

Staff Report 28

GRANTEE:

City of Eureka

PROPOSED ACTION:

Consideration of a lease, issued by the City of Eureka, to construct and operate a marine supply business, pursuant to Chapter 1086, Statutes of 1970, as amended by Chapter 1095, Statutes of 1978

AREA, LAND TYPE, AND LOCATION:

Granted sovereign tide and submerged lands located at the southwest corner of the intersection of Waterfront Drive and Marina Way (APN 003-062-027) in the city of Eureka, Humboldt County.

BACKGROUND AND PROPOSED LEASE:

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways in 1850 when it was admitted to the United States. Pursuant to the common law Public Trust Doctrine, the State, and its delegated trustee, the City of Eureka (City) in this instance, holds these lands and resources for the benefit of all people of the State for statewide Public Trust purposes and needs that include, but are not limited to, water-dependent commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. Section 4 of the City's statutory trust grant lists a variety of uses that the City may make of its granted Public Trust lands, including to maintain wharves, docks, piers, and other facilities and structures that are incidental, necessary, or convenient to promote and accommodate commerce and navigation.

The City of Eureka is a trustee of sovereign tide and submerged land granted by the Legislature pursuant to Chapter 82, Statutes of 1857; Chapter 438, Statutes of 1915; Chapter 187, Statutes of 1927; Chapter 225, Statutes of 1945; Chapter 1086, Statutes of 1970; and Chapter 1095, Statutes of 1978, with mineral rights reserved to

the State of California. The grant requires that the Commission approve leases of granted tidelands by the City of Eureka if the lease has a term longer than 1 year.

On June 18, 2021, the City submitted a proposed lease to the Commission for approval. The lease is between the City and Englund, LLC (Englund) and is to construct and operate a marine supply business and retail store that is intended to serve the fishing industry and boaters in Humboldt Bay. Since 1995, Englund has been operating out of a portion of a City-owned building located at 2 Commercial Street, roughly 2,000 feet northeast of the proposed project site. Englund reports that it has outgrown the current space and seeks to build a new building that will include retail sales of marine supplies and fishing gear.

Englund is proposing a new 15,814 sq. ft. concrete-tilt building containing 6,370 sq. ft. of retail space, 7,123 sq. ft. of warehouse space, and 1,156 sq. ft. of miscellaneous office, storage, breakroom, and restroom spaces. The project includes 40,649 sq. ft. of new asphalt concrete paving with 46 standard parking spaces, two accessory dwelling unit spaces, and bicycle parking. There is also 3,215 sq. ft. of new sidewalks proposed, which is in addition to the existing sidewalks along Waterfront Drive and Marina Way. The parking lot includes 4,426 sq. ft. of landscaping and 2,387 sq. ft. of bioretention areas to attenuate and treat stormwater before it is discharged to the City's storm drain system. The project site is located entirely within the Coastal Zone and is in the City's coastal development permit jurisdiction.

The initial lease term is for 19 years, beginning the date the Lessee breaks ground on the construction of the building, with an option for Englund to extend the lease for six additional 5-year periods—a potential overall lease period of 49 years.

The lease authorizes the construction and operation of a marine supply and general retail store and other related uses. Englund would continue to operate the City's fuel dock at the foot of Commercial Street out of a small space within their existing building.

The proposed lease includes the following rent conditions:

1. \$500 per month from the date Englund breaks ground for construction for 1 year or the date when the business opens to the public, whichever comes first.
2. After the Construction Period, \$5,812.50 per month for the initial 19-year lease term, subject to Consumer Price Index adjustments every 5 years. All renewals are subject to renegotiation of the base rent.
3. In addition to the base rent, the Lessee will pay the dollar amount of any additional future assessments, surcharges, or fees that any government

agency levies on the premises so long as the charge is no more than 10 percent of the then applicable base rent.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Section 8.5 of Chapter 1086, Statutes of 1970, as amended by Section 3 of Chapter 1095, Statutes of 1978, states that a lease or the use of granted lands for more than one year is not valid without Commission approval.

Commission staff reviewed the appraisal and found that the approach used for the appraisal and the basis for the rent calculation are consistent with sound principles of appraisal methodology. The rent is based on 9 percent of the appraised value of the lease premises. Staff also confirmed with the City that the lease proceeds will be deposited into its tidelands fund, which is the Humboldt Bay Fund, separate from the City's General Fund, as required by the trust grant. The marine supply business and retail store serves the fishing industry and boaters in Humboldt Bay, and directly promotes and supports uses authorized by the Public Trust Doctrine and the City's granting statute.

OTHER PERTINENT INFORMATION:

1. This proposed action is consistent with Strategic Focus Area 3 of the Commission's Strategic Plan: Meeting Evolving Public Trust Needs.
2. The City Council approved the lease agreement between City of Eureka and Englund, LLC on October 11, 2021. The lease agreement is not valid until Commission approval.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 32, In-Fill Development Projects; California Code of Regulations, title 14, section 15332.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 32, In-Fill Development Projects; California Code of Regulations, title 14, section 15332.

AUTHORIZATION:

1. Approve the proposed lease between the City of Eureka and Englund, LLC to construct and use a marine supply business, pursuant to Chapter 1086, Statutes of 1970, as amended by Chapter 1095, Statutes of 1978.

NO SCALE

SITE



WATERFRONT DRIVE VIA MARINA WAY, CITY OF EUREKA

NO SCALE

LOCATION



Exhibit A
CITY OF EUREKA
G 04-02
APPROVAL OF A LEASE OF
TIDE & SUBMERGED LANDS
HUMBOLDT COUNTY
EUREKA FOREST PRODUCTS



THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

TS 07/06/2021