Effective Date, Lessee shall pay to Lessor as for the Premises the sum of One Thousand Two Hundred dollars (\$1,200.00) per year ("Rent"), subject to adjustment as provided in Section 5 below. Rent shall be payable annually, in advance, to Lessor on or before each anniversary of the Effective Date during the Lease Term, as it may be extended, in lawful money of the United States, at the address set forth in Section 9 below, without deduction, setoff, prior notice or demand of any kind.

5. Rental Adjustments

Beginning one year following Effective Date, and continuing thereafter on each anniversary of the Effective Date during the Lease Term, as it may be extended ("Anniversary Date"), Rent shall be

increased by the increase in the Consumer Price Index or three percent (3%), whichever is greater, provided that in no event shall the rent be decreased. The increase in the Consumer Price Index means the percentage increase from the last preceding Anniversary Date to the current Anniversary Date of the Consumer Price Index - US all urban consumers, as published by the United States Department of Labor, Bureau of Labor Statistics.

6. Security Deposit

Lessee shall not be required to provide a Security Deposit to Lessor.

7. Late Charges; Interest

A. Late Charges

If any installment of rent or other sum due from Lessee is not received by Lessor within ten (10) days of the date it is due, then Lessee shall pay to Lessor a late charge equal to ten percent (10%) of such overdue amount. The parties hereby agree that such a late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee which are impracticable to estimate. Acceptance by Lessor shall in no event constitute a waiver of Lessee's default or breach with respect to such overdue amount or prevent Lessor from exercising any other rights and remedies granted herein.

B. Interest

Any monetary obligation due Lessor hereunder, other than late charges, not received by Lessor within ten (10) days of the date it is due, shall bear interest from the date due at the current Prime rate plus four percent or the then prevailing maximum rate permitted by applicable law, whichever is less ("Interest Rate").

8. Taxes

Lessee shall pay, before they become delinquent, all taxes, charges, and assessments, which are levied upon, or assessed against any improvement or personal property, placed upon the Premises by Lessee. Lessee shall pay, before they become delinquent, any and all property taxes and/or possessory interest taxes, assessments and/or supplemental taxes which are levied or assessed by any local public entity or government on the Premises or Lessee's possession and/or use thereof. In addition to the taxes and assessments specified above, Lessee shall pay to Lessor any privilege, sales, gross income or other tax (not including federal or state income tax), if any, imposed upon the Rent received by Lessor by an agency having the authority to do so.

9. Notices

All notices, payments, or other communications by either party to the other under this Lease shall be in writing and shall be deemed to have been given or made on the date of service if served personally or on the second business day after mailing if mailed to the party whom notice is given by first class mail, registered or certified, postage prepaid and properly addressed as follows:

Payments

To Lessor: North Coast Railroad Authority
419 Talmage Rd. Ste. M
Ukiah, CA 95482
Attn: Hiedy Torres

Notices:

To Lessor: North Coast Railroad Authority
419 Talmage Rd. Ste. M
Ukiah, CA 95482
Attn: Executive Director

With a copy to: Christopher J. Neary
Attorney at Law
110 S. Main St. Ste. C
Willits, CA 95490

And a copy to: Parallel Infrastructure LLC
7411 Fullerton Street, Suite 301
Jacksonville, FL 32256
Attn: Craig Olson

To Lessee: Humboldt Bay Municipal Water District
828 7th Street
Eureka, CA 95501
Attn: Becky Moyle, Accounting/HR Specialist

Either party may change its address by providing written notice to the other as provided herein.

10. Alterations

Lessee may at its sole cost and expense complete the Alterations generally described in Exhibit A to this Lease. Other than these improvements, Lessee shall not make or suffer to be made any alterations, additions or improvements (collectively "Alterations") in on or to the Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed. Any Alterations Lessee is permitted to make shall be made at Lessee's sole cost and expense except as the parties may otherwise expressly agree in writing. Prior to commencement of construction of the Alterations, Lessee shall deliver to Lessor, and obtain Lessor's approval of, a detailed construction plan for the Alterations at least thirty (30) days prior to the intended date of commencement of construction, which approval shall not be unreasonably withheld or delayed. Prior to commencement of construction, Lessee shall also obtain and deliver to Lessor copies of all city, county, and/or other regulatory permits required for construction of the Alterations. Lessee shall keep the Premises free and clear of all liens of any kind. Lessee shall give the Lessor at least ten (10) days' prior written notice of commencement of any kind of work on Alterations, so that Lessor may post appropriate notices of non-responsibility, and Lessee hereby grants permission to Lessor to enter onto Premises for that purpose. Lessee at its cost shall provide to Lessor a performance bond equal to 125% of the total estimated cost of any proposed Alterations prior to commencement of work thereon. All work on Alterations shall be performed in a workman like manner and shall comply with all applicable governmental permits, laws, ordinances and regulations, including, but not limited to, any procedures promulgated by Lessor. All work on Alterations shall be completed by contractors licensed in the State of California which shall have in place prior to commencement of work the policies of insurance required of Lessee by Section 18 below, as evidenced by a certificate of insurance delivered to and approved by Lessor. Lessor shall have the right to enter onto the Premises and to inspect construction of the Alterations during construction. All Alterations and fixtures, whether temporary or permanent in character, made in or upon or added to the Premises by Lessee shall be Lessor's property at the end of the Lease Term without compensation to Lessee, subject to the provisions of Section 25 below.

11. Option to Renew

Subject to the terms and conditions set forth in this Section, and provided that Lessee has complied with all terms and conditions of the Lease prior to the date of exercise; and, Lessee is not at the time of exercise in default under the Lease, the Lease shall automatically renew for additional five (5) year terms ("Renewal Term") subject to Section 5 Rental Adjustments and continue until such time the Lease is terminated pursuant to Section 13.

12. Utilities

Lessee shall arrange and pay for all utilities, if any, including without limitation, water, electric, gas, garbage, communications and sewer services, to be used in connection with this Lease. If Lessor is required to contract with a utility to provide access for the service to Lessee at the Premises for Lessee's sole use, Lessee shall pay to Lessor the sum of \$200.00 upon receipt of a bill therefore to partially defray administrative costs.

13. Termination

This Agreement may not be terminated, except as provided in the section titled "Termination for Transit Activities" of this Lease, or except by written agreement signed by all parties, their successors or assigns hereto. At the request of either party hereto, the parties shall reasonably cooperate in the preparation of such agreement, which shall be executed and delivered by each party to the other.

14. Maintenance and Repair

Lessee shall keep the Premises, including any improvements located thereon, in safe condition and in good order, condition and repair at all times during the Lease Term at Lessee's sole cost and expense. Lessee shall, at Lessee's sole expense repair any area damaged by Lessee, Lessee's agents, employees and visitors. Lessee acknowledges that Lessor is under no duty to repair or make improvements to the Premises. If Lessee fails to perform Lessee's obligations under this Section, Lessor may enter upon the Premises after ten (10) days prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required) and perform such obligations on Lessee's behalf and expense as provided in Section 22(a) of this Lease. At the end of the Lease Term, Lessee shall surrender the Premises to Lessor in the same condition as when received, ordinary wear and tear accepted.

15. Liens

Lessee shall not permit any mechanics' or material men's liens, stop orders or other liens (collectively, "Liens") to be filed against the Premises nor against the Lessee's leasehold interest therein by reason of such labor or materials furnished to the Premises at Lessee's instance or request. If any such liens are filed against the Premises, Lessee shall cause the same to be discharged of record either by payment of the claim or by posting and recording the bond contemplated by California Civil Code Section 3143, within twenty (20) days after demand by Lessor. Lessee shall indemnify, hold harmless, and defend Lessor from and against any such liens.

16. Indemnification

Lessee shall indemnify, defend and hold harmless Lessor, the North Coast Railroad Authority, the successors and assigns of any of them, any railroad company operating on the premises, and their respective directors, officers, employees, agents, contractors (including but not limited to , any person that may be operating Lessor's railroad tracks and services) and any other person acting on Lessor's behalf and all liabilities, penalties, losses, damages, costs, loss of rent, expenses, demands, causes of action, claims, penalties, losses, judgments (collectively, "Liabilities") arising out of or in connection with (a) the use , maintenance, occupation,

alteration, or improvement of the Premises by Lessee, (b) any act, omission, or neglect of Lessee, Lessee's officers, employees, agents, servants, sub lessees, concessionaires, contractors or visitors, and/or (c) any breach or default by Lessee of any of the terms, covenants or conditions of this Lease; provided, however that with respect to any Liability under sub-sections (a) and/or (b) above, Lessee shall not be obligated to indemnify any Indemnities for any Liability caused by the gross negligence or willful misconduct of that Indemnities. The duty to defend established herein shall include payment of all legal costs and charged, including reasonable or willful misconduct by Lessee against any Indemnities. Lessee waives any and all rights to any type of express or implied indemnity against Lessor, its directors, officers or employees. The provisions of this Section shall survive the expiration or termination of this Lease.

17. *Environmental Provisions*

(a). Definitions. As used in this Section. The following terms have the following definitions:

"Agencies" means any federal, state, or local governmental authorities, agencies or other administrative bodies with jurisdiction over Lessee or the Premises.

"Environmental Laws" means any federal, state, or local environmental, health, or safety-related laws, regulations, standards, court decisions, ordinances, rules, codes, orders, decrees, directives, guidelines, permits, or permit conditions, currently existing and as amended, enacted, issued or adopted in the future that are or become applicable to Lessee or the Premises, including, but not limited to the Consent Decree in *Hight v. North Coast Railroad Authority*, Mendocino County Superior Court, case No. 80240, a true and correct copy of which is posted at NCRA's website, <http://www.northcoastrailroad.org>. and is incorporated herein by this reference.

"Existing Environmental Conditions" means the conditions disclosed in the report entitled *Phase II and Phase III Program Findings, Northwestern Pacific Railroad, Novato to Willits, dated March 1996*, prepared for Lessor by Geomatrix Consultants, a true copy of which is available for inspection at the NCRA's office.

"Hazardous Material" means any chemical, substance, material, controlled substance, object, condition, waste, living organism, or combination that is or may be hazardous to human health or to the safety of the environment due to its radioactivity, flammability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, infectiousness, or other harmful or potentially harmful properties or effects, including, without limitation. Petroleum and petroleum products, asbestos, radon, polychlorinated biphenyls (PCB's and all of those chemicals, substances, materials, controlled substances, objects, conditions, wastes, living organisms, or combinations that are now or become in the future listed, defined, or regulated in any manner by any Environmental Law based upon, directly or indirectly, their properties or effects.

"Lessee's Parties" means Lessee's employees, agents, customers, visitors, invitees, licensees, contractors, designees, or sub Lessee's.

(b) Use of Hazardous Materials.

Lessee will not use or allow the use of the Premises in a manner that may cause "Hazardous Materials" to be released or to become present on, under, or about the Premises or other properties in the vicinity of the Premises.

(c). Environmental Compliance.

(i). Lessee and Lessee's parties will not at any time during the Term, cause or permit any Hazardous Materials to be brought upon, stored, manufactured, generated, blended, handled, recycled, treated, disposed, or used on, under, or about the Premises for any purpose, except as specifically approved in writing by Lessor (Permitted Hazardous Materials"), as amended from time to time. Any material change to the Permitted Hazardous Materials must be approved in advance in writing by Lessor, whose approval will not be unreasonably withheld.

(ii). During the Term, Lessee will take reasonable steps to protect against intentional or negligent acts or omission of third parties that might result directly or indirectly in the release, disposal, or other placement of Hazardous Materials on or under the Premises.

(iii). No asbestos-containing materials will be manufactured or installed for any purposes on or as part of the Premises, whether as part of Lessee's Parties' business operations or as Lessee improvements, unless approved in advance in writing by Lessor, whose approval will not be unreasonably withheld.

(iv). Lessee will keep, operate, and maintain the Premises in compliance with all, and will not cause or permit the Premises to be in violation of any, Environmental Laws.

(d). Underground Storage Tanks.

(i). Neither Lessee nor any of Lessee's Parties will install or use any underground storage tanks on the Premises unless specifically approved in advance in writing by Lessor, which approval may be withheld in Lessor's sole discretion. If Lessor approves Lessee's installation or use of underground storage tanks, Lessee will be responsible for compliance with all applicable requirements and environmental Laws, including, but not limited to, financial assurance requirements, and must furnish evidence satisfactory to Lessor of that compliance. Lessee will also test soil for settling and conduct appropriate tests of the tank and associated piping and equipment at the time of installation to assure that the tank has been properly installed.

(ii). At Lessor's option, upon the termination of this Lease at any time and for any reason, Lessee will, within forty-five (45) days from the date of the termination, remove all Hazardous Materials in, on, under, and about the Premises, in accordance with the requirements of all Environmental Laws and to the satisfaction of the Agencies (defined in Section 16(A)) and Lessor, and deliver to Lessor a copy of a certificate of closure issued for the tanks by the Agencies.

(e). Lessor's Right of Entry and testing. Lessor and Lessor's representatives have the right, but not the obligation, at any reasonable time to enter onto and inspect the Premises and to conduct reasonable testing, monitoring, sampling, digging, drilling, and analysis to determine if Hazardous Materials are present on, under, or about the Premises and to review and copy any documents, materials, data, inventories, financial data, or notices or correspondence to or from private parties or governmental authorities (collectively, "Inspection"). If the Investigation indicates the presence of any environmental condition that occurred during the term as a result of Lessee or Lessee's Parties activities, or failure to act where Lessee had a duty to act, in connection with the Premises, Lessee will reimburse Lessor for the cost of conducting the tests.

(f) Environmental Assessment. Lessor may require Lessee to retain a duly licensed environmental consultant acceptable to Lessor that will perform an environmental compliance audit of the Premises and Lessee's and Lessee's Parties' business activities and compliance with the provisions of this Lease. Lessor may require Lessee to cause the environmental compliance audit to be conducted on an annual basis, the cost of which will be the sole responsibility of Lessee. If the results of the environmental compliance audit indicate that Lessee is or may be in violation of Section 16, Lessee will be responsible for the cost of any additional testing required by Lessor. Lessee must promptly provide a copy of the report from the consultant to Lessor upon receipt, and upon request must promptly provide to Lessor a copy of all data, documents, and other information gathered in connection with the report. Lessee acknowledges that Lessee has been provided and adequate opportunity to conduct Lessee's own environmental investigation of the Premises with independent environmental experts and consultants.

(g) Notification.

(i) Lessee must give immediate written notice to Lessor of:

(A). any enforcement, remediation, or other regulatory action or order, taken or threatened, by any Agency regarding, or in connection with, the presence, release, or threat of release of any Hazardous Material on, under, about, or from the Premises, or any tanks on the Premises, or otherwise resulting from Lessee's use of the Premises;

(B). all demands or claims made or threatened by any third party against Lessee or Lessee's Parties or the Premises relating to any liability, loss, damage, or injury resulting from the presence, release, or threat of release of any Hazardous Materials on, under, about, or from the Premises or otherwise resulting from Lessee's use of the Premises;

(C). any significant spill, release, or discharge of a Hazardous Material on, under, about, or from the Premises, including, without limitation, any spill, release, or discharge required to be reported to any Agency under applicable Environmental Laws; and

(D). all incidents or matters where Lessee and Lessee's Parties are required to give notice to any Agency pursuant to applicable Environmental Laws.

(ii). Lessee must promptly provide to Lessor copies of all materials, reports, technical data, Agency inspection reports, notices and correspondence, and other information or documentation relating to incidents or matters subject to notification under this Lease. Also, Lessee must promptly furnish to Lessor copies of all permits, approvals, and registrations Lessee receives or submits with respect to Lessee's operations on the Premises, including, without limitation, any underground storage tank registrations, installation permits, and closure permits.

(h). Remediation.

(i) If any Hazardous Materials are released or found on, under, or about the Premises arising out of Lessee's or Lessee's Parties' activities, or failure to act where Lessee had a duty to act, in connection with the Premises, Lessee must promptly take all action, at Lessee's sole expense, necessary to investigate and remediate the release or presence of Hazardous Materials on, under, or about the Premises in accordance with Environmental

Laws and the requirements of all Agencies. However, unless an emergency situation exists that requires immediate action, Lessor's written approval of these actions will first be obtained, and the approval will not be unreasonably withheld. Lessor's right of prior approval of these actions includes, but is not limited to, the selection of any environmental consultant to perform work on or related to the Premises, the scope of work, and sampling activities to be performed by the consultant before the report is final. Lessee will provide Lessor with at least three (3) business days' advance notice of any sampling, and upon request of Lessor, will split samples with Lessor. Lessee will also promptly provide Lessor with the results of any test, investigation, or inquiry conducted by or on behalf of Lessee or Lessee's Parties in connection with the presence or suspected presence of Hazardous Materials on, under, about, or from the Premises. Lessee must notify Lessor in advance and give Lessor the right to participate in any oral or written communications with regulatory agencies concerning environmental conditions in or arising from the Premises. Lessor has the right, but not the obligation, to assume control of any required remediation on the Premises at Lessee's expense if Lessee fails to notify Lessor and obtain Lessor's approvals as required under Section 16(h). Within thirty (30) days after Lessee's completion of any remediation of the Premises, Lessee must deliver to Lessor a letter from the applicable Agency stating that the remediation was undertaken in accordance with all applicable Environmental Laws and that any residual contamination remaining after the remediation does not pose a threat to human health or the environment.

(ii) If Lessee or Lessee's Parties have caused or permitted a release of Hazardous Materials that results in or threatens to result in Hazardous Materials becoming present in, under, or about the Premises, threatens public health or safety or the environment, or is in noncompliance with any applicable Environmental Laws or requirements of Section 16, Lessor may demand that Lessee promptly take action in accordance with Section 16(h)(i). If Lessee does not respond within thirty (30) days (unless there is an emergency, in which case Lessee must respond as soon as practicable, but not less than three (3) days), Lessor has the right, but not the obligation to enter onto the Premises and take all actions reasonably necessary to investigate and fully remediate the release or noncompliance at Lessee's sole expense, which sums will be immediately due and payable upon receipt of an invoice and will constitute additional rent under this Lease.

(i) Annual Certification

On the date that is one year from the commencement of the Term and annually after that, Lessee must provide Lessor with a letter certifying that Lessee has complied with all applicable Environmental Laws and the requirements of all applicable Agencies and that no soil or groundwater contamination has occurred in or originated from the Premises.

(j). Expiration and Termination Procedures.

Upon expiration or termination of this Lease and upon the request of Lessor, Lessee will perform all of the following activities at Lessee's sole expense:

(i). an environmental assessment of the Premises to evaluate the environmental condition of the Premises and potential environmental liabilities and in accordance with Section 16(e);

(ii). all remedial or other work identified in the environmental assessment in accordance with Section 16(h) and all applicable Environmental governmental agency; and

(iii). all corrective, remedial, repair or other work necessary to correct any alleged violations, deficiencies, or hazards noted by any environmental, governmental agency; and

(iv). all steps necessary to terminate, close, or transfer all environmental permits, licenses, and other approvals or authorizations for the Premises or for activities, equipment, or conditions on the Premises, in accordance with all environmental Laws. Lessee will also obtain and provide to Lessor the written approval or verification of the satisfactory completion of the termination, closure, or transfer from each Agency with jurisdiction over the Environmental permit, license, or other approval.

(k). Indemnification.

(i) Lessee will indemnify, protect, defend, and hold harmless Lessor and Lessor's directors, officers and employees, agents, and each of their respective successors and assigns (individually and collectively "Lessor Indemnities") from all claims, judgments, caused of action, damages, penalties, fines, taxes, costs, liabilities, losses, and expenditures (the "Environmental Response Costs") arising (directly or indirectly) as a result of or in connection with Lessee's or Lessee's Parties breach of any prohibition or provision of this Lease, or the presence of any Hazardous Materials on or under the Premises during the Term or any Hazardous Materials that migrate from the Premises to other properties, as a result (directly or indirectly) of Lessee's or Lessee's Parties' activities, or failure to act where Lessee had a duty to act, on or in connection with the Premises.

(ii) This obligation by Lessee to indemnify, protect, defend and hold harmless Lessor Indemnities includes, without limitation, costs and expenses incurred for or in connection with any investigation, cleanup, remediation, monitoring, removal, restoration, or closure work required by the Agencies because of any Hazardous Materials present on, under, or about the Premises; the costs and expenses of restoring, replacing, or acquiring the equivalent of damages; all reasonable attorney fees; litigation, arbitration, and administrative proceeding costs; and reasonable expert consultant and laboratory fees.

(iii) Neither the written consent of Lessor to the presence of Hazardous Materials on or under the Premises, nor the strict compliance by Lessee with all Environmental Laws, will excuse Lessee from the indemnification obligation. This indemnity will survive the expiration or termination of this Lease. Further, if Lessor detects a deficiency in Lessee's performance under this indemnity and Lessee fails to correct the deficiency within ten (10) days after receipt of written notice from Lessor, Lessor has the right to join and participate in any legal proceedings or actions affecting the Premises that are initiated in connection with any Environmental Laws. However, if the correction of the deficiency takes longer than ten (10) days, Lessor may join and participate if Lessee fails to commence corrective action within the ten (10) day period and after that diligently proceeds to correct the deficiency.

(iv) In that the NCRA has been a passive owner if the Premises and the Lessee has greater knowledge concerning the past and present uses of the Premises the parties

specifically intend that NCRA's risk for environmental issues be limited to the maximum permitted by law, except as expressly limited in this Section. Accordingly, the foregoing indemnity shall apply to the above Environmental Response Costs arising out of or in connection with (1) Lessee's violation of this Section 16; (2) Lessee's willful misconduct, or negligence (notwithstanding any active or passive negligence of NCRA); or (3) any other cause, other than the willful misconduct or sole negligence of NCRA, irrespective of whether occurring prior, or after the commencement of the Term hereof.

(A). Lessee's Release of Lessor. Lessee on behalf of Lessee and Lessee's successors, assigns, and successors-in-interest waives, releases, remises, acquits, and discharges Lessor Indemnities from all claims, actions, causes of actions, demands, rights, damages, costs, expenses, or compensation, direct or indirect, known or unknown, foreseen or unforeseen, that Lessee now has or that may arise in the future on account of the physical condition of the real property; the Environmental Laws, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C.A. §§9601 et seq., or their application to the Premises; or the existence or condition of any fill, excavation, or filled ground on the real property that may affect the use, maintenance, monitoring, or otherwise of any underground storage tanks or related equipment installed by Lessee or Lessee's Parties. Also, Lessee waives the benefit of Civil Code § 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

18. Insurance

Policies of Insurance. Lessee shall maintain in full force and effect during the term of this Lease and any extension hereof, the following insurance:

Workers Compensation. As required by Section 1860 of the California Labor Code (Chapter 1000, Statutes of 1965), or any subsequent amendments or successor acts thereto governing the liability of employers to their employees, the Lessee shall secure Workers' Compensation coverage with an Employer's Liability limit of \$2,000,000. Lessee shall insure the procurement and maintenance of such insurance by all contractors or subcontractors engaged on the Premises.

Commercial General Liability. Lessee shall, at its own cost and expense, procure and maintain Commercial General Liability insurance. The policy shall include as additional insured the Lessor, the North Coast Railroad Authority, the successors and assigns of any of them, any railroad company operating on the Premises, and their respective directors, officers, employees, brokers and agents (collectively, "Insured"). The policy shall be primary and contain cross liability and severability of interest clauses.

The policy shall have a combined single limit of One Million Dollars (\$1,000,000.00) for bodily injury and property damage per occurrence. This insurance shall include but not be limited to premises and operations; contractual liability covering the indemnity provisions contained in this Agreement; personal injury; explosion, collapse and underground coverage; products and completed operations and broad form property damage. The insurance shall include Automobile Bodily Injury and Property Damages Coverage including owned, hired and non-owned vehicles, on or off the Premises of Lessor.

If food or alcoholic beverages are to be served on the Premises, the policy shall include coverage of any claims founded upon the use of food or food products and liquor law liability with limits of not less than Two Million Dollars (\$2,000,000.00)

Personal Property Insurance Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, trade fixtures and Lessee owned alterations and utility installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$2,500 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, trade fixtures and Lessee owned alterations and utility installations.

Railroad Protective Liability Insurance Upon request from Lessor, Lessee shall obtain and maintain, with respect to the operations it or any subcontractors perform above the railroad tracks or within fifty (50) feet horizontally of the railroad tracks, Railroad Protective Liability Insurance with the Insurance Services Office (ISO)/Railroad Insurance Management Association (RIMA) form with pollution coverage for job site fuels and lubricants. The Insured shall be named as additional insured on said policy. The policy shall have limits of liability of not less than Two Million dollars (\$2,000,000) per occurrence, combined single limit, for losses arising out of injury to or death of all persons and for physical loss of or damage to or destruction of property, including the loss of use thereof, and a Five Million Dollars (\$5,000,000) annual aggregate shall apply.

Regulatory Compliance In addition to the requirements described above, Lessee shall maintain any other insurance that may be required by law, statute or governmental regulations.

Evidence of Insurance Prior to entering onto the Premises, Lessee shall file a Certificate(s) of Insurance with the Lessor evidencing the required coverage and endorsement(s) and upon request, a certified duplicate original of any of those policies. Said Certificate(s) shall stipulate:

The insurance company(ies) issuing such policy(ies) shall give written notice to the Lessor of any material alteration, cancellation, non-renewal, or reduction in aggregate limits, if such limits apply, and provide at least thirty (30) days notice of cancellation, Lessee shall, at least thirty (30) days prior to the expiration of such policies furnish Lessor evidence of renewal or insurance binders evidencing renewal thereof.

That the policy(ies) is Primary Insurance with respect to any policy of insurance maintained by any Insured, and the insurance company(ies) providing such policy(ies) shall be liable there under for the full amount of any loss or claim up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be effected by the Insured.

The policy(ies) shall also stipulate: Inclusion of the Insured as additional insured shall not in any way affect rights of Insured either as respects any claim, demand, suit, or judgment made, brought or recovered against the Lessee. Said policy shall protect Lessee and the Insured in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance companies' liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been named as an insured.

The insurance policy(ies) shall be written by an insurance company or companies acceptable to the Lessor. Such insurance company shall be authorized to transact business in the State of California.

19. Noise Levels Near Railroad Tracks

Lessee hereby recognizes and acknowledges that railroad tracks are located on or adjacent to the Premises, and that the operation of trains over the tracks does and shall produce noise levels, which may be considered objectionable by Lessee or employees, agents, sub lessees, or invitees of Lessee. Therefore, Lessee agrees that no legal action or complaint of any kind whatsoever shall be instituted against Lessor on Lessee's behalf as a result of such noise levels including any claims of nuisance or trespass. Lessee shall indemnify and save harmless Lessor against any loss, damage, liability or expense either might incur as a result of such action being taken by Lessee's employees, agents, sub lessees or invitees.

