

MINUTE ITEM

This Calendar Item No. 35
was approved as Minute Item
No. 35 by the State Lands
Commission by a vote of 3
to 0 at its 10/26/89
meeting.

CALENDAR ITEM

A 20
S 11

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10/26/89
W 24267 AD 104
J. Sekelsky

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
REGARDING CERTAIN REAL PROPERTY
IN THE CITY OF SAN MATEO, SAN MATEO COUNTY,
PURSUANT TO THE KAPILOFF LAND BANK ACT.

BACKGROUND:

A title dispute exists between the State, acting by and through the State Lands Commission (State), and the City of San Mateo, as legislative grantee (City), and California Jockey Club (Jockey Club), concerning ownership of approximately forty acres of real property within the Golden Gate Fields complex in San Mateo (Subject Property).

California Jockey Club is the record owner of the Subject Property.

By Chapter 536, Statutes of 1915, as amended by Chapter 245, Statutes of 1933, and Chapter 1099, Statutes of 1976 (Granting Statutes), the Legislature granted to the City, in trust, those sovereign lands within the City's corporate limits. The Subject Property is within the corporate limits of the City. The City, as grantee, has no independent authority to settle title disputes by use of the Kapiloff Land Bank.

Commission staff has conducted a study of the evidence of title to the Subject Property, and has concluded that the Subject Property includes filled and reclaimed historic tidelands which formerly consisted of the beds of numerous tidal sloughs, tributary to San Francisco Bay. The precise location and extent of these tidal sloughs within the Subject Property is a matter of dispute between the State and the City on one hand, and Jockey Club on the other.

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The staff is of the opinion that the title evidence and the applicable legal principles lead to the conclusion that the State, in its sovereign capacity, and its grantee, the City of San Mateo, are the owners of some public trust right, title, or interest in the Subject Property. The exact extent and nature of the State's and City's interest is, however, subject to uncertainty and dispute.

The Subject Property has been filled and reclaimed since before 1900 and has more recently been used as a practice track for the Golden Gate Fields Racetrack. The Subject Property is approximately one mile away from San Francisco Bay.

Jockey Club has offered to resolve the title dispute by written agreement in compromise settlement of the legal and evidentiary issues. The staff of the State Lands Commission recommends approval of the settlement in substantially the form of the agreement now on file with the Commission.

While the agreement sets forth all the specific terms and conditions of the settlement, a brief summary of some of the principal terms and conditions of the settlement is set forth below, as follows:

1. Jockey Club will deposit the sum of \$32,500 into the Kapiloff Land Bank Fund which is administered by the State Lands Commission as trustee pursuant to P.R.C. 8600 et seq.
2. The City will quitclaim all right, title, and interest it may have in the Subject Property by virtue of the Granting Statutes, to the State for purposes of effectuating the compromise settlement agreement.
3. In exchange for the above transfer of funds by Jockey Club to the State, the State will convey to the Jockey Club all its right, title, and interest, including that interest quitclaimed by the City to the State as set forth above, and will terminate the public trust interest in the Subject Property.
4. City will use its best efforts to identify, and State, as trustee of the Land Bank Fund, will use its best efforts for three years to acquire, with the monies deposited into the Land Bank Fund by Jockey Club, available lands within the City which are useful for public trust purposes.

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5. The agreement provides for an escrow and will be effective upon its recordation. Escrow fees and any title insurance will be without cost to the State.

Staff has appraised the Subject Property and has evaluated the law and evidence bearing on the title dispute, and is of the opinion that the sum of \$32,500 is equal to or greater than the value of the State's and City's interest in the Subject Property.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
B. Cal. Code Regs.: Title 2, Div. 3;
Title 14, Div. 6.

AB 884: 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 settlement of title and boundary problems.

Authority: P.R.C. 21080.11.

2. In taking action on this staff recommendation, the Commission is acting as the trustee of the Kapiloff Land Bank Fund created by P.R.C. 8610.

EXHIBITS:

- A. Site Map.
B. Description of Subject Property.

IT IS RECOMMENDED THAT THE COMMISSION:

