MINUTE ITEM

This Calendar Item No. 36 was approved as Minute Item No. 36 by the State Lands Commission by a vote of 3 to 0 at its 8/28/86 meeting.

CALENDAR ITEM
36

A 20

S 8

08/28/86
W 23423
Meier

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT IN THE COMMISSION'S DUAL ROLE AS ADMINISTRATOR OF SOVEREIGN LANDS AND TRUSTEE OF THE KAPILOFF LAND BANK TRUST FUND

APPLICANT: Hyatt Corporation
1333 Old Bayshore Highway
Burlingame, California 94010

A title dispute exists between the State of California and Hyatt Corporation concerning possible sovereign title interests over a portion of an approximately 9.134-acre parcel of land near San Francisco Bay in the City of Burlingame, San Mateo County. This claim is based on the land's historic character as tidelands of the State. Hyatt Corporation is the successor-in-interest to State patents which incorrectly characterized the controverted portion of the subject property as swamp and overflowed. The legal effect of these patents was to reserve the public trust easement to the State while conveying the underlying fee, to the extent that such patents included sovereign tidelands.

The property has been filled and reclaimed and is currently dry land. Staff of the State Lands Commission has studied evidence of title to the subject parcel and has concluded that some historic tidelands of the State, subject to a public trust easement for commerce, navigation, fisheries, and associated wetlands uses were included within the subject parcel. Hyatt Corporation does not necessarily concur in staff's analysis.

It has been proposed that that this dispute be resolved by entering into a Compromise Title and Settlement Agreement. The staff of the Commission recommends approval of the compromise agreement now on file in the offices of the State Lands

Commission. The agreement contains the following principle provisions:

1. The State will convey by patent to Hyatt Corporation all its right, title and interest to the parcel, as described in Exhibit "A" and as depicted on Exhibit "B";

2. In exchange, Hyatt Corporation will deposit $100,000 into the Kapiloff Land Bank Trust Fund in the Treasurer's Office, to be used to acquire lands useful for public trust purposes, the land so received and held by the State as tide and submerged lands subject to the public trust.

Staff has appraised the real property and has evaluated the law and facts bearing on the title dispute and has concluded that the Compromise Title Settlement Agreement is in the best interest of the State and that the State will receive property and funds equal to or greater in value that the interests in the land relinquished pursuant to the Compromise Title Settlement Agreement.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

   Authority: P.R.C. 21080.11.

EXHIBITS:
A. Description of Subject Parcel.
B. Subject Parcel Plat.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS AND PURSUANT TO P.R.C. 8631, THE KAPILOFF LAND BANK ACT.

2. APPROVE THE EXCHANGE AS PROPOSED AND AUTHORIZE THE EXECUTION IN SETTLEMENT OF THIS DISPUTE, OF THE COMPROMISE TITLE SETTLEMENT AGREEMENT ON FILE IN THE OFFICE OF THE COMMISSION WHICH IS INCORPORATED BY REFERENCE HEREIN.

3. FIND THAT THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT IS IN THE BEST INTERESTS OF THE STATE, FOR THE IMPROVEMENT OF NAVIGATION, FOR FLOOD CONTROL PROTECTION, AND TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING; AND THAT THE STATE WILL RECEIVE LANDS OR INTEREST IN LANDS AND FUNDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS AND FUNDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS RELINQUISHED BY THE STATE PURSUANT TO SAID COMPROMISE TITLE SETTLEMENT AGREEMENT.

4. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONAFIDE DISPUTE RESPECTING THE PRIVATE-STATE TITLES WITHIN THE SUBJECT PROPERTY; THAT THE PROPOSED COMPROMISED SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED, THAT THE SETTLEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; THAT SETTLEMENT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW, INCLUDING P.R.C. 6307 AND 6312, AS WELL AS OTHER PROVISIONS OF DIVISION 6 OF THE P.R.C. AND THE STATE'S POWER TO RESOLVE CONTROVERSIES IN LIEU OF LITIGATION.

5. FIND AND DECLARE THAT UPON THE DELIVERY OF THE PATENT AND ITS RECORDATION IN SAN MATEO COUNTY THE REAL PROPERTY DESCRIBED IN EXHIBIT "A" AND IN THE PATENT HAS BEEN IMPROVED, FILLED AND RECLAIMED; HAS BEEN CUT OFF FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING; IS NO LONGER IN FACT TIDE AND SUBMERGED LANDS; AND THEREFORE SHALL BE FREED FROM THE PUBLIC TRUST FOR NAVIGATION AND FISHING.