20. Reservations

Lessor hereby excepts and reserves the right, to be exercised by Lessor or by any other person who has obtained or may obtain permission or authority from Lessor, to (a) operate, maintain, review and relocate any and all existing pipe, track (if any), power, signal and/or communication (including without limitation fiber optic) lines and appurtenances and other facilities of like character upon, over or under the surface of the Premises, and (b) construct, operate, maintain, review and relocate such additional facilities of the same character on a manner that does not reasonably interfere with Lessee's use of the Premises.

21. Mineral Rights

Lessor also reserves for itself and those whom it grants such right the title and exclusive right to all of the minerals and mineral ores of every kind and character now known to-exist or hereafter discovered upon, within or underlying the Premises, or that may be produced there from, including, without limiting the generality of the foregoing, all petroleum, oil, natural gas, and other hydrocarbon substances and products derived there from, together with the exclusive and perpetual right thereto, without, however, the right to use or penetrate the surface of, or to enter upon the Premises within five hundred feet (500') of the surface thereof to extricate or remove the same.

22. Default

- a. **Defaults.** The occurrence of any of the following shall constitute a material breach and default ("Default") of this Lease by Lessee:
- (1) Any failure by Lessee to pay when due any of the Rent or other charges payable by Lessee;
 - (2) A failure by Lessee to observe or perform any other provision of this Lease to be observed or performed by Lessee when such failure is not corrected within ten (10) days after written notice thereof from Lessor; or if such failure cannot be cured within this ten (10) day period, as determined by Lessor in its reasonable discretion, if such cure is not commenced within thirty (30) days of Lessor's written notice and thereafter diligently pursued to completion;
 - (3) The abandonment or the vacation of the Premises by Lessee for a period of more than fifteen (15) consecutive days;

- (4) The happening of any of the following events;
- a. The filing or institution by Lessee of any proceeding under the Bankruptcy Act and any amendment thereto, or any other federal or state act now or hereafter relating to the subject of bankruptcy, insolvency, arrangement, reorganization, or other form of debtor relief,
 - b. the institution or filing of any involuntary proceeding against Lessee under any of the aforementioned laws unless such proceeding is dismissed within thirty (30) days thereafter,
 - c. an adjudication of bankruptcy or a finding or judgment of insolvency of Lessee,
 - d. an assignment for the benefit of creditors by Lessee,
 - e. the levy of a writ of execution of the business of Lessee or the assets of Lessee located on the Premises which is not discharged within ten (10) days after the date of said levy,
 - f. or the appointment of a receiver to take possession of any property of Lease.

23. Remedies

In the event of a default by lessee, Lessor may, at any time thereafter:

- (a) Cure said Default by Lessee at Lessee's expense. Lessee shall upon demand, immediately reimburse Lessor for the cost of such cure together with interest at the Interest Rate from the date of the expenditure therefore by Lessor until such reimbursement is received by Lessor.
- (b) Maintain Lessee's right to Possession in which case this Lease shall continue in effect whether or not the Lessee shall have vacated or abandoned the Premises, in which event Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder as provided in California Civil Code Section 1951.4. Acts of maintenance or preservation, efforts to re-let the Premises, or the appointment of a receiver upon the termination of Lessee's right to possession. No act by Lessor other than giving written notice to Lessee will terminate this Lease.
- (c) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises to Lessor. In such event Lessor shall be entitled to recover from Lessee the sum of all amounts set forth in California Civil Code Section 1951.2 (a), including without limitation, the worth at the time of award of the amount by which all unpaid rent for the balance of the term of this Lease after the time of award excludes the amount of such rental loss that Lessee proves could be reasonably avoided, and all other damages incurred by Lessor by reason of Lessee's default including, without limitation, the cost of recovering possession of the Premises, and expenses of re-letting such as renovation of the Premises, and real estate commissions and finder's fees actually paid for such re-letting. The "worth at the time of award" shall be computed in the manner provided in California Civil Code Section 1951.2(b) or its successor statute. For the purpose of

determining unpaid rent under this paragraph, the rent reserved in this Lease shall be deemed to be the sum of all then unpaid monetary obligations owed under this Lease.

- (d) Pursue any other remedy now or hereafter available to Lessor under the laws of California.

Termination of this Lease under this section or for any reason whatsoever shall not release either party from any liability or obligation hereunder resulting from an event which may have occurred before termination (including, but not limited to payment of all rent due but unpaid as of the date of termination), or thereafter in case by the terms of this Lease it is provided that certain things shall or may have to be done after termination hereof.

24. Surrender of the Premises; Holding Over

- (a) Upon termination of this Lease, Lessee shall leave the Premises in a neat and clean condition satisfactory to Lessor and free of all personal property of Lessee. All repairs, Alterations and/or other improvements made by Lessee shall become the property of Lessor, provided that Lessor may, by written notice given to Lessee on not less than (10) days prior to the expiration of the Lease, require Lessee to remove any such Alterations and improvements from the Premises and to restore the Premises to their original condition (normal wear and tear excepted) prior to termination of this Lease. If Lessee fails to do so, Lessor may perform such removal and restoration work in which case Lessee shall pay Lessor within thirty (30) days after demand therefore an amount equal to the rent (as in effect immediately before termination) for the period during which such removal is accomplished to compensate Lessor for the loss of rent to Lessor resulting from the unavailability of the Premises for leasing to another Lessee during such time and (2) the cost of removal of such improvements. Lessor shall use reasonable diligence on the removal of such improvements.
- (b) If Lessee, without Lessor's written consent, remains in possession of all or part of the Premises after termination or expiration of this Lease, such occupancy shall be construed to be a tenancy from month-to-month, subject to the terms and conditions of this Lease, except that the Base Rent shall automatically increase to 200% of the Base Rent in effect immediately prior to such termination or expiration.

25. Condemnation

If all or part of the Premises is acquired by eminent domain or by purchase in lieu thereof, Lessee shall have no claim to any compensation awarded for the taking of the Premises or any portion thereof, including Lessee's leasehold interest therein or any bonus value of this Lease, or to any compensation paid as severance damages, or for loss of or damaged to Lessee's Alterations or improvements, except as may be expressly provided in this Lease.

26. Assignment and Subletting

Lessee shall not assign or encumber or otherwise Transfer, as defined below, its interest in this Lease without the prior written consent of Lessor. Lessor shall not unreasonably withhold consent to any Transfer in the event the proposed sub Lessee or assignee meets Lessor's credit, business/qualification and reputation requirements and the proposed occupancy is consistent with the general character of the use permitted by this Lease. With respect to any such approved transfer, Lessor shall be entitled as additional rent for the duration of the Transferee's occupancy to an amount equal to fifty percent (50%) of the difference between the rent charged by Lessee to the proposed Transferee the then current Base Rent hereunder. For purposes of this

Lease, the term "Transfer" means any assignment, encumbrance, transfer or subletting, change in more than 50% ownership interest or control of Lessee, or a reorganization or merger of Lessee by operation of law. As a condition to Lessor's consideration of any Transfer, Lessee will pay to Lessor, whether or not consent is ultimately given, Lessor's reasonable attorney's fees incurred in connection with each request for such consent. No Transfer, even with Lessor's written consent thereto, shall release Lessee from its obligations hereunder. Lessor's consent to one transfer shall not constitute its consent to any other Transfer, or a waiver of Lessor's rights hereunder. Lessee's Transferee shall agree in writing to be bound by all of the terms and conditions of this Lease that are to be performed by Lessee. Any purported Transfer in violation of this Section shall be void and constitute a default hereunder, and at the option of Lessor, terminate this Lease.

27. Damage

Scope of Damage Lessee shall notify Lessor in writing immediately upon the occurrence of any damage to the Premises, which makes the Premises untenable (a "Casualty"). Such damage shall be deemed partial if it can be repaired and the Premises made tenantable within 180 days and does not occur during the last year of the Term ("Partial Damage"). All damage other than Partial Damage shall be deemed to be total destruction ("Total Destruction").

Total Destruction In the event of Total Destruction, the Lease shall terminate as of the date of the Casualty ("Casualty Date").

Partial Damage In the event of Partial Damage, Lessor shall elect in a written notice to Lessee within sixty (60) days of the Casualty Date whether to restore the Premises, at Lessor's expense, to their condition prior to the Casualty Date. If Lessor elects to restore the Premises, Lessor shall diligently pursue such restoration to completion at Lessor's sole cost and expense, provided that Lessee shall be responsible for the restoration, at Lessee's expense of Lessee's fixtures, equipment and other improvements installed by Lessee. Upon such an election, this Lease will remain in effect. If Lessor elects not to restore the Premises, Lessee shall elect within thirty (30) days of receipt of Lessor's election whether to restore the Premises at Lessee's sole cost and expense. If Lessee elects to restore the Premises, Lessee shall diligently pursue such restoration to completion in compliance with the provisions of Section 10 above. Upon such election, this Lease will remain in effect. If Lessee elects not to restore the Premises, this Lease shall terminate as of the date of Lessee's election.

Lessee's Costs If Lessor restores the Premises, Lessee shall reimburse Lessor for the deductible or self insured retention under any of Lessor's Insurance and, if the Casualty was caused or contributed to by the Lessee or Lessee's Invitees, the excess of the costs to restore the Premises over the amount of the insurance proceeds from the Lessor's Insurance. Lessee shall have no right to any insurance proceeds other than proceeds that Lessee obtained with respect to Lessee's personal property and fixtures. If this Lease is not terminated, the Base Rent shall abate in proportion to the Premises damage until the Premises are restored.

28. Barricades

Lessee agrees to install and maintain around the Premises the barricades, fences, and fence gates of a size and form satisfactory to Lessor at Lessor's request such locations as may be designated by Lessor at any time while this Lease is effect, all at Lessee's expense and to Lessor's satisfaction.

29. Costs

Lessee shall pay the costs for review of the lease application, design and construction plans, preparation of the agreement, and any inspection of construction, including, but not limited to, expenses incurred by Lessor, which costs Lessee agrees to pay upon demand.

30. Attorney Fees

If either party brings any action against the other to enforce any provisions of this Lease or collect any sum due hereunder or if Lessor brings an action for unlawful detainer of the Premises, the prevailing party shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other remedies to which it may be entitled.

31. Miscellaneous Provisions

- a. Non Waiver. Lessor's failure to enforce or exercise its rights with respect to any provision hereof shall not be construed as a waiver of such rights or of such provisions. Acceptance of rent or any other sum shall not be a waiver of any preceding breach by Lessee of any provision hereof, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent; nor shall such acceptance be a waiver in any way of Lessor's right to terminate this Lease for any reason.
- b. Time of Essence. Time is of the essence of each provision of this Lease. Any reference to "days" shall mean calendar days except as otherwise expressly provided in this Lease.
- c. Entire Agreement and Amendment. This Lease sets forth the entire agreement between the Parties with respect to the leasing of the Premises and supersedes all prior and/or contemporaneous agreements, communications, and representations, oral or written, express or implied, since the parties intend that this be an integrated agreement. This Lease shall not be modified except by written agreement of the parties.
- d. Successors and Assigns. Subject to the provisions of this Lease relating to assignment, mortgage and subletting, this Lease shall bind the heirs, executors, administrators, successors and assigns of any and all of the parties hereto.
- e. Authority. Each individual executing this Lease on behalf of Lessee represents and warrants that he or she is duly authorized to execute and deliver this lease on behalf of Lessee, and that this Lease is binding upon Lessee in accordance with its terms. Lessor, as a condition precedent to this Lease, may require corporate or partnership resolutions as are reasonably necessary to establish the authority of Lessee to execute this Lease.
- f. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California as applied to contracts that are made and performed entirely in California.
- g. Captions. All captions and headings in this Lease are for the purposes of reference and convenience and shall not limit or expand the provisions of this Lease.
- h. Third Party Beneficiaries. The Indemnities specified in Section 9 who are not expressly parties to this Lease shall be deemed third party beneficiaries under this Lease for purposes of enforcing any rights to indemnification and insurance granted in Sections 14, 15, 16, and 17 of this Lease, and shall be entitled to seek attorney's fees and costs as provided in Section 29 above and dispute arising from the enforcement of said rights.

- i. Brokers. Lessor and Lessee are separately responsible for payment of any broker's commission or finder's fee incurred by that party's engagement or acceptance of the services of a broker or agents by said party. Lessor and Lessee agree to indemnify, defend and hold the other party harmless from and against any claims and suits made by any broker, agent or other person claiming a commission or other form of compensation against the other party by virtue of having dealt with Lessor or Lessee, as the case may be, with regard to this Lease.
- j. Counterparts. This Lease may be entered into in counterparts, each of which shall be deemed an original but both of which together shall be deemed a single agreement.

IN WITNESS WHEREOF, the parties hereto have executed, or have caused to be executed, this Lease on the day and year first above written.

