

Agenda Item 9.b

SEQUOIA INVESTMENTS X, LLC TIDE AND SUBMERGED LAND LEASE

THIS TIDE AND SUBMERGED LAND LEASE (this or the “Lease”) is made and entered into as of the ___ day of _____, 2018 (the “Commencement Date”), by and between the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT (hereinafter referred to as “Lessor”), a California public entity acting pursuant to Harbors and Navigation Code Appendix II, and SEQUOIA INVESTMENTS X, LLC, an Alaska limited liability company authorized to do business in California (hereinafter referred to as “Lessee”).

1. Description of Original Lease and Leased Premises

1.1 Reference is hereby made to the following: that certain Lease dated June 25, 1965, by and between the State of California, as lessor, and the Crown Simpson Pulp Company (predecessor in interest to Lessee), as lessee; such lease was thereafter modified by Sublease dated September 26, 1996; such lease was further modified by Renewal of Lease dated August 14, 1980; such lease was further modified by Renewal of Lease dated October 25, 1990; such lease was further modified by Amendment to Renewal of Lease PRC 3303.1 dated July 28, 1995; such lease was further modified by Renewal of and Amendment to Lease PRC 3303.1 dated June 22, 2000; such lease was further modified and assigned by Assignment, Consent to Assignment and Amendment to Lease PRC 3303.1 dated June 26, 2006; such lease was further modified by Lease Extension and Amendment to Lease PRC 3303.1 dated June 23, 2010 (collectively, the “Original Lease”).

1.2 Simultaneous with the full execution of the Lease, the Original Lease, together with any memorandum referencing the Original Lease (or any portion thereof) and any other agreement (for clarity purposes, specifically excluding the Lease) between the Lessor and Sequoia X, LLC, a California limited liability company (“Sequoia”) entered into in connection with the Original Lease, if any, are hereby cancelled and terminated by Lessor and Sequoia.

1.3 Lessor hereby leases to Lessee and Lessee leases from Lessor, on the terms, covenants and conditions set forth herein, those certain tideland and submerged lands located in Humboldt County, California, and more particularly described in Exhibit A attached hereto attached hereto, hereinafter referred to as the “Lease Premises.”

2. Term

2.1 Original Term. The original term of this Lease shall commence and be effective as of the Commencement Date, and end on May 1, 2035, unless sooner terminated pursuant to any provision hereof. This Lease and any operations on the leased premises is subject to Lessee obtaining the necessary permits and authorizations from other agencies, if any, including but not limited to the Humboldt Bay Harbor Recreation and Conservation District, California Coastal Commission and U.S. Army Corps of Engineers.

2.2 Option. Lessee is hereby granted two (2) options to extend this Lease for a term of ten (10) years each from and after the expiration of the original term or upon the expiration of an extension exercised pursuant to this Subsection 2.2, upon the same terms and conditions of the original Lease.

2.3 Lessee's Exercise of Option. To exercise the option to renew, Lessee shall give written notice to Lessor of Lessee's exercise of the option no earlier than twenty-four (24) months but no later than twelve (12) months prior to the expiration of the preceding term.

2.4 Extension Subject to Terms of Lease. The extension of this Lease for either of the two (2) year renewal periods of ten (10) years each is subject to all covenants, terms, conditions, reservations, restrictions, time limitations, and other provisions of this Lease, including the new rental amount. Subject to the terms of Section 15 below, if Lessee is in material breach of this Agreement as defined in Section 10 hereafter, at the time of exercising the option to renew or at the commencement of the extended term, Lessee's right to exercise the option to renew shall be waived and forfeited and the Lease shall terminate as of the termination date of the original term or any extended term, and Lessee shall no longer have the right to renew this Lease for an additional ten (10) year term.

2.5 Lease Deemed Renewed Upon Notice. Upon Lessee giving written notice of exercise of its written option to renew the original Lease for an additional ten (10) year period, this Lease shall be deemed renewed and the rent established for the additional ten (10) year period, pursuant to the provisions of Section 3.2.

3. Rent

3.1 Payment of Rent. Lessee agrees to pay to Lessor at such place as Lessor may designate in writing and without deduction, offset, prior notice, or demand, as rent for the Lease Premises during the first year, the sum of \$3,000 per month in lawful money of the United States of America, payable in advance on or before the first business day of each month. Lessee shall receive a credit of \$[_____] as prorated rent paid by Sequoia X for annual rent as of May 26, 2017. For each subsequent year of the lease, Lessee shall pay the amount of rent as adjusted by Section 3.2 below, on or before the first business day of each month.

3.2 Adjustments of Rent. Each year of this Lease, including during any extension term, the monthly rent shall be adjusted for the next year by two (2) percent or by the difference in the change of the U.S. Department of Labor Consumer Price Index, All Urban Consumers, West Urban Area, whichever is higher. The most recent 12 months available in the Index 30 days prior to the start of the lease year will be used to calculate any increase based upon the index. If the index is not published, the parties shall agree to a comparable index for use in calculating the rental adjustment. Should the parties be unable to agree to an alternative index, they shall petition the Humboldt County Superior Court to select an

alternative index.

3.3 Failure to Timely Pay Rent. If Lessee fails to pay the rent specified in this Lease by the due date, Lessee shall pay to Lessor a late charge of two hundred and fifty dollars (\$250) in addition to the accrued and unpaid rental, and, in addition to such charge, Lessee shall pay to Lessor interest at the rate of five sixths of 1 percent (0.8335%) per month upon the sum due from the date on which such rental becomes due and payable to and including the date of payment in full. The Lessor shall apply any monies received from Lessee first to any penalty and interest charges and then to any rental or other sums then due. The penalty and interest charges provided by this paragraph are in addition to all other remedies that Lessor may have that are provided by this Lease or otherwise by law, to enforce payment of any rental or other sum that has become due and has not been paid.

