

MINUTE ITEM

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09/27/89
W 24363
J. Sekelsky

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
CITY OF RICHMOND, CONTRA COSTA COUNTY

Calendar Item 45 was pulled from the agenda prior to the meeting.

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J. Sekelsky

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
CITY OF RICHMOND, CONTRA COSTA COUNTY

APPLICANT: Richard K. Robbins
c/o David Mishel, Titchell, Maltzman,
Mark Boss, Ohleyer and Mishel
650 California Street, 29th Floor
San Francisco, California 94108

A title dispute exists between the State, in its sovereign capacity, and Richard K. Robbins ("Robbins"), concerning ownership of certain real property in the City of Richmond, Contra Costa County. The real property is referred to as the Subject Property and is depicted for reference purposes only on Exhibit "A".

Robbins has an option to purchase the Subject Property, and the anticipated sale to Robbins is in escrow. The proposed title settlement outlined below would become effective immediately after record title to the Subject Property vests in Robbins or his designee.

Title to the Subject Property derives from a Mexican rancho grant, a State Swamp and Overflowed Land Patent, a State Tideland Patent, and sales of underwater lots by the State Board of Tide Land Commissioners. Staff of the State Lands Commission has conducted a study of the evidence of title to the Subject Property and has concluded that the property includes uplands and filled and unfilled marsh, tidal sloughs, and tidelands and submerged lands in San Francisco Bay. The State retains a public trust easement over these portions of

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(ADDED pgs. 350-350.5)

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the Subject Property that were, prior to filling from artificial causes, submerged or subject to tidal action. The parties disagree as to the location and extent of the State's interest in the Subject Property.

The tidelands within a portion of the Subject Property, hereinafter referred to as the Patent Parcel, have been filled and reclaimed from the waters of San Francisco Bay. These filled tidelands are no longer available or useful or reasonably susceptible of use or required for public trust purposes.

The tidelands within another portion of the Subject Property, hereinafter referred to as the Exchange Parcel, have been filled and reclaimed, and constitute the landward portion of a peninsula of filled lands which extend in a westerly direction from the upland portion of the Subject Property into San Francisco Bay. The State has record ownership of the waterward portion of the peninsula pursuant to a 1969 title settlement agreement between the State and Bethlehem Steel Corporation. The State's portion of the peninsula is landlocked by the upland portion of the Subject Property, and is accessible only from the waters of San Francisco Bay. The State's portion of the peninsula has been leased to East Bay Regional Park District for park purposes.

The remainder of the lands within the Subject Property, other than those described above, are hereinafter referred to as the Public Trust Parcels. The Public Trust Parcels consist of submerged lands, lands lying between the lines of mean low and mean high tide, and seasonal wetlands and marsh which provide valuable wildlife habitat. These Public Trust Parcels include former slough beds which are now wetlands, as well as a band of marsh land along the southerly shore of the Subject Property, a portion of which lies above the historic and current mean high tide lines, but which may be, or may become, subject to tidal action at higher high tides. The landward extent of this marsh lies generally along the waterward edge of the extension of Goodrick Avenue across the Subject Property.

Robbins proposes to develop a business and light industrial center on the filled portion of the Subject Property, and has asked the Commission to clear the State's interests from the filled land within the Patent Parcel. In addition, Robbins

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would like to define those lands that he will hold subject to a public trust easement retained by the State. Tentative agreement has been reached on a proposed settlement to resolve the State's claims in the Subject Property, as outlined below. Staff of the State Lands Commission recommends approval of the settlement in substantially the form of agreement now on file with the Commission.

In general, the proposed settlement agreement provides as follows:

1. In order to confirm the State's public trust easement over the sold filled and unfilled tidelands of San Francisco Bay, and, in addition, to provide protection to the adjacent marsh along the southerly shore of the Subject Property, Robbins, or his designee, will grant to the State an easement for public trust purposes over the Public Trust Parcels.
2. Robbins, or his designee, will grant to the State the private interest in a parcel of approximately half an acre (Exchange Parcel), abutting the State-owned lands at the end of the peninsula described above, and will grant an easement for public access over the Subject Property along the shore from the terminus of Goodrick Avenue to the Exchange Parcel.
3. In exchange for the grants of fee and easements described in subparagraphs 1 and 2 above, the State will quitclaim to Robbins, or his designee, free of the public trust, all its right, title, and interest, in and to those former tidelands within the Patent Parcel which have been filled and reclaimed, and which have no existing public trust value.
4. The parties will expressly agree that this settlement agreement is not intended to establish the boundary between lands held in fee by Robbins, subject to the public trust easement, and lands held in fee by the State.

Staff has evaluated the State's sovereign interests in the Patent Parcel and Robbins' interests in the Exchange Parcel and the Public Trust Parcels, and has concluded that the value of the sovereign interests the State will relinquish in the Patent Parcel is equal to or less than the value of the private interests in the Exchange Parcel and the Public Trust Parcels to be granted by Robbins to the State.