6. AUTHORIZE ISSUANCE OF A PATENT OF THE PARCEL IN SAN MATEO COUNTY, CALIFORNIA DESCRIBED IN EXHIBIT "A", FREE OF THE PUBLIC TRUST.

7. AUTHORIZE THE DEPOSIT OF $100,000 IN THE KAPILOFF LAND BANK TRUST FUND FOR THE ACQUISITION OF LANDS USEFUL FOR PUBLIC TRUST PURPOSES AS SOON AS PRACTICABLE PURSUANT TO P.R.C. 8600, ET SEQ.

8. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY OR APPROPRIATE TO IMPLEMENT THE ABOVE SETTLEMENT, INCLUDING BUT NOT LIMITED TO THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION OF ALL DOCUMENTS OF TITLE, CONVEYANCE, STIPULATIONS, ESCROW INSTRUCTIONS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE, LEGAL DESCRIPTIONS AND COURT DOCUMENTS; AND TO FILE ANY DOCUMENTS AND APPEAR IN ANY LEGAL PROCEEDINGS NECESSARY OR REQUIRED TO ACCOMPLISH THE TERMS AND PROVISIONS OF THE COMPROMISE TITLE SETTLEMENT AGREEMENT.

EXHIBIT "A"
LAND DESCRIPTION W 23423

Two parcels of land in the City of Burlingame, County of San Mateo, State of California, more directly described as follows:

PARCEL ONE:

BEGINNING at a point on the Northeasterly line of State Highway, District IV, San Mateo County, Route 68, Section Burl., known as the Bayshore Freeway, said point of beginning being located along said Northeasterly line, South 50° 41' 25" East 775.85 feet from the Most Southerly corner of Lot 1, Block 2, as shown on the Map entitled, "BURLWAY INDUSTRIAL PARK", filed in the office of the Recorder of the County of San Mateo, State of California on October 16, 1956 in Book 46 of Maps at Page 21, and said point of beginning being the intersection of said Northeasterly line of Bayshore Freeway with the center line of the 50 foot public utility and drainage easement, conveyed by R.P. Etienne Properties, Inc., to the City of Burlingame, by Deed dated February 17, 1955 and recorded March 2, 1955 in Book 2751 of Official Records of San Mateo County at Page 494 (30128M); thence from said point of beginning along said center line of said 50 foot easement, North 71° 34' 38" East 223.78 feet to a point on the Southwesterly line of the Old Bayshore Highway; thence along said Southwesterly line of the Old Bayshore Highway, North 22° 02' 22" West 1020.24 feet to the most Easterly corner of Lot 7, Block 2, as shown on the above mentioned Map of Burlway Park; thence along the Southeasterly line of said Block 2, South 39° 18' 35" West 678.40 feet to a point on the Northeasterly line of the Bayshore Freeway above described; thence along said Northeasterly line, South 50° 41' 25" East 775.85 feet to the point of beginning.

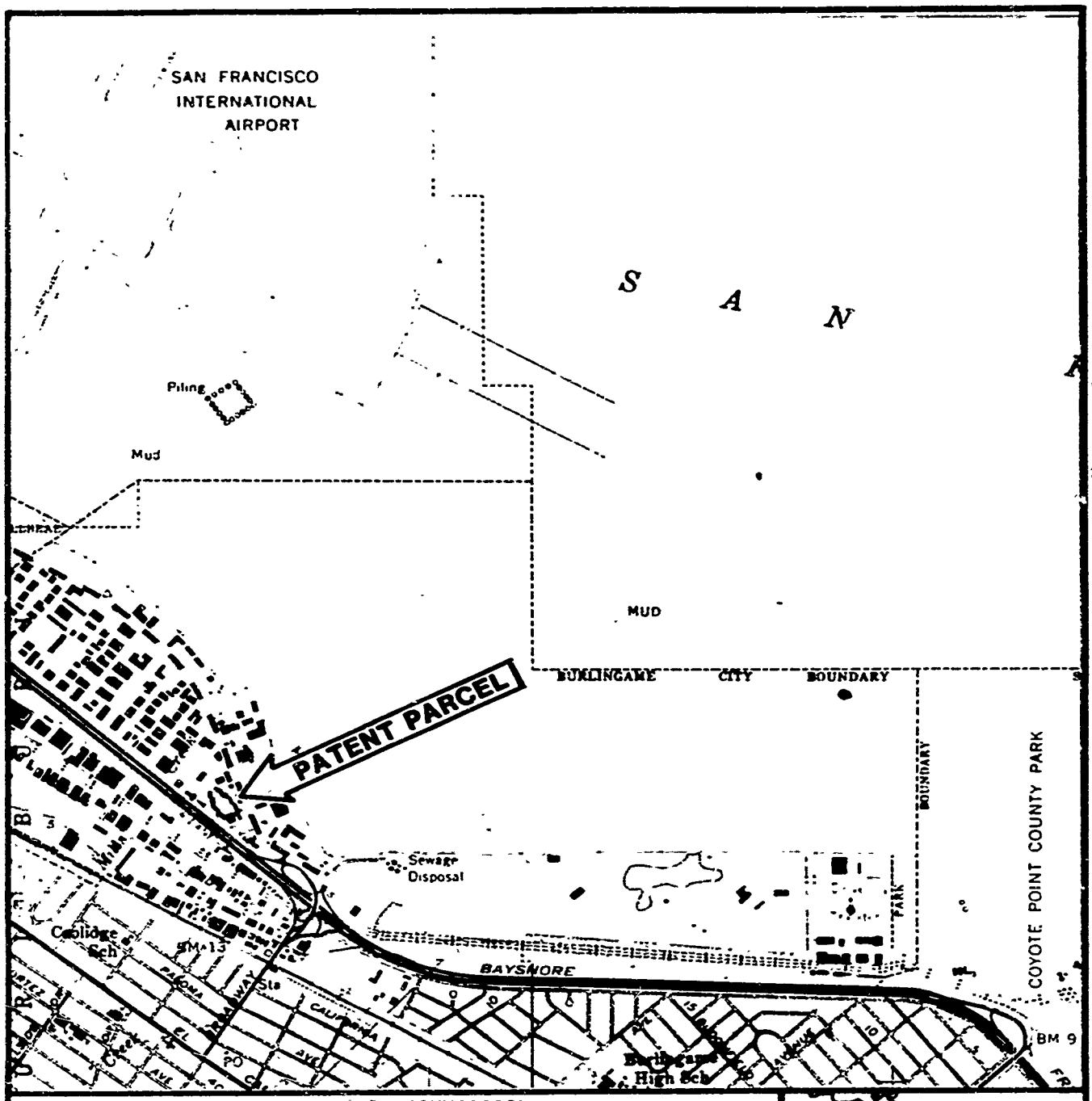
PARCEL TWO:

BEGINNING at the most Easterly corner of Lot 7, Block 2, as designated on the Map entitled, "BURLWAY INDUSTRIAL PARK BURLINGAME, SAN MATEO COUNTY, CALIFORNIA", which Map was filed in the office of the Recorder of the County of San Mateo, State of California on October 16, 1956 in Book 46 of Maps at Page 21; said point also being the most Northerly corner of the lands described in the Deed to Hyatt Corporation of America dated January 17, 1962 and recorded February 16, 1962 in Book 4148 of Official Records of San Mateo County at Page 261 (41960U); thence from said point of beginning along the Northwesterly boundary line of the lands described in said Deed South 22° 01' East (called South 22° 02' 22" East in said Deed) 1020.24 feet; thence North 71° 36' East 20.51 feet; thence North 22° 01' West parallel with said Northwesterly boundary line 1032.24 feet; thence South 39° 19' 57" West 23.36 feet to the point of beginning.

END OF DESCRIPTION

PREPARED JULY 28, 1986 BY BOUNDARY SERVICES UNIT, LOU SHAFER, SUPERVISOR.

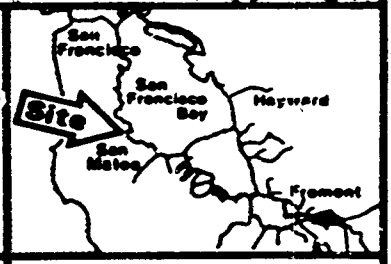
CALENDAR PAGE 1.1
MINUTE PAGE 2178



STATE LANDS COMMISSION

SETTLEMENT PLAT

PORTION OF SAN MATEO QUAD (1980)



Prepared by: R.L. BELL	Date: 7-28-86	A: 20 S: 8	EXHIBIT 'B'
Title Study: BURLINGAME CITY ~ BAYSHORE HWY.		W 23423	Z3 ~~N40-E 145, 146~~

CALENDAR PAGE 172
MINUTE PAGE 2179