

MEMORANDUM

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: March 24-25, 2021

From: STEVEN KECK, Chief Financial Officer

Reference Number: 4.35, Action Item

Prepared By: Kyle Grading, Chief
Division of Rail and Mass Transportation

Subject: **NORTH COAST RAILROAD AUTHORITY, LEASE AGREEMENT WITH
HUMBOLDT COUNTY ON THE HUMBOLDT BAY TRAIL SOUTH PROJECT
RESOLUTION G-21-36**

ISSUE:

Should the California Transportation Commission (Commission) authorize NCRA's plan to execute a 25-year lease agreement with the County of Humboldt for the Humboldt Bay Trail South project?

RECOMMENDATION:

The California Department of Transportation (Department) recommends the Commission adopt Resolution G-21-36 authorizing the 25-year lease agreement with the County of Humboldt for the Humboldt Bay Trail South project which will locate a multi-use path in NCRA's right-of-way between the cities of Eureka and Arcata.

BACKGROUND:

In September 2018, Governor Brown signed Senate Bill (SB) 1029 (Chapter 934, Statutes of 2018), known as the North Coast Railroad Authority Closure and Transition to Trails Act, to dissolve the NCRA and transfer the rights-of-way and other properties to a successor agency that would create a Great Redwood Trail for hiking, biking, and riding. Pursuant to SB 1029, a task force consisting of representatives from California State Transportation Agency, the Department, Natural Resources Agency, Department of Finance, and Department of General Services conducted an assessment of NCRA's assets and liabilities as well as the viability of constructing a trail in the railroad right-of-way. The final legislative report was released to the public in November 2020 and presented to the Commission in December 2020. Among other provisions, SB 1029 revised Government Code Section 93020 to require the Commission to

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approve without exception, any sale, easement, or lease entered into by NCRA after August 1, 2018.

In December 2020, the Commission authorized NCRA, under Resolution G-20-81, to pursue railbanking on the northern section of the line. At the NCRA Board Meeting on February 28, 2021, the Board voted unanimously to file applicable railbanking documents with the Surface Transportation Board and officially begin the railbanking process from MP 139.5 near Willits to MP 84.1 near Eureka, including three branch lines in Humboldt County.

NCRA is preparing to dissolve by June 30, 2021, after transferring all assets to a newly created Great Redwood Trail Agency. The Humboldt Bay Trail South and the concurrent Eureka Elk River Estuary Tidal Enhancement and Waterfront Trail Extension project (Reference No. 4.36) are both part of the Great Redwood Trail, California Coastal Trail, and Humboldt Bay Trail. They are also the first trail projects on NCRA's right-of-way to propose removal of rails and ties.

LOCATION:

The Humboldt Bay Trail South Project will expand the Humboldt Bay Trail by 4.25 miles and complete the trail connection between Eureka and Arcata (Attachment 1). The project is being developed by the Public Works Department of Humboldt County.

The Humboldt Bay Trail is a network of multi-use trails (also known as shared-use paths) providing non-motorized access for transportation and recreational use throughout the Humboldt Bay region (Attachment 2). The overall Humboldt Bay Trail is being developed as a collaborative effort between the County of Humboldt, Humboldt County Association of Governments (HCAOG), City of Arcata, City of Eureka, the Department, California State Coastal Conservancy, NCRA, Humboldt Trails Council, Redwood Community Action Agency (RCAA), Timber Heritage Association (THA), and other partners.

The Humboldt Bay Trail South Project is located along the Highway 101 and is a railroad transportation corridor between Eureka Slough and Brainard Slough, with a portion proposed on the perimeter levee between the Brainard mill site property and Humboldt Bay (Attachment 3). The proposed trail alignment is generally situated between Highway 101 and the railroad prism, except where the proposed alignment is located on the Brainard levee or where the trail is on the NCRA Eureka Slough Bridge and approaches. For a total length of approximately three miles, the project would be constructed by widening the railroad prism and constructing the trail parallel to, and offset from, the rails, similar to the southern portion of the City of Arcata's Humboldt Bay Trail North project. The project includes cooperative use of NCRA's 725-foot-long bridge over Eureka Slough, where flangeway fillers would be installed adjacent to the rails to allow passage by railroad and speeder cars while maintaining a flat trail surface. The project also includes cable barrier fencing at various locations along Highway 101 from Eureka Slough to Gannon Slough.

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CONNECTIVITY:

The project is being developed concurrent with the Department's Eureka-Arcata Highway 101 Corridor Improvement Project and will result in a continuous, non-motorized trail from central Arcata to the southern end of Eureka, for a total length of nearly 14 miles.

In 2018, the City of Arcata completed the Humboldt Bay Trail North segment, which extends south from Arcata along the Highway 101 and railroad corridor to a terminus located near Bayside Cutoff and Bracut Industrial Park. Also in 2018, the City of Eureka completed the Eureka Waterfront Trail, a portion of which extends along the west side of Eureka Slough. The Humboldt Bay Trail South Project would connect the Eureka Waterfront Trail to the Humboldt Bay Trail North segment, thus providing the interconnecting link between the two previously completed trail projects (Attachment 2). Completion of the link between the two largest cities in Humboldt County would provide a major step toward regional trail connectivity around Humboldt Bay and has been Humboldt County's top priority for investing in active transportation for many years.

FUNDING:

In January 2019, the Commission awarded construction funding (\$13.3 million) for the Humboldt Bay Trail South Project through the Active Transportation Program. The Department has committed additional funding of \$1.25 million from the SHOPP Minor Program and the State Coastal Conservancy has committed additional funding of \$2 million for construction.

PROJECT ELEMENTS TO ADDRESS RAILROAD DAMAGE DUE TO FLOODING AND EROSION:

The Eureka-Arcata transportation corridor within the project area is vulnerable to flooding hazards under existing conditions, and flood risks will increase with sea level rise. The railroad and Highway 101 are linear landforms that were built on former tidelands in the early 20th century (Trinity Associates, 2013; Rohde, 2020). Land inland of the railroad and Highway 101 would receive tidal inundation in the absence of these landforms. The 1.25-mile section along the shoreline between Brainard and Bracut is especially vulnerable to flooding, for multiple reasons. This section of railroad and Highway 101 has the lowest elevations along the Eureka-Arcata transportation corridor, with the railroad elevation as low as 9.6 feet NAVD88. In addition, wind wave energy within the bay is high during storm events and wave-attenuating salt marsh adjacent to the railroad is largely absent. The railroad between Brainard and Bracut sustained significant flooding damage in December 2005 when storm surge combined with high tides resulted in the highest recorded water level in Humboldt Bay, concurrent with heavy winds and wind waves, resulting in overwashing of the railroad and closure of Highway 101 for several hours due to flooding. Portions of the rock-slope protection were damaged and sections of railbed were lost to erosion.

The County has prepared a seven-minute video with dramatic images of the railroad levee damage. It can be found at: <https://youtu.be/uYdViZD6gg0>

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The portions of the project along the damaged railroad between Brainard and Bracut are designated as Segments 7 and 8 (Attachment 3). The trail within these segments would be constructed between the railroad and Highway 101 by widening the railroad prism, for a total length of approximately 6,600 feet.

The railroad within Segments 7 and 8 is situated along the Humboldt Bay shoreline where the adjacent intertidal habitat is primarily mudflat with only remnant patches of salt marsh. The revetment on the bay side of the railroad prism serves as the shoreline. Direct exposure to wind waves has resulted in severe erosion damage to the shoreline revetment and rail prism. Some shoreline areas have little or no rock protection remaining, while other areas have isolated, oversized rock boulders or concrete rubble. Large areas of ballast are absent with rails and ties hanging in the air. Segments 7 and 8 are impassable for any rail vehicles. The cumulative erosion (likely accelerated during the New Year's storm of 2005-2006) has severely diminished the integrity of the railroad prism and created significant flood hazard risks for further damage to the railroad and flood damage to Highway 101. The flood risk is amplified by the relatively low elevation of the rail prism, which is as low as 9.6 feet NAVD 88.

To protect the railroad, Highway 101, and new trail, the rails and ties within Segments 7 and 8 will be removed and the rail prism will be raised 1.5 to 2 feet to a minimum elevation of 11.5 feet NAVD88. The trail will be placed parallel to, and offset from, the former rail location at a minimum elevation of 10.5 feet NAVD88. The trail will have two five-foot paved lanes and two two-foot gravel shoulders. The rail prism will be widened to provide a 10-foot setback distance between the centerline of the former rail location and the edge of the nearest trail shoulder. The primary purpose of this setback distance is to provide a factor of safety between the trail and trail users and floodwaters and wave overwash that are expected during extreme flood events, with the railroad continuing to serve as the first line of defense for flood hazards. This setback distance would also allow for future reestablishment of the railroad or future sea level rise adaptation measures. The existing drainage ditch between the railroad and Highway 101 will be graded and partially filled to provide stable side-slopes for the trail and Highway 101 while maintaining drainage capacity. High-tension cable barrier fence will be installed between the trail and Highway 101.

FUTURE RAILROAD USE:

The project was designed using principles in alignment with NCRA's existing trail guidelines for rail-with-trail projects. It is anticipated that this design will allow for continued use of the railroad corridor by Timber Heritage Association for speeder cars where the railroad is currently intact and suitable for this use. The spacing and geometry of the Project is compatible with future restoration of the railroad corridor for freight or passenger use or excursion trains. However, significant upgrades and improvements to the rail corridor would be necessary if an excursion train or future freight/passenger railroad use are pursued.

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PROJECT TIMELINE

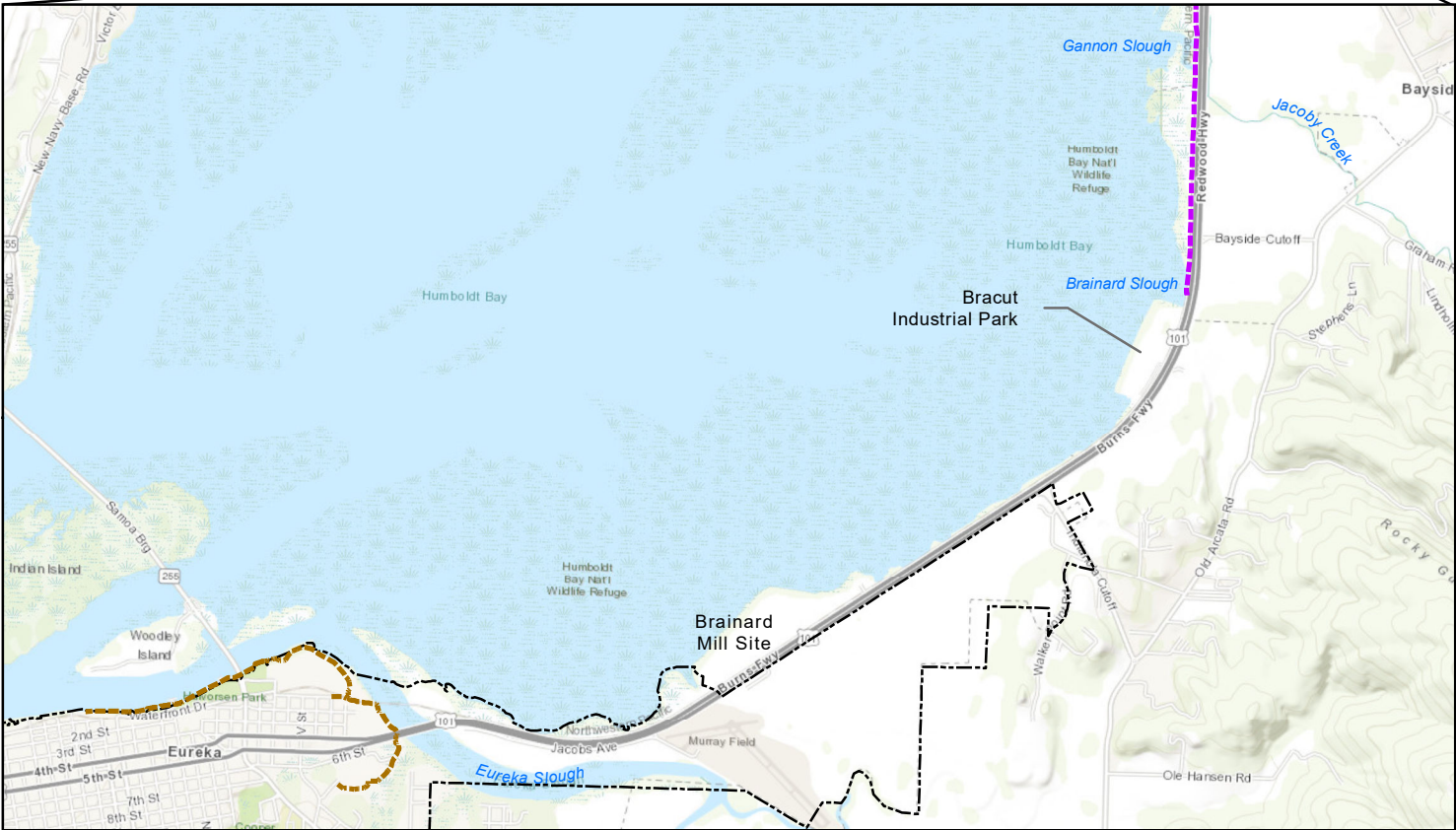
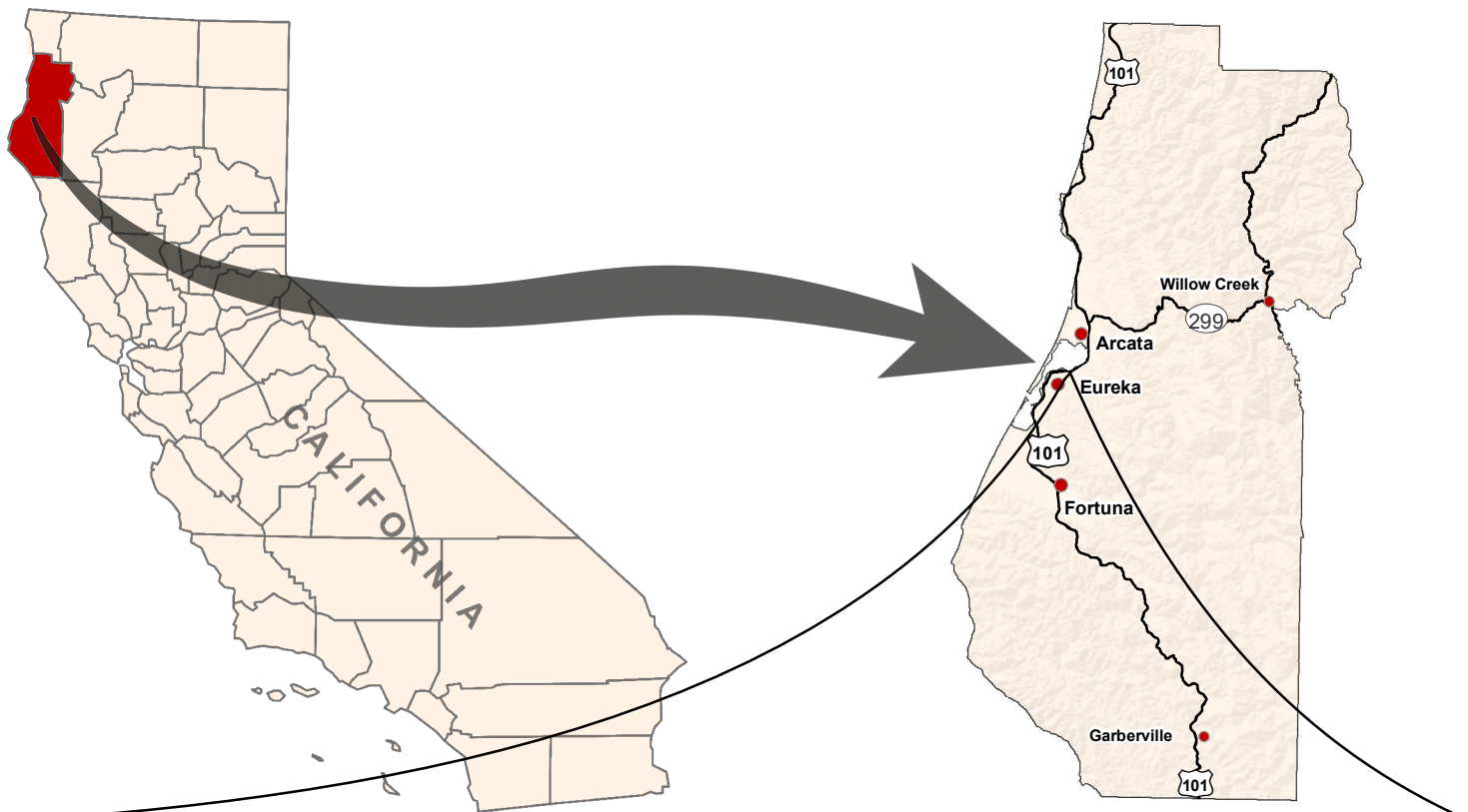
| Milestone | Date |
|---|---------------|
| Complete right-of-way acquisitions | July 2021 |
| Receive all permits approvals | October 2021 |
| Complete final design and bid package | November 2021 |
| Allocation of construction funds by CTC | December 2021 |
| Award construction contract | March 2022 |
| Begin construction | May 2022 |
| Complete construction | October 2023 |

RESOLUTION:

Be it Resolved, that Resolution G-21-36 is hereby approved to authorize NCRA to enter into a long-term lease agreement with the County of Humboldt for its Humboldt Bay Trail South project.

Attachments:

1. Project Location Map
2. Humboldt Bay Trail Project Connectivity Map
3. Humboldt Bay Trail South Segments Map
4. NCRA-Humboldt Co Lease Agreement



- Eureka City Limits
- Trail Connections
- Eureka Waterfront Trail
- Humboldt Bay Trail North

Paper Size 8.5" x 11" (ANSI A)

0 0.25 0.5 0.75 1

Miles

Map Projection: Lambert Conformal Conic

Horizontal Datum: North American 1983

Grid: NAD 1983 StatePlane California I FIPS 0401 Feet

N

Humboldt County Public Works Department

Humboldt Bay Trail - Bay Trail South

(Eureka to Bracut)

Vicinity and Existing Conditions Map

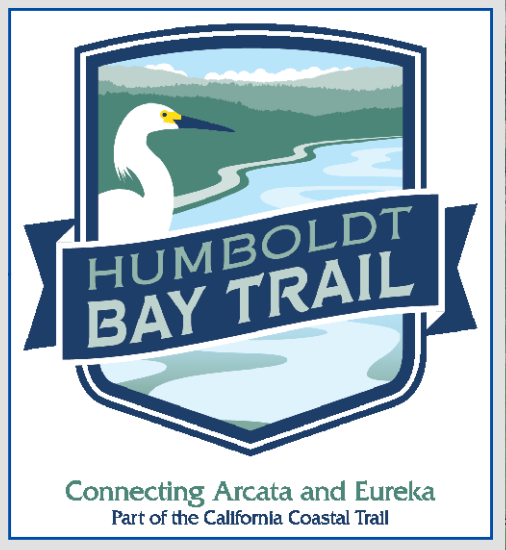
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Revision C

Date 04 Sep 2020

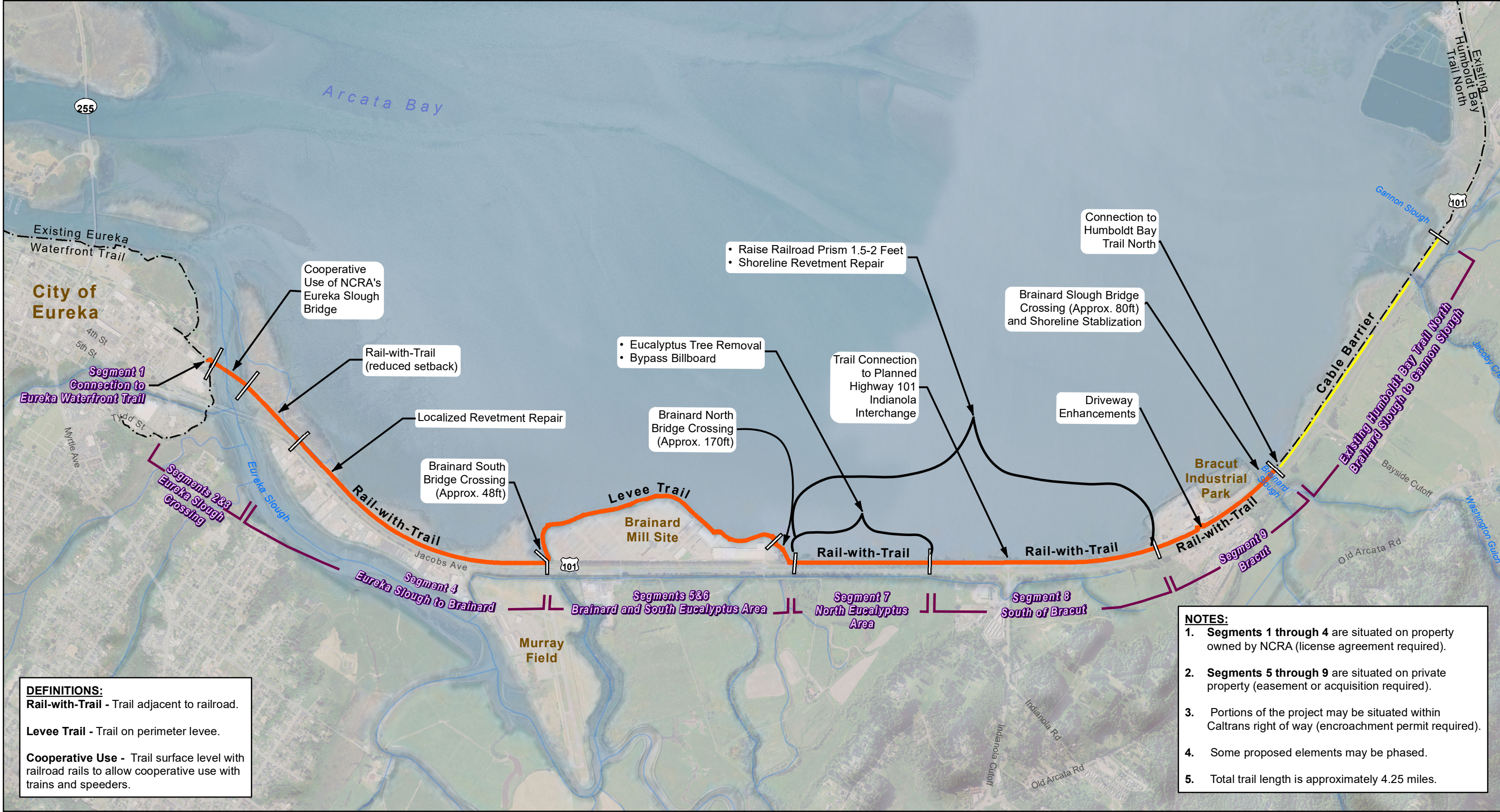
Figure 1

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 © 2017. While every care has been taken to prepare this map, GHD (and DATA CUSTODIAN) make no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and cannot accept liability and responsibility of any kind (whether in contract, tort or otherwise) for any expenses, losses, damages and/or costs (including indirect or consequential damage) which are or may be incurred by any party as a result of the map being inaccurate, incomplete or unsuitable in any way and for any reason. Data source: ESRI terrain map; USA Streetmaps; City limits, City of Eureka; NAIP orthoimagery 2012. Created by:cpenny
 718 Third Street Eureka CA 95501 USA T 707 443 8326 F 707 444 8330 E eureka@ghd.com W www.ghd.com



Legend

- Hikshari' Trail (Completed 2012)
- Eureka Waterfront Trail Phase A (Completed 2016)
- Eureka Waterfront Trail Phase B (Completed 2017)
- Eureka Boardwalk and Adorni Trail (Completed 2001)
- Eureka Waterfront Trail Phase C (Completed 2017)
- Humboldt Bay Trail South (Proposed)
- Humboldt Bay Trail North (Completed 2017)
- Arcata City Trail (Completed 2015)



DEFINITIONS:
Rail-with-Trail - Trail adjacent to railroad.
Levee Trail - Trail on perimeter levee.
Cooperative Use - Trail surface level with railroad rails to allow cooperative use with trains and speeders.

- NOTES:**
1. Segments 1 through 4 are situated on property owned by NCRA (license agreement required).
 2. Segments 5 through 9 are situated on private property (easement or acquisition required).
 3. Portions of the project may be situated within Caltrans right of way (encroachment permit required).
 4. Some proposed elements may be phased.
 5. Total trail length is approximately 4.25 miles.

Paper Size 11" x 17" (ANSI B)

0 750 1,500 2,250 3,000

Feet

Map Projection: Lambert Conformal Conic
Horizontal Datum: North American 1983
Grid: NAD 1983 StatePlane California I FIPS 0401 Feet

LEGEND

Humboldt Bay Trail South

Cable Barrier - Humboldt Bay Trail North

Existing Trail

Project Segment

Segment Break

ABBREVIATIONS

CRC California Redwood Company

NCRA North Coast Railroad Authority

Humboldt County Public Works Department
Humboldt Bay Trail - Bay Trail South
(Eureka to Bracut)

Job Number 11110166
Revision I
Date 13 Oct 2020

Proposed Trail Alignment and Key Components

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") is made as of this ____ day of ____, 2020, by and between the North Coast Railroad Authority, a public agency formed pursuant to Government Code Section 93000 et seq. ("NCRA") and the County of Humboldt, a municipal public entity ("County").

RECITALS

- A. NCRA is the property owner or easement holder of the Northwestern Pacific Railroad railway right-of-way corridor ("Rail Corridor") located in Humboldt County.
- B. In August 2009, NCRA adopted an amended Policy and Procedures Manual for the design, construction, safety, operations, and maintenance of shared use public trails located within the Rail Corridor ("Rails-with-Trails").
- C. In December 2012, NCRA adopted Resolution 2012-13 which states that NCRA will consider clearly defined and strictly limited exceptions to its current trail policy to enable development of a trail in the Humboldt Bay corridor without compromising the prospects of rail service restoration.
- D. In September 2018, Governor Brown signed Senate Bill No. 1029, known as the North Coast Railroad Authority Closure and Transition to Trails Act, to dissolve NCRA and transfer the rights-of-way and other properties to a successor agency that would create a Great Redwood Trail for hiking, biking, and riding.
- E. The County seeks to develop a non-motorized path along the Humboldt Bay shoreline between Eureka and Arcata consistent with Senate Bill No. 1029. The County's Humboldt Bay Trail South Project would link the Eureka Waterfront Trail located within the City of Eureka with the southern terminus of the Humboldt Bay Trail North facility developed by the City of Arcata. NCRA previously issued license agreements to the City of Eureka and City of Arcata for their respective trail projects.
- F. In January 2019, the California Transportation Commission awarded funds to the County through Cycle 4 of the Active Transportation Program to implement the Humboldt Bay Trail South Project.
- G. NCRA desires to issue a lease to the County to use the Rail Corridor for the Humboldt Bay Trail South Project, and the County desires to accept such lease, on the terms and conditions set forth in this Lease Agreement.
- H. The parties hereto acknowledge that pursuant to Senate Bill No. 1029, NCRA may be dissolved during the term of this Agreement. It is the intent of the parties that should such dissolution occur, the rights and obligations of NCRA hereunder may be assigned to a successor in interest.

NOW THEREFORE, in consideration of the mutual covenants, conditions and agreements recited herein and made a material part hereof, the NCRA and County agree as follows:

1. Definitions.

- (a) "Commencement Date" is defined in Section 4.
- (b) "Construction Plans" is defined in Section 7.
- (c) "Rail Corridor" is defined in Recital A.

- (d) "Rails-with-Trails" is defined in Recital B.
 - (e) "Rails with Trails Policy and Procedures Manual" is that specific document adopted by the NCRA on May 13, 2009, amended August 12, 2009, and includes all future amendments thereto.
 - (f) "Lease Property" is defined in Section 2.
2. Description of Lease Property. The property subject to this Agreement (the "Lease Property") is defined as that specific section of the Rail Corridor, beginning in the southwest at or near Mile Post (MP) 285.5 in Eureka and terminating in the northeast at or near MP 289.6, the southern terminus of the City of Arcata's Humboldt Bay Trail North Project, specifically excluding therefrom any and all County property, County roads and other County rights-of-way. The location of the Lease Property is depicted in Exhibit A hereto and incorporated herein by this reference.
3. Use. NCRA hereby grants to the County a non-exclusive lease to access and use the Lease Property to construct, install, maintain, reconstruct, remove, repair and manage a multi-modal public path, for shared use by, including but not limited to, bicyclists, pedestrians, wheelchairs, joggers, and other non-motorized uses in accordance with applicable standards. Motorized vehicles shall be permitted access and use as needed by the County, its agents and contractors, for construction and maintenance purposes, and by emergency response personnel. County's use under this Agreement shall be subject and subordinate to any agreements entered into by NCRA, and its successors or assigns, for the purposes of preserving the Rail Corridor; provided that any such agreements shall not unreasonably interfere with the County's rights under this Lease and the rights of the public to use the trail established hereunder. NCRA agrees to consult with County regarding any proposed new agreements involving the Lease Property to determine whether the proposed use would unreasonably interfere with the County's rights under this Lease.
4. Term. The term of this Agreement shall be twenty-five (25) years (the "Term") commencing on _____ (the "Commencement Date"), and, unless sooner terminated or extended as herein provided, shall terminate on _____. During the Term and any extensions of the Term, the lease granted hereunder shall be irrevocable except as expressly provided in Section 13, below.
- (a) Extension of term. Upon the election of both parties, evidenced by written notice provided by each party hereto of its election to extend no later than ninety (90) days prior to the completion of the existing term, this Agreement may be extended upon the same terms as set forth herein for additional five-year terms. The election by only one party to this Agreement to extend its term shall be of no force or effect.
5. Conditions Precedent. This Agreement shall be null and void in the event (1) the County fails to obtain funding and all regulatory permits required for trail construction, or (2) the California Transportation Commission does not approve this Agreement pursuant to California Government Code section 93020. Each party shall cooperate with the other to satisfy these conditions.
6. Lease Fee. In lieu of either a one-time or annual lease fee payment, the County shall provide maintenance to completed trail segments located in the Lease Property as follows: a) maintain drainage structures; and, b) provide all vegetation management, including tree trimming and removal. Said maintenance shall be performed to standards as determined by the County in its reasonable discretion, however in no event may the County use a lesser standard than that typically used in its maintenance of the County's other similar public trails and paths. The County, at its sole discretion and expense, may perform such additional maintenance as it deems appropriate within the Lease Property.
7. Trail Construction.

- (a) *Trail Construction, Timing.* The County may construct trail improvements in the Lease Property in segments as funding allows. Individual trail segments shall not be open for public use until completion of the trail improvement in said segment. Where required by permitting or other regulatory authorities, NCRA, and its successors and assigns, reasonably agree to execute and deliver applications for permits, licenses or other authorizations relating to the Rail Corridor. Trail segments shall be constructed in accordance with approved Construction Plans, and all applicable laws, rules, regulations and permits. In order to preserve the corridor for future rail use, the County shall conform to California Public Utilities Commission General Order 26-D regarding vertical and horizontal clearances wherever practicable. (E.g. Posts, pipes, warning signs and similar obstructions should, where practicable, have a side clearance of at least ten (10) feet from the center line of the location of the former pair of railroad tracks.). The County shall provide 15 days advance written notice to NCRA or its successors and assigns prior to beginning construction on any trail segment. The County shall provide 15 days advance written notice to the NCRA or its successors and assigns prior to opening any trail segment for public use
- (b) *Construction Plan Approval.* The County shall submit detailed construction ready plans and specifications ("Construction Plans") to the NCRA or its successors and assigns for review and approval prior to constructing any trail segment. Within one hundred twenty (120) days of receipt, the NCRA, or its successors and assigns, shall provide comments and input on the Construction Plans to the County.
- (c) *Construction Plan Contents.* Construction Plans shall include, but not be limited to, specifications for temporary construction fencing, permanent landscaping, fencing or other trail demarcation and setbacks, and signage.
- (d) *As-Built Plans.* Upon completion of construction and acceptance of any segment, the County shall provide copies of As-Built Plans to NCRA or its successors and assigns.

8. Ongoing Maintenance.

- (a) The County shall, during the Term, at its own cost and expense and without any cost or expense to NCRA or its successors and assigns:
 - i. Keep and maintain all trail improvements (subject to County's right to remove) in good and neat order and repair and shall allow no nuisances to exist or be maintained therein. NCRA and its successors and assigns shall not be obligated to make any trail repairs of any kind; and
 - ii. Comply with and abide by all applicable federal, state, and local laws and regulations affecting the Lease Property.

- 9. Insurance. The County shall maintain general liability coverage in the amount of no less than \$2,000,000 per occurrence and aggregate. Insurance shall be placed with a carrier having a current A.M. Best rating of at least A:VII or with the Redwood Empire Municipal Insurance Fund ("REMIF"). Evidence of coverage shall be provided to NCRA or its successors and assigns annually. The policy shall include NCRA, its successors and assigns as additional named insureds with respect to the trail.
- 10. Indemnification. To the maximum extent allowed by law, the County agrees to indemnify, defend and hold harmless NCRA, including its officers, employees, agents contractors, successors and assigns, from and against all loss, liability (including liability with respect to death, injury and

personal and property damage), claims, demands, suits, liens, claims of lien, damages, costs and expenses, arising out of or connected in any manner with the use or misuse of the Lease Property by the County, members of the public, or any act or omission by the County therewith. Such indemnity shall not apply to the extent such loss, liability (including liability with respect to death, injury and personal and property damage), claims, demands, suits, liens, claims of lien, damages, costs and expenses are solely caused by NCRA's or any of its official's, employee's, consultant's, agent's, contractor's or successors' and assigns' active negligence or intentional conduct. This provision shall survive any termination of the Lease for actions or inactions that may arise during the time this Lease is in effect.

11. Abandonment. In the event of action by the County Board of Supervisors for the County to abandon the use of the Lease Property, or any part thereof, this Agreement shall terminate to the extent of the portion so abandoned or discontinued.
12. Surrender. Upon termination of this Agreement, including but not limited to a termination resulting from expiration of the lease term, breach, or abandonment of all or a portion of the trail improvements, NCRA, or its successors and assigns, may direct the County to remove, at its own cost and expense, any and all trail improvements. Upon removal of any trail improvements, the County shall, upon direction from NCRA, or its successors and assigns, (i) reasonably restore the affected portion of the Lease Property to a state or condition as it existed prior to the construction of trail improvements, or (ii) leave all or a portion of the trail improvements in place. Notwithstanding the foregoing, the County shall have no obligation to reasonably restore the affected portion of the Lease Property to a state or condition as it existed prior to the construction of trail improvements in the event NCRA terminate the Agreement pursuant to Section 13(b), below.
13. Termination. This Agreement shall terminate upon the expiration of the term thereof, pursuant to Section 4, or upon either of the following events:
 - (a) Breach. In the event the County breaches, or fails to keep, observe or perform any covenant, term or condition of this Agreement, in addition to all other rights and remedies of NCRA and its successors and assigns provided hereunder or by law, after written notice or demand, and the County's failure to cure the breach within thirty (30) days of notice or commence to cure the breach within thirty (30) days for any breach that cannot be reasonably cured within thirty (30) days, NCRA or its successors and assigns may terminate this Agreement and thereafter recover possession of the Lease Property by lawful means.
 - (b) Rail Operations. In the event that the Lease Property is determined by NCRA, or its successors and assigns, to be needed for rail operations, it may terminate this Agreement by providing written notice to the County of termination on the basis of the need for the Lease Property for rail purposes. Such termination notice shall include the date upon which the Leased Property will be needed by NCRA or its successors or assigns for rail uses, or to perform work in preparation for such rail uses, and the date upon which such termination shall be effective, which shall not be less than ninety (90) days after written notice is given to County. For purposes of this provision, "rail operations" means the construction of rail facilities or actual use of the Lease Property by NCRA, or its successors and assigns, for the passage of railroad cars through the Lease Property.
14. Waiver. No waiver of any default under this Agreement shall constitute or operate as a waiver of any subsequent default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege, or option under this Agreement shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege, or option hereunder.

15. Notices. Except as otherwise provided hereunder; any notice or communication to NCRA, its successors and assigns, or the County shall be in writing and be mailed by postage prepaid. Notices or communications shall be addressed to the parties at the following addresses, which may be changed at any time by notice to the other party:

To NCRA:
Executive Director
North Coast Railroad Authority
419 Talmage Road, Ste M
Ukiah, CA 95482

To County:
Public Works Director
County of Humboldt
1106 Second Street
Eureka, CA 95501

Any notice mailed in the manner above set forth shall be deemed to have been received unless returned to the sender by the post office. Notice may be sent by email when simultaneously provided using one of the methods set forth above.

16. Severability. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Lease, but this Lease shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.
17. Time of the Essence. Time is of the essence of each and all of the agreements, covenants, and conditions of this Lease.
18. Consents. Whenever in this Lease the consent or approval of either NCRA, or its successors and assigns, or County is required or permitted, the party requested to give such consent or approval will act promptly and will not unreasonably withhold its consent or approval.
19. Attorney's Fees. In the event of any action or proceeding at law or in equity between NCRA, or its successors and assigns, and County to enforce any provision of this Lease or to protect or establish any right or remedy of either party hereunder, the unsuccessful party to such litigation shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees, incurred therein by such prevailing party, and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and attorney's fees shall be included in and as a part of such judgment.
20. Integration. This instrument constitutes the entire agreement between NCRA and County with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by NCRA, or its successors and assigns, and County.
21. Amendments. This Lease may be modified only in writing and only if signed by the parties at the time of the modification.
22. Assignment and Subletting. County may assign this Agreement, or any interest herein, at any time provided that, (i) NCRA has consented to the assignment, (ii) the assignment shall be in writing, duly executed and acknowledged by County and the assignee, in form satisfactory to NCRA, or its successors and assigns, providing that the assignee assumes and agrees to perform and observe all the agreements, covenants and conditions of this Lease on the part of County to be performed and observed, and (iii) an executed original of such assignment shall be delivered to NCRA, or its successors and assigns. NCRA may assign this Agreement upon the transfer of its interest in the Leased Property, or pursuant to any dissolution of NCRA.

23. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Nothing in this Agreement is intended to alter, limit, or otherwise affect the immunities and liability limitations provided to public entities under the laws of the State of California, including without limitation the Government Claims Act set forth in the California Government Code.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

NORTH COAST RAILROAD AUTHORITY:

COUNTY OF HUMBOLDT:

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Date: _____

Date: _____

Approved as to form:

Approved as to form:

General Counsel

County Counsel

Date: _____

Date: _____