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AB 880: N/A:

OTHER PERTINENT INFORMATION:

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

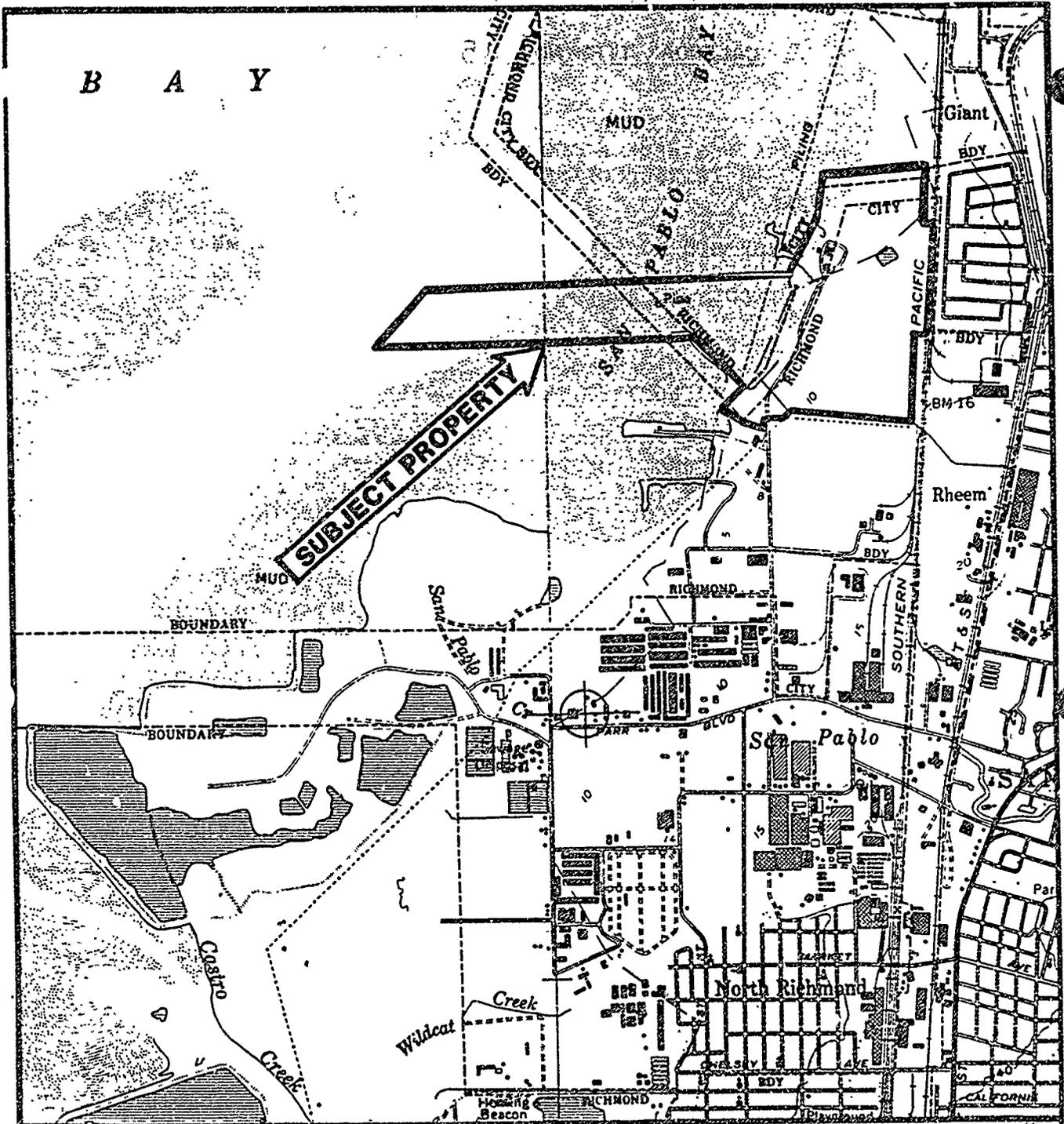
Authority: P.R.C. 21080.11.

EXHIBIT: A. Plat of Subject Property.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT WITH RESPECT TO THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE PATENT PARCEL FOR ROBBINS' INTEREST IN THE EXCHANGE PARCEL AND THE PUBLIC TRUST PARCELS:
 - A. THE AGREEMENT IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; AND THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO, PURSUANT TO THE PUBLIC TRUST.
 - B. THE INTERESTS IN THE EXCHANGE PARCEL AND THE PUBLIC TRUST PARCELS RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE PATENT PARCEL BEING RELINQUISHED BY THE STATE.
 - C. THE PATENT PARCEL HAS BEEN IMPROVED, RECLAIMED AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER IN FACT TIDELAND OR SUBMERGED LAND.

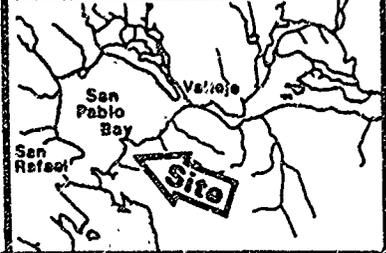
- D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE SUBJECT PROPERTY.
- E. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.
- F. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND AUTHORIZED BY APPLICABLE LAW.
- G. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE PATENT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST WITHIN THE PATENT PARCEL WILL BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
- A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION;
- B. A STATE PATENT QUITCLAIMING TO ROBBINS, OR HIS DESIGNEE, FREE OF THE PUBLIC TRUST, ALL SOVEREIGN RIGHT, TITLE, AND INTEREST OF THE STATE, IN THE PATENT PARCEL; AND
- C. A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORD THE GRANT DEED FROM ROBBINS, OR HIS DESIGNEE, CONVEYING THE EXCHANGE PROPERTY TO STATE, AND THE GRANT OF EASEMENT FOR PUBLIC ACCESS FROM ROBBINS, OR HIS DESIGNEE, TO STATE.
4. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AND PAYMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.



STATE LANDS COMMISSION

SUBJECT PROPERTY PLAT

A PORTION OF USGS QUAD RICHMOND
 P.R. 1980 & SAN QUENTIN P.R. 1980



Prepared by: D. Crum

Date: 6/12/89

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Title Study Richmond/Breuner Property

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EXHIBIT A

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