Lessor:
North Coast Railroad Authority

Lessee:
Humboldt Bay Municipal Water District
828 7th Street
Eureka, CA 95501

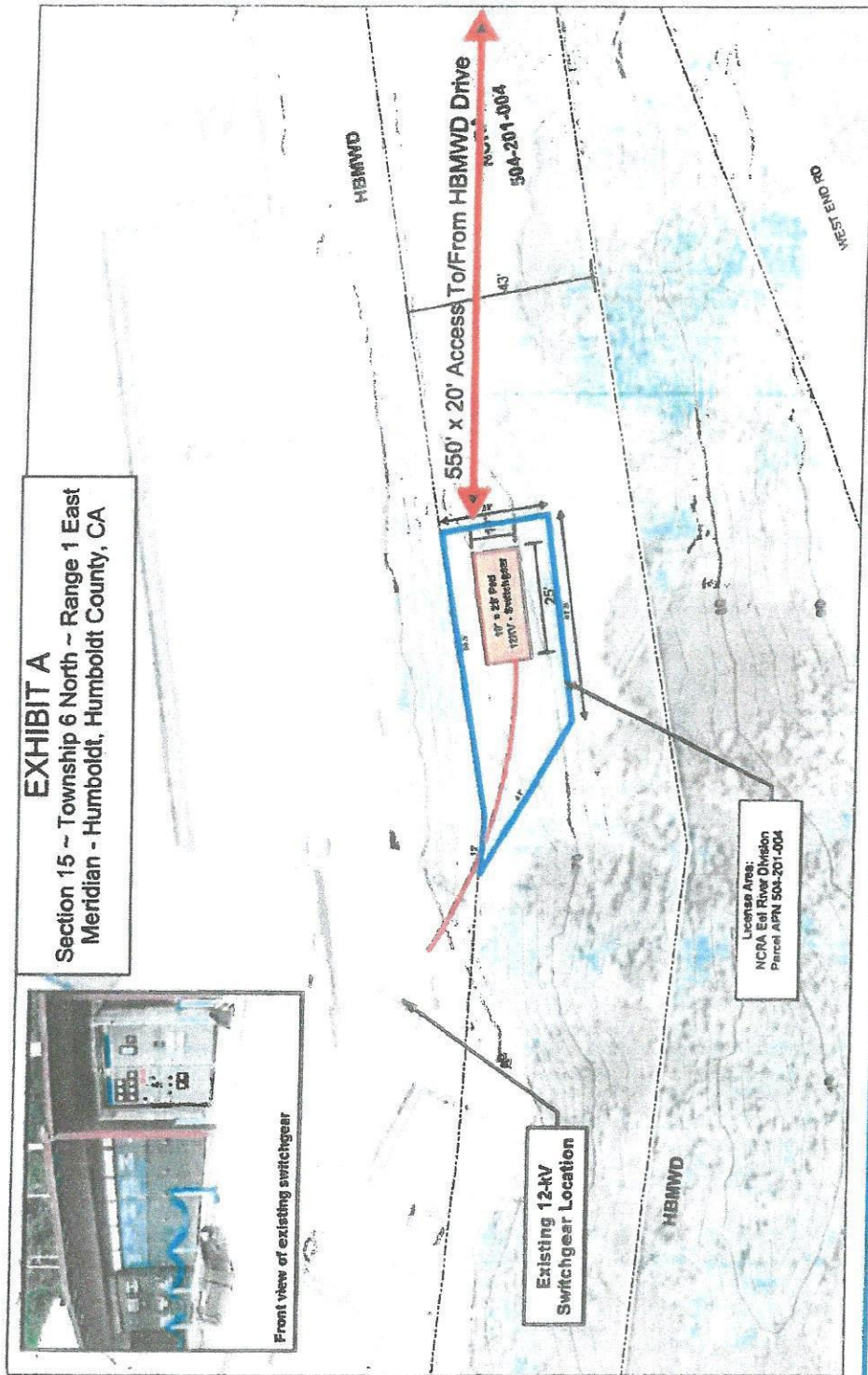
By: _____
Mitch Stogner
Executive Director NCRA
Date: _____

By: _____
Print Name: _____
Title: _____
Date: _____

*By: _____
Print Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:
Christopher Neary
Attorney for Authority:

**If Lessee is a corporation, two corporate officers must sign on behalf of the corporation as follows: (1) the chairman of the board, president or vice-president; and (2) the secretary, assistant secretary, chief financial officer, or assistant treasurer.*

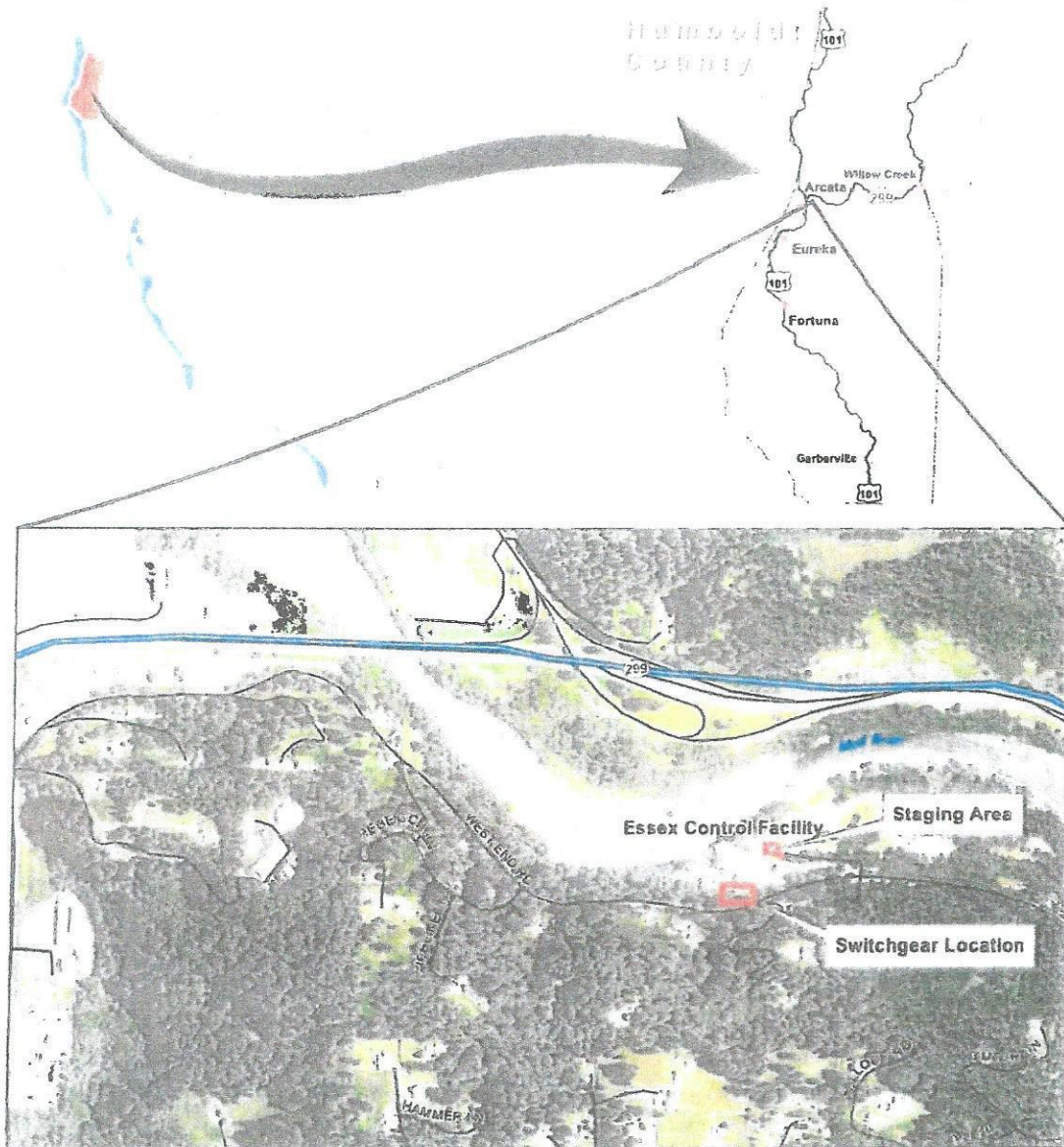


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		Revision A
		Date 05 Oct 2016

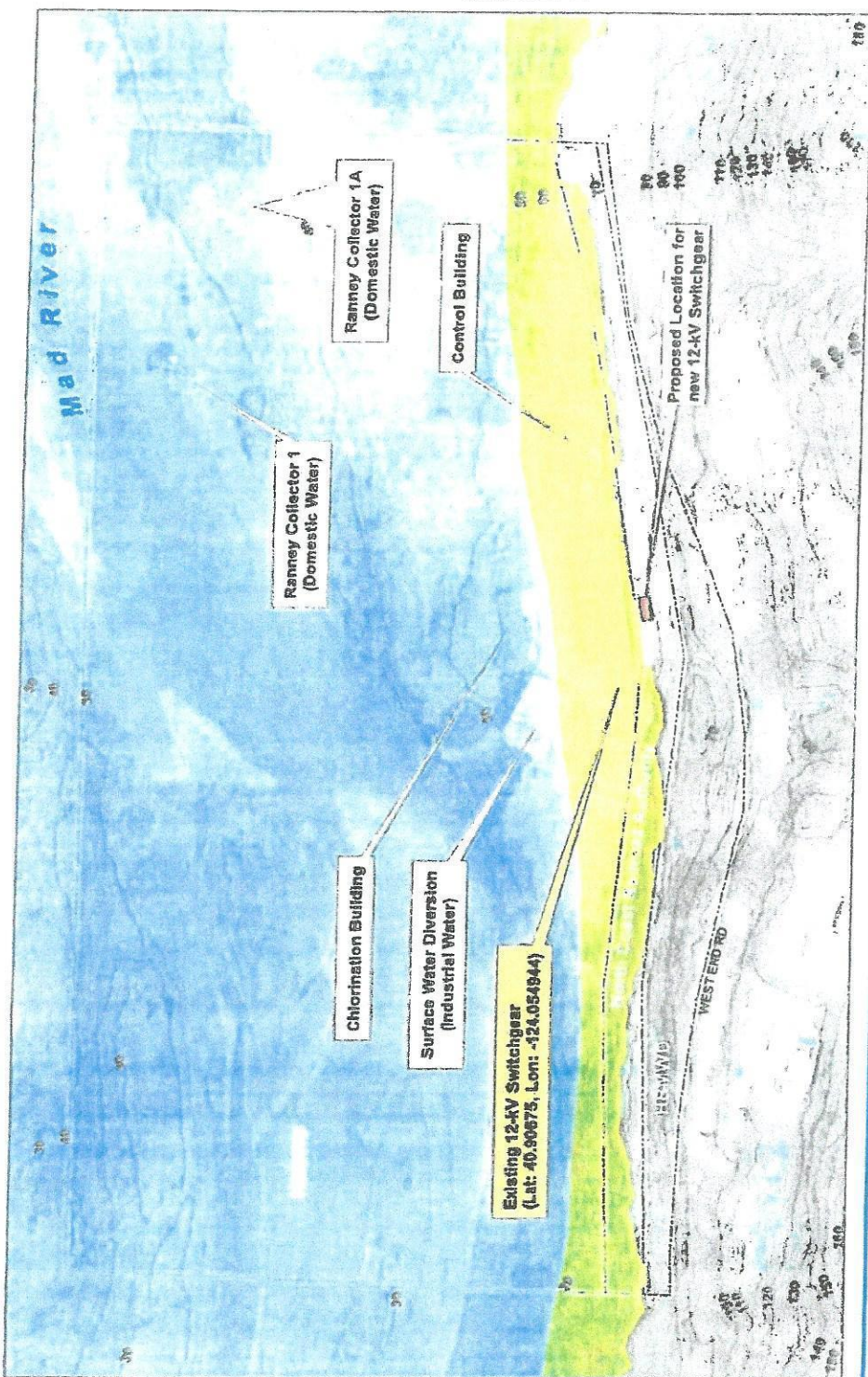
12-kV Switchgear Details **Figure 3**

710 Third Street Eureka, CA 95501 USA T 707 443 0320 F 707 444 0370 E eureka@hbw.com W www.hbw.com

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<p>Staging Area</p> <p>Project Area</p>	<p>Roads</p> <p>Limited Access Highway</p>	<p>Paper Size ANSI A</p> <p>0 200 400 600 800 1000 1500</p> <p>Feet</p> <p>Map Projection: Mercator Auxiliary Sphere</p> <p>Horizontal Datum: NAD 83</p> <p>Grid: WGS 1984 Web Mercator Auxiliary Sphere</p>		<p>HBMWD 12-kV Switchgear Relocation</p> <p>NCRA Easement</p>	<p>Job Number: 11121523</p> <p>Revision: 1</p> <p>Date: 20 May 2016</p>
<p>12-kV Switchgear Vicinity Map</p>			<p>Figure 1</p>		
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HUMBOLDT 12-kV Switchgear Relocation Job Number | 11171523
 NCRA Easement Revision | A
 Date | 05 Oct 2016

Proposed Switchgear
 Index Contours (10 ft)
 Index Contours (2 ft)

Parcel Boundaries
 100-year Flood Inundation
 Dam Break Inundation (66 ft elevation)

Map Projection: Lambert Conformal Conic
 Contour: 100 ft
 Scale: 1 inch = 200 feet
 Date: 05 Oct 2016

HUMBOLDT 12-kV Switchgear Relocation
 NCRA Easement
 714 Third Street (East) CA 95017 USA
 T: 707.423.8334 F: 707.423.8330 E: sales@hwd.com W: www.hwd.com

Figure 2