3.4 Damage or Destruction of Premises. It is specifically agreed that in the event of the termination of this Lease by Lessor due to an uncured material default, prior to the expiration date of this original term, or prior to the expiration date of any renewal period, no portion of the rent paid in advance shall be refundable. It is specifically agreed that in the event the Lease Premises shall be damaged or destroyed by fire, the elements or an act of God such as an earthquake or tsunami that renders the Lease Premises substantially unusable by Lessee for the purposes for which the Lease Premises are devoted, Lessee shall have the right to terminate this Lease upon written notice to Lessor within thirty (30) days after the date of such fire, the elements or act of God such as an earthquake or tsunami that renders the Lease Premises substantially unusable by Lessee for the purposes for which the Lease Premises are devoted, and be entitled to a pro rata refund of the annual rental paid in advance from the date of such termination.

4. Land Use

4.1 Use by Lessee, Improvements Authorized. Lessee agrees to use the Lease Premises for uses appropriate to the zoning of the property, and as detailed more fully in a permit from the Harbor District as may be required to conduct operations or use the Leased Premises. Lessee may install equipment and associated improvements on the Lease Premises so long as such equipment and improvements are consistent with all required regulatory permissions and approvals (See Section 4.4 below). Lessee agrees to give reasonable notice to Lessor regarding construction and improvement activities to be undertaken at the Lease Premises, and will coordinate such activities with the Lessor and adjacent users of Lessor's property. Lessor and Lessee agree that the dock currently located on the Leased Premises is the property and responsibility of Lessee.

4.2 Improvements at Lessee's Expense. Subject to Section 7.2, Lessee shall, at its own expense, maintain and keep the Lease Premises and all improvements in good order and repair and sound condition. All approved equipment and other personal property brought, placed or erected on the Lease Premises by Lessee shall be and remain the property of Lessee.

4.3 Alteration of Lease Premises. No alteration of the Lease Premises shall be undertaken during the term of this Lease and any renewal term thereof without prior written permission from Lessor, with the exception of the alterations as specified in the any permits as may be issued by the Lessor in its regulatory capacity as the Humboldt Bay Harbor, Recreation and Conservation District to the Lessee, subject to all other regulatory permission and approval pursuant to Section 4.4.

4.4 Regulatory Permission and Approvals. The Lease Premises are subject to regulation by a variety of government agencies, including but not limited to the County of Humboldt, the Coastal Commission, the Regional Water Quality Control Board, the Harbor District, and the U.S. Army Corps of Engineers. Approval of this Lease does not authorize any activities or improvements on the Lease Premises that have not received all required regulatory permissions and approvals. Approval of this Lease by the Harbor District is separate from the issuance of a Harbor District Use Permit. Lessee shall be responsible for all necessary permits and compliance with all applicable requirements and regulations.

4.5 Access, Compatible Use of Surrounding Areas. Lessee acknowledges that the surrounding premises may be leased by Lessor to other parties for other uses, and Lessor agrees that such uses will be compatible and will not interfere with Lessee's use of the Lease Premises as may be approved by the permitting process.

4.6 Non-Discrimination. Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, national origin, sex, age or physical disability.

4.7 Residential Structures. Improvements on the Lease Premises shall not be used as a residence or for the purpose of mooring a floating residence.

5. Reservations and Encumbrances

5.1 Mineral Rights Reserved to the State of California. Lessor and Lessee acknowledge that all deposits of minerals, including oil and gas, on the Lease Premises have been reserved to the State of California pursuant to the Harbors and Navigation Code Appendix II, Section 78(g). Lessor furthermore expressly reserves all other natural resources in or on the Lease Premises, including but not limited to sand, gravel and inert earth. In no event shall any minerals or other natural resources be removed from the Lease Premises without the prior consent of Lessor. No dredge spoils materials shall be removed from the Lease Premises without Lessor's written consent which shall not be unreasonably withheld.

5.2 Lessor's Right of Entry. Lessor shall have the right to go on the Lease

Premises during normal business hours and in groups of not more than three (3) people and upon not less than 24 hours' notice for purposes of inspecting the Lease Premises or showing the same to prospective lenders or lessees.

5.3 Lessor's Right to Encumber Lease Premises. Lessor expressly reserves the right to encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent nor incompatible with the rights and privileges of Lessee under this Lease and provided that such encumbrance does not interfere with Lessee's right to use and quiet enjoyment of the Lease Premises. Prior to encumbering the Lease Premises in whole or in part consistent with this Section 6.3, Lessor will give Lessee three (3) months' notice and provide Lessee an opportunity to comment on Lessor's proposed encumbrance.

5.4 No Warranty of Fitness. This Lease is made without warranty by Lessor of condition of fitness of the land for the stated or intended use.

5.5 Lessee's Right to Exclude Persons from Lease Premises. Nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitute a material interference with Lessee's use and quiet enjoyment of the Lease Premises as provided under this Lease.

6. Taxes

6.1 Possessory Use Tax. The Lessee is hereby notified by Lessor that the possessory interest created hereunder may be subject to a possessory interest tax or property taxation when created, pursuant to Sections 107 to 107.6 of the California Revenue and Taxation Code or other applicable law, and that Lessee and/or the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interests. Lessee agrees and acknowledges that it has actual notice pursuant to Section 107.6 of the California Revenue and Taxation Code that it may be required to pay a possessory interest tax as a result of this Lease and the letting to Lessee of the Lease Premises. Lessee hereby acknowledges that it has actual knowledge of the possible existence of a possessory interest tax and has read the provisions of Sections 107 to 107.6 of the California Revenue and Taxation Code. Lessee shall pay all possessory interest taxes levied by any governmental agencies by reason of this Lease or Lessee's possession of the Lease Premises.

7. Indemnification

7.1 Lessee's Indemnification of Lessor. Lessor shall not be liable for and Lessee hereby agrees to indemnify, defend, hold harmless and to release Lessor, its Board of Commissioners, officers, agents and employees from and against any and all claims, demands, losses, fines, penalties, liabilities, actions, lawsuits and other proceedings, judgments and awards, and costs and expenses (including reasonable attorneys' fees) arising directly or indirectly, in whole or in part, or in any way connected with the breach of this Lease or Lessee's use of the Lease Premises, including use of the premises by Lessee or its

predecessors in interest pursuant to the Original Lease documents. Nothing herein shall be construed as an assumption of liability by Lessee for environmental conditions that predated the Original Lease, known or unknown at execution of the Lease, caused by tenants or users of the Lease Premises or surrounding areas prior to May 27, 1965. Lessee does not assume nor does the Lessor assign to Lessee any liability or responsibility for environmental conditions that exist at the Lease Premises prior to May 27, 1965, including but not limited to liability for Hazardous Substances, as that term is defined under relevant California State and Federal Law, that have come to be located at the Lease Premises.

7.2 Lessor's Indemnification of Lessee. Lessee shall not be liable for and Lessor hereby agrees to indemnify, defend and hold harmless and to release Lessee, its principals, owners, Board of Directors, officers, agents and employees from and against any and all claims, demands, losses, fines, penalties, liabilities, actions, lawsuits and other proceedings, judgments and awards and costs and expenses (including reasonable attorneys' fees) caused by the gross negligence or intentional misconduct of Lessor or Board of Commissioners, officers, agents and employees. Lessor agrees to indemnify and hold harmless Lessee for environmental conditions, known or unknown at the execution of this Lease, caused by tenants or users of the Lease Premises or surrounding areas prior to May 27, 1965.

8. Insurance

8.1 Liability Insurance Required. Lessee shall obtain, at its own expense and keep in full force and effect during the Lease term with an insurance company acceptable to Lessor, comprehensive, commercial general liability insurance providing bodily injury and property damage coverage, and shall include products liability and personal injury coverage with liability limits of not less than One Million Dollars (\$1,000,000.00) combined single limit insuring Lessee and Lessor and their authorized representatives, against any and all claims or liability, including but not limited to liability for injuries to persons and property, and for the death of any person or persons occurring in or about the Lease Premises, arising out of the use, occupancy, condition or maintenance of the Lease Premises and all improvements thereon. Lessee shall be the named insured. Lessee agrees that Lessor, its officers, agents and employees, including members of the Board of Commissioners of the Lessor, shall be named as an additional insured under such liability policy. Such insurance shall be primary to any insurance maintained by the Lessor.

8.2 Provision of Certificate of Insurance. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The certificate evidencing such insurance shall be filed with the Lessor upon the commencement of the term of this Lease and said certificate shall provide that such insurance coverage shall not be cancelled or reduced without at least thirty (30) days' written notice to Lessor. Within thirty (30) days of the renewal of any such policy, Lessee shall provide to Lessor a certificate showing that such coverage has been renewed.

8.3 Insurance in Effect at All Times. The liability insurance coverage specified in

this Lease shall be in effect at all times during the Lease term including any and all renewal periods and subsequently until all of the Lease Premises has been accepted by Lessor as restored after completion by Lessee of the dismantling and removal of the improvements thereon pursuant to Section 11 of this Lease.

8.4 Adjustment of Insurance Coverage Upon Renewal. The required amount of insurance coverage may be reasonably increased by Lessor at the beginning of any renewal term if the amount of the insurance required by this lease is no longer commercially reasonable.

8.5 Performance of Indemnification Provision. Any public liability insurance, property damage insurance and products liability insurance required by this Section 8 shall insure performance of the indemnity provisions of Section 8 of this Lease of the Lease Premises and the policy shall contain cross-liability endorsements.

9. Assignment

Lessee shall not either voluntarily or by operation of law assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, without the prior written approval of Lessor, which approval Lessor shall not unreasonably withhold. All assignments, transfers and subleases of this Lease, and each of them, shall be subject to all the covenants, terms, conditions, reservations, restrictions, time limitations and other provisions of this Lease.

10. Default and Remedies

10.1 Occurrences. The occurrence of any one or more of the following events shall constitute a default or breach of this Lease by Lessee:

(a) Lessee's failure to make any payment of rental or other consideration as required under this Lease, where such failure continues for fifteen (15) days after written notice from Lessor to Lessee.

(b) Lessee's failure to obtain or maintain any liability insurance required under Section 8.1.

(c) Lessee's failure to observe or perform any other term, covenant, or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

10.2 Other Remedies. In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may, at any time and with or without notice in addition to every other remedy given Lessor by law or equity, do any one or more of the following:

(a) Continue this Lease in effect by not terminating Lessee's right to possession of said Lease Premises, in which event Lessor shall be entitled to enforce all Lessor's rights and remedies under this Lease including the right to recover the rent specified in this Lease as it becomes due under this Lease;

(b) Terminate this Lease and recover from Lessee:

(1) The worth at the time of award of the unpaid rent which has been earned at the time of termination of the Lease;

(2) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that Lessee proves could have been reasonably avoided;

(3) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that Lessee proves could be reasonably avoided; or

(4) Any other amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Lease;

(c) Terminate the Lease and, in addition to any recoveries Lessee may seek under subparagraph (b) of this Section 10.2, bring an action to reenter and regain possession of said Lease Premises in the manner provided by the laws of unlawful detainer of the State of California then in effect; or

(d) Exercise any other rights or remedy which Lessor may have at law or in equity.

11. Removal of Improvements and Restoration of the Lease Premises Upon Expiration of Lease or Termination and Surrender of Lease Premises

11.1 Removal of Improvements. Upon expiration or sooner termination of this Lease, Lessor may accept all or any portion of the Lease Premises; however, Lessee shall have the right to remove any improvements installed by Lessee or personal property owned by Lessee on the Lease Premises within thirty (30) days after such expiration or termination of this Lease. Lessor may also, in Lessor's absolute discretion, require Lessee to remove all

or any portion of such improvements. For the purposes of this section, such improvements shall include, but not be limited to, all improvements installed, constructed or owned by the lessees and their successors in interest of the Original Lease documents described in Section 1.1, and includes the dock existing on the Leased Premises.

11.2 Restoration of Premises. In removing any improvements, Lessee shall restore the Lease Premises as nearly as possibly to the conditions existing prior to their installation or construction, and shall complete all obligations of this Lease; provided that, nothing in the foregoing requirement shall be construed as expanding in any way the limitations of Lessee's indemnification obligations in Section 7 hereof. All such removal and restoration of the Lease Premises, required pursuant to this Section 11 of this Lease shall be commenced by Lessee no later than sixty (60) days and completed no later than one (1) year after the expiration or sooner termination of this Lease or any extension thereof. The deadlines for restoration of the premises shall be extended by the time that is required to obtain all necessary regulatory permits and approvals, provided that Lessee timely files applications for such permits and approvals. All such removal and restoration shall be to the reasonable satisfaction of Lessor. If the removal process interferes with the Lessor's ability, in whole or in part, to re-let the Leased Premises, Lessee shall pay reasonable rental value for the time required for restoration. In no event shall the rent for such use be less than one-third the rent for the final year of the lease, pro-rated to a monthly amount. Said rent shall be paid in advance on or before the last business day preceding the use.

11.3 Refusal to Timely Remove Improvements at end of Lease. If Lessee refuses or fails to timely dismantle and remove the improvements or portion of improvements designated by Lessor to be dismantled and removed from the Lease Premises and restore the Lease Premises as nearly as possible to its condition existing prior to the installation of the structures, buildings and facilities so placed thereon, Lessor may itself or may hire third parties to dismantle and remove such improvements and place the Lease Premises in a condition as near as possible to the condition of the Lease Premises existing prior to the installation of the structures, buildings and

Facilities, thereon at Lessee's sole expense and Lessee shall reimburse Lessor for all costs and expenses thereof of the dismantling and removal of improvements and restoration of the Lease Premises by Lessor or such parties designated by Lessor. Nothing in this provision shall be interpreted to preclude Lessor from bringing legal action for breach of contract and seeking damages in the form of anticipated cost of removal, even if said improvements have not actually been removed prior to the legal process.

11.4 Permits Required. In removing all improvements Lessee will be required to obtain any permits or any other governmental approval as may then be required by lawful authority.

11.5 No Removal or Replacement of Fill. Lessee shall not be required to remove or replace nor shall Lessor be required to pay for any legally-placed fill remaining on this

Lease Premises.

11.6 Surrender of Premises. Lessee agrees that on the expiration or sooner termination of this Lease or any renewal thereof Lessee shall responsibly leave and surrender the Lease Premises to Lessor in a state of good order, condition, repair and restoration, as provided in and subject to the time periods in Sections 11.1 through 11.2.

12. Easement

12.1 Easement. As consideration for this Lease, Lessee shall grant to Lessor a non-exclusive, fifty (50) foot wide easement over Lessee's property contiguous to the Leased Premises for ingress, egress, pipelines, fiber optic transmission and utility service to the Leased Premises as described in Exhibit B. Lessee shall have no obligation to construct or improve any easement under this Section 12. Lessee shall not be liable for and Lessor hereby agrees to indemnify, defend, hold harmless and to release Lessee from and against any and all claims, demands, losses, fines, penalties, liabilities, actions, lawsuits and other proceedings, judgments and awards, and costs and expenses (including reasonable attorneys' fees) arising directly or indirectly, in whole or in part, or in any way connected with Lessor's use of the easement described in this Section 12..

13. Quitclaim

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor, a good and sufficient quitclaim of all rights under this Lease, subject to Lessee's right to occupy those portions of the Lease Premises necessary for removal of structures pursuant to Section 11. Should Lessee fail or refuse to deliver such a quitclaim, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Lessee and all other claimants of the termination of this Lease and any rights or interests of Lessee in the Lease Premises and improvements thereon.

14. Holding Over

Any holding over by Lessee after the expiration of the Lease term, or any renewal term, with or without the express or implied consent to Lessor, shall constitute a tenancy from month-to-month and shall be on terms, covenants and conditions of this Lease with rental, royalty or other consideration payable in advance on the first day of each month at the monthly rental rate equal to one-hundred fifty (150) percent of the monthly rent immediately prior to the holdover. Upon expiration or sooner termination of the Lease, Lessee shall not necessarily be required to pay the full rent to Lessor during the period when Lessee occupies the required portion of the Lease Premises necessary for the purposes of removal of the improvements and restoration of the Premises. Lessee shall be liable for rent during removal of improvements and restoration pursuant to Section 11.2 of this Lease.

15. Leasehold Mortgagee Provisions

The following provisions shall be in effect during any period that a lender (“Lender”) approved by Lessor pursuant to Section 9 herein is the beneficiary of a mortgage/deed of trust (a “Security Instrument”) secured by Lessee’s leasehold interest in the Premises. Notwithstanding anything contained herein to the contrary, Lessor hereby covenants and agrees that (i) Lessor has written notice of the making of a “Security Instrument” by Lessee in favor of UBS AG, by and through its branch office at 1285 Avenue of the Americas, New York, New York (such entity and its successors and assigns, collectively, “UBS”) and such Security Instrument shall be deemed an approved assignment pursuant to Section 9 above, and (ii) all conditions have been fulfilled and no further action is required by UBS or Lessee with respect to the provisions of the Lease, and that UBS and any Lender Assignee (hereinafter defined) shall be (x) deemed a “Lender” and (y) entitled to, and receive the benefit of, any and all leasehold mortgagee protection provisions contained in the Lease (including, without limitation, Sections 15.1 through 15.11 thereof).

15.1 **No Modification.** Lessor hereby covenants and agrees that the Lease shall not be modified, supplemented, terminated, amended, altered, subordinated or cancelled, nor shall a surrender of the Lease be accepted by Lessor without the prior written consent of Lender, and that any such action taken without Lender’s written consent shall not be binding on Lessee, Lender or any Lender Assignee (hereinafter defined).

15.2 **Notice of Default.** Lessor hereby covenants and agrees that Lessor shall deliver to Lender at the address designated by Lender written notice of any default by Lessee under the Lease simultaneously with sending such notice to Lessee and that no notice of default given to Lessee, and no exercise of any remedy by Lessor as a result of any such default, shall be effective unless such notice shall have been delivered to Lender at such time. Lessor hereby covenants and agrees that Lender shall have the right, but not the obligation, to cure any default by Lessee under the Lease and Lender shall be afforded (a) subject to the following clauses (b) and (c), sixty (60) days to cure any such default, (b) in the event that any such default cannot, with reasonable diligence, be cured within such sixty (60) day period but is curable by Lender, such longer time as may be required to complete such cure, provided that Lender notifies Lessor of its intention to cure such default and Lender promptly commences and diligently pursues such cure to completion, and (c) in the event that such default is incapable of cure by Lender, such time as may be required for Lender to gain possession of Lessee’s interest under the Lease pursuant to the terms of the Security Instrument and applicable loan documents provided that Lender notifies Lessor of its intention to cure such default and, upon possession, Lender promptly commences and diligently pursues such cure to completion.

15.3 **Assignment to Lender.** Lessor hereby covenants and agrees that Lessee shall have the right to assign or sublet Lessee’s interest under the Lease to Lender, its successors or assigns, without the consent of Lessor, and in the event that Lessee’s interest under the Lease is so assigned or sublet to Lender, its successors or assigns (as applicable, the “Lender Assignee”), such Lender Assignee shall have the right to further assign or sublet the Lessee’s interest in the

Lease without the need to obtain the consent of Lessor. The Lender Assignee shall not be liable for any act, omission and/or breach of the Lease by any prior tenant, and the Lender Assignee shall only be liable for obligations under the Lease first arising from and after the date the Lender Assignee acquires the leasehold estate. The Lender Assignee shall have the right to assign and transfer the Lease without first obtaining Lessor's consent. Upon any transfer or assignment of the Lease by the Lender Assignee, the Lender Assignee shall be automatically released and discharged from all liability thereafter accruing under the Lease.

15.4 **Estoppel Certificate.** Upon Lender's written request, Lessor shall provide Lender from time to time with an estoppel certificate which shall certify to Lender (a) as to the amount and status of all rent payments and security deposits under the Lease, (b) as to the full satisfaction and compliance by Lessee of any other conditions required under the Lease, (c) that Lessee is not in default in the payment, performance or observance of any other condition or covenant to be performed or observed by Lessee thereunder, (d) that there are no offsets, defenses, claims, or counterclaims on the part of Lessor, and (e) as to such other matters related to the Lease as Lender may reasonably determine.

15.5 **No Merger.** Lessor hereby covenants and agrees that there shall be no merger of the Lease or any interest in the Lease or of the leasehold estate created thereby with the fee estate in the Property.

15.6 **Replacement Lease.**

(a) Notwithstanding the provisions of Section 15.2 above or any other provision of this Lease, Lessor hereby covenants and agrees that in all events, if

(i) the Lease is terminated for any reason, including, but not limited to, any default by Lessee under the Lease;

(ii) the Lease is rejected (regardless of whether the Lease has been terminated as a result thereof) in a bankruptcy or insolvency proceeding or other such similar action relating to creditor's rights; or

(iii) Lender effects a foreclosure of Lessee's interest in the Lease, or accepts a deed in lieu of such foreclosure,

then in all events, Lessor, upon Lender's request, shall enter into a new lease with Lender, its successors, assigns or other designee (each, a "Successor Lessee") with a waiver of any defaults that are not curable by Successor Lessee (a "Replacement Lease"). The Replacement Lease shall be upon the same terms and conditions of the unexpired term of the Lease immediately prior to such termination, rejection, or foreclosure.

(b) Landlord hereby covenants and agrees that with respect to any Replacement Lease:

(i) title to all improvements, fixtures, furniture, equipment, and any

other property owned by Lessee situate on the Property shall automatically vest in Successor Lessee;

(ii) upon request of Successor Lessee, Lessor shall promptly assign to Successor Lessee all space leases and subleases under which the Lessees have attorned to Lessor;

(iii) so long as any Successor Lessee is the owner of the leasehold estate, Lessor shall look solely to the interest of such Successor Lessee in the Property and the improvements located thereon in the event of the breach or default by such Successor Lessee under the terms of the Replacement Lease and Lessor hereby agrees that any judgment or decree to enforce the obligations of such Successor Lessee shall be enforceable only to the extent of the interest of such Successor Lessee in the Property and such improvements; and

(iv) any further successors and/or assigns to Successor Lessee shall, upon such further assignment of the leasehold estate, be relieved of all obligations under the Replacement Lease.

15.7 **Casualty/Condemnation.** Lessor hereby covenants and agrees that in the event of a casualty or condemnation to the Property or the improvements thereon, the terms and conditions of the Security Instrument and applicable loan documents shall govern and control.

15.8 **Lease Extensions.** Lessor hereby covenants and agrees that Lender and its successors and assigns shall have the right, pursuant to the terms of the Lease, to exercise any right of Lessee under the Lease if the Lessee shall fail to exercise (or otherwise be prohibited from exercising) any such option. Further, Lessor hereby covenants and agrees that any right to renew the term of the Lease shall be automatically deemed to have been timely exercised in accordance with the terms of the Lease unless Lender shall have delivered written notice to Lessor expressly waiving any such right to renew the Lease.

15.9 **Arbitration.** Lessor hereby covenants and agrees that Lender shall be entitled to participate in any arbitration proceeding pursuant to or in connection with the Lease.

15.10 **Security Interest.** Lessor hereby waives and relinquishes any and all of lessor's lien, rights of levy, claim, security interest or other interest that Lessor may now or hereafter have in or with respect to any of Lessee's furniture, fixtures, equipment and other personal property now or hereafter acquired (collectively, "**Lessee's Property**"), whether for rent or otherwise. Lender's security interests in Lessee's Property pursuant to the Security Instrument, and all of the various agreements, instruments, and documents entered into in connection therewith, is and will be superior to any lien, right or claim of title of any nature that Lessor now has or hereafter may have or may assert in or to Lessee's Property by statute, the Lease, or otherwise. Lessee's Property may be installed in or located on the Premises and is not and shall not be deemed a fixture or part of the real property but shall at all times be considered personal property owned by the Lessee. Lessor hereby covenants and agrees that any subleases entered into by Lessee for all or any portion of the Premises and the rents, issues and profits therefrom

are and shall remain subordinate to the lien of the Security Instrument and applicable loan documents.

15.11 **Lessor's Mortgage.** Lessor hereby covenants and agrees to Lender, and its successors and assigns, that if Lessor elects to encumber or grant a security interest in the fee interest in the Property, any fee mortgage (or other security instrument) shall recognize all of Lessee's (and any leasehold mortgagee's) rights hereunder (and/or under any subordination agreement to which the fee mortgagee is a party) and shall be subject and subordinate to the Lease and any renewals, amendments and replacements hereof, including, without limitation, any new lease made pursuant to the provisions of Section 15.6 above and the term, rights and leasehold estate of Lessee hereunder and under the Lease and to any leasehold mortgages. The provisions of this Section 15.11 shall be self-operative, without the necessity of any other written consent or subordination by the holder of any fee mortgage. However, upon request of Lessee, Lessor shall at any time or times use commercially reasonable efforts to cause the holder of each fee mortgage to execute, acknowledge and deliver to Lessee and each leasehold mortgagee any instrument reasonably required by Lessee or any leasehold mortgagee (including, without limitation, Lender) to confirm such subordination.

In the event of any inconsistencies between the terms and conditions of this Section 15 and the other terms and conditions of this Lease, the terms and conditions of this Section 15 shall control and be binding.

16. Additional Provisions

16.1 **No Waiver.** The failure to enforce any right hereunder, or the waiver by either party of any default or breach of any covenant, term, condition, restriction or time limitation herein shall not constitute a waiver of the future exercise of any such right or of any other default or breach, whether of the same or any other covenant, term, condition, restriction or time limitation herein regardless of such party's knowledge of such other defaults or breaches. The subsequent acceptance of monies hereunder by Lessor shall not constitute a waiver of any preceding default or breach of any covenant, term, condition, restriction or time limitation, other than the failure of Lessee to pay the particular monies so accepted, regardless of Lessor's knowledge of such preceding default or breach at the time of acceptance of such monies, nor shall acceptance of monies after termination constitute a reinstatement, extension or renewal of this Lease or revocation of any notice or other act by Lessor.

16.2 **Time is of the Essence.** Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

16.3 **Notice.** All notices, requests and communications required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery by messenger, overnight courier or telecopier, or, if mailed, upon the first to occur of actual receipt of forty-eight (48) hours after being placed in the

United States mail, postage prepaid, registered or certified mail, with return receipt requested, addressed to the parties as follows:

Lessor: Humboldt Bay Harbor, Recreation
and Conservation District
Post Office Box 1030
Eureka, CA 95502-1030
Attn: Executive Director
Telephone: (707) 443-0801
Facsimile: (707) 443-0800

Lessee: Security National Properties Servicing Company, LLC

13702 Coursey Boulevard, Building 2
Baton Rouge, Louisiana 70817
Attn: Robin P. Arkley, II
Facsimile: _____

16.4 Consent. Where a party's consent is required under this Lease, its consent for one transaction or event shall not be deemed to be consent to any subsequent occurrence of the same or any other transaction event.

16.5 Amendment, Termination. This Lease may be terminated and its terms, covenants and conditions amended, revised or supplemented by written mutual agreement of the parties.

16.6 Binding on Successors and Assigns. The terms, covenants and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the successors and assigns of the respective parties.

16.7 Severability. If any term, covenant or condition of this Lease is judicially determined to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.

16.8 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be a valid and binding original, but all of which together shall constitute one and the same instrument. Faxed or scanned signatures shall be accepted as valid in lieu of originals.

16.9 Jurisdiction. Lessor and Lessee consent to and agree that in the event any disputes or legal actions are commenced and litigated between Lessor and Lessee regarding the terms, conditions, rights, duties and obligations of the parties pursuant to the terms of this Lease, the Superior Court of California, County of Humboldt shall have exclusive jurisdiction of such disputes and/or legal actions. The parties further agree that this lease is

entered into in Humboldt County, California, the place where the Lease Premises is located. This lease shall be construed and interpreted in accordance with the laws of the State of California.

16.10 Attorney's Fees and Costs. In the event of legal proceedings arising out of the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and other costs of litigation.

16.11 Termination of Rights. Lessee agrees that on the expiration or termination of this Lease, Lessee shall responsibly leave and surrender the Lease Premises to Lessor in a state of good order, condition, repair upon removal by Lessee of the improvements thereon and restoration of the Lease Premises as provided for in Section 11 of this Lease. The exercise of any right of termination shall not release Lessee from liability for any unpaid but accrued rental or any other consideration which may be due under this Lease or from any other obligations still applicable under the Lease. No portion of any rental paid by Lessee in advance shall be refunded except as provided in Section 3.

16.12 Survival. Notwithstanding anything to the contrary contained in this Lease, the provisions (including, but not limited to, covenants, agreements, representations, warranties, obligations and liabilities described herein) of this Lease which from their sense and context are intended to survive the expiration or earlier termination of this Lease (whether or not such provision expressly provides as such) shall survive such expiration or earlier termination of this Lease and continue to be binding upon the applicable party.

16.13 Entire Agreement. This Lease supersedes any prior understanding or written or oral agreements between the parties hereto respecting the within subject matter and contains the entire understanding between the parties with respect thereto.

16.14 Negation of Agency. Each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Lease. No partnership, joint venture or other association of any kind is formed by this Lease.

16.15 Recordation. Each party hereby agrees that a memorandum of this Agreement may be recorded in the applicable recording office for Humboldt County, California.

[Remainder of page intentionally left blank]

In witness whereof, the parties have executed this Lease as of the date specified immediately adjacent to their respective signatures.

LESSOR:

**HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT**

By: _____
Name:
Title:

Date: _____

LESSEE:

SEQUOIA INVESTMENTS X, LLC
an Alaska limited liability company

By: _____
Name:
Title:

Date: _____

EXHIBIT A

Description of Premises

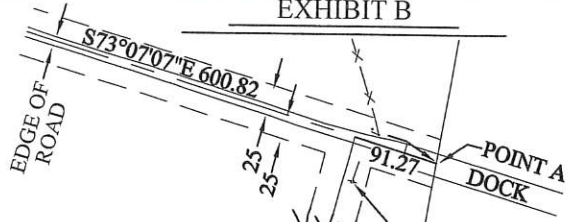
PARCEL ONE:

A PARCEL OF TIDE AND SUBMERGED LAND IN HUMBOLDT BAY, SITUATE NEAR THE CITY OF EUREKA, HUMBOLDT COUNTY, CALIFORNIA, BOUNDED ON THE EAST BY THE U.S. PIERHEAD LINE AS SAME IS SHOWN ON A MAP OF "HARBOR LINES FOR HUMBOLDT HARBOR AND BAY", DATED AUGUST 01, 1957, AND PREPARED BY THE U.S. CORPS OF ENGINEERS; BOUNDED ON THE WEST BY THE ORDINARY LOW WATER MARK OF HUMBOLDT BAY; BOUNDED ON THE SOUTH BY A LINE THAT BEARS SOUTH 73 DEGREES 22 MINUTES EAST, AND IS DISTANT SOUTH 2,658.47 FEET FROM THE CORNER COMMON TO SECTIONS 20, 21, 29 AND 28, TOWNSHIP 5 NORTH, RANGE 1 WEST, HUMBOLDT BASE AND MERIDIAN; AND BOUNDED ON THE NORTH BY A LINE PARALLEL TO THE SOUTH BOUNDARY LINE OF THIS DESCRIPTION AND DISTANT NORTHERLY AT RIGHT ANGLES THEREFROM 811.04 FEET.

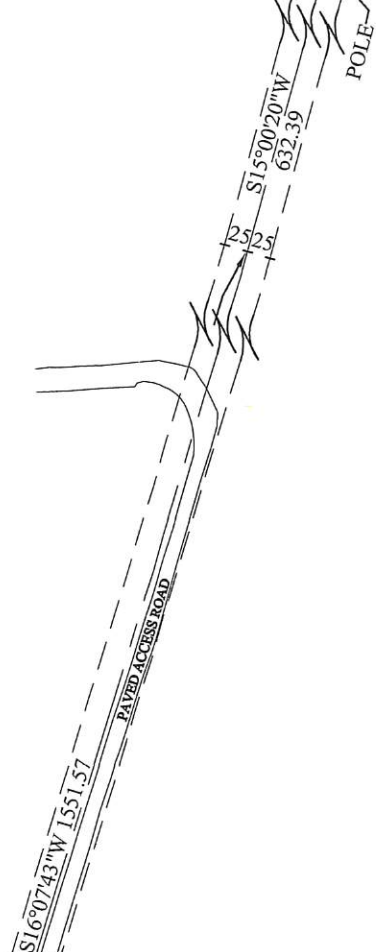
PARCEL TWO:

A PARCEL OF LAND IN HUMBOLDT BAY, SITUATE NEAR THE CITY OF EUREKA, HUMBOLDT COUNTY, CALIFORNIA, BEING FURTHER DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON A COURSE OF THE U.S. PIERHEAD LINE, SAID COURSE SHOWN AS HAVING A BEARING OF NORTH 14 DEGREES 36 MINUTES 36 SECONDS EAST, AND A DISTANCE OF 4,646.5 FEET ON A MAP OF "HARBOR LINES HUMBOLDT BAY, CALIFORNIA, U.S. ENGINEERS OFFICE, SAN FRANCISCO, CALIFORNIA - SEPTEMBER 29, 1938 - FILE 5 DIV. 4, SHEET 6", SAID POINT BEARS EAST, 811.8 FEET AND SOUTH 70 DEGREES EAST, 530 FEET MORE OR LESS, FROM THE CORNER COMMON TO SECTIONS 20, 21, 28 AND 29, TOWNSHIP 5 NORTH, RANGE 1 WEST, HUMBOLDT BASE AND MERIDIAN;
THENCE SOUTHERLY ALONG THE ABOVE MENTIONED PIERHEAD LINE, 455 FEET;
THENCE LEAVING THE PIERHEAD LINE, NORTH 73 DEGREES 22 MINUTES WEST, 25 FEET;
THENCE NORTHERLY PARALLEL WITH SAID PIERHEAD LINE, 140 FEET;
THENCE NORTH 73 DEGREES 22 MINUTES WEST, 300 FEET MORE OR LESS, TO THE ORDINARY LOW WATER MARK OF HUMBOLDT BAY; THENCE NORTHERLY ALONG SAME 40 FEET;
THENCE LEAVING THE ORDINARY LOW WATER MARK, SOUTH 73 DEGREES 22 MINUTES EAST, 290 FEET; THENCE NORTHERLY PARALLEL WITH THE PIERHEAD LINE, 275 FEET MORE OR LESS, TO AN INTERSECTION WITH A LINE WHICH BEARS NORTH 70 DEGREES WEST, FROM THE POINT OF BEGINNING;
THENCE SOUTH 70 DEGREES EAST, APPROXIMATELY 40 FEET TO THE POINT OF BEGINNING.

EXHIBIT B



← EASTERLY LINE OF TIDELAND SURVEY #30 AS CALCULATED FROM THE COURSES IN THE TIDELAND SURVEY RECORDED IN THE OFFICE OF THE HUMBOLDT COUNTY RECORDER



Michael J. O'Hern
 MICHAEL J. O'HERN
 LS 4829
 DATED APRIL 17, 2018

EASEMENT PLAT
 FOR
 HUMBOLDT BAY HARBOR, RECREATION
 AND CONSERVATION DISTRICT

IN
 SECTIONS 20, 21, 28 & 29 T5N, R1W, H.M.
 IN THE UNINCORPORATED AREA OF
 HUMBOLDT COUNTY
 SEPTEMBER 2017 SCALE 1" = 200'

HUMBOLDT COUNTY
 STATE OF CALIFORNIA
 KELLY-O'HERN ASSOCIATES
 EUREKA, CALIFORNIA

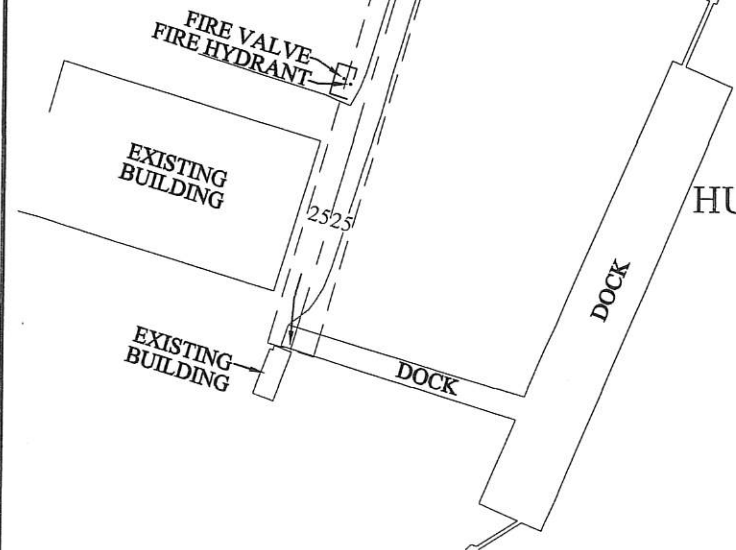


EXHIBIT B

EASEMENT PLAT
FOR
HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT

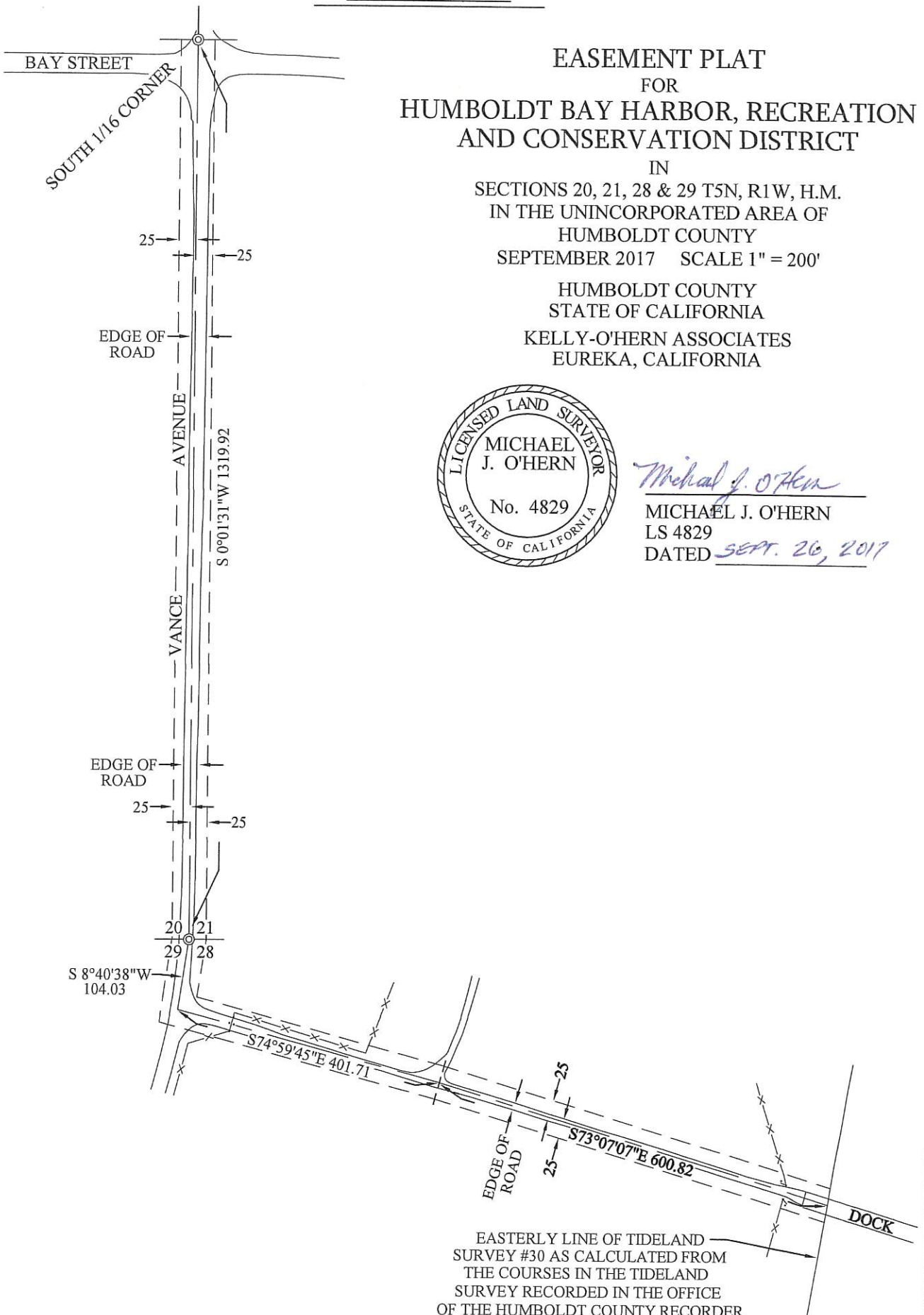
IN
SECTIONS 20, 21, 28 & 29 T5N, R1W, H.M.
IN THE UNINCORPORATED AREA OF
HUMBOLDT COUNTY
SEPTEMBER 2017 SCALE 1" = 200'

HUMBOLDT COUNTY
STATE OF CALIFORNIA
KELLY-O'HERN ASSOCIATES
EUREKA, CALIFORNIA



Michael J. O'Hern

MICHAEL J. O'HERN
LS 4829
DATED SEPT. 26, 2017



CORPORATE GUARANTEE

Security National, Inc., an Alaskan corporation qualified to do business in California, guarantees the performance of all of the terms and conditions of this Lease by **SEQUOIA INVESTMENTS X, LLC**, its affiliated business entity. The Humboldt Bay Harbor, Recreation and Conservation District shall not be obligated to exhaust any potential remedies against **SEQUOIA INVESTMENTS X, LLC** prior to demanding performance or seeking remedies of Security National, Inc. pursuant to this Guarantee.

Dated: _____, 2018

SECURITY NATIONAL, INC.

By: Robin P. Arkley, II

Chief Executive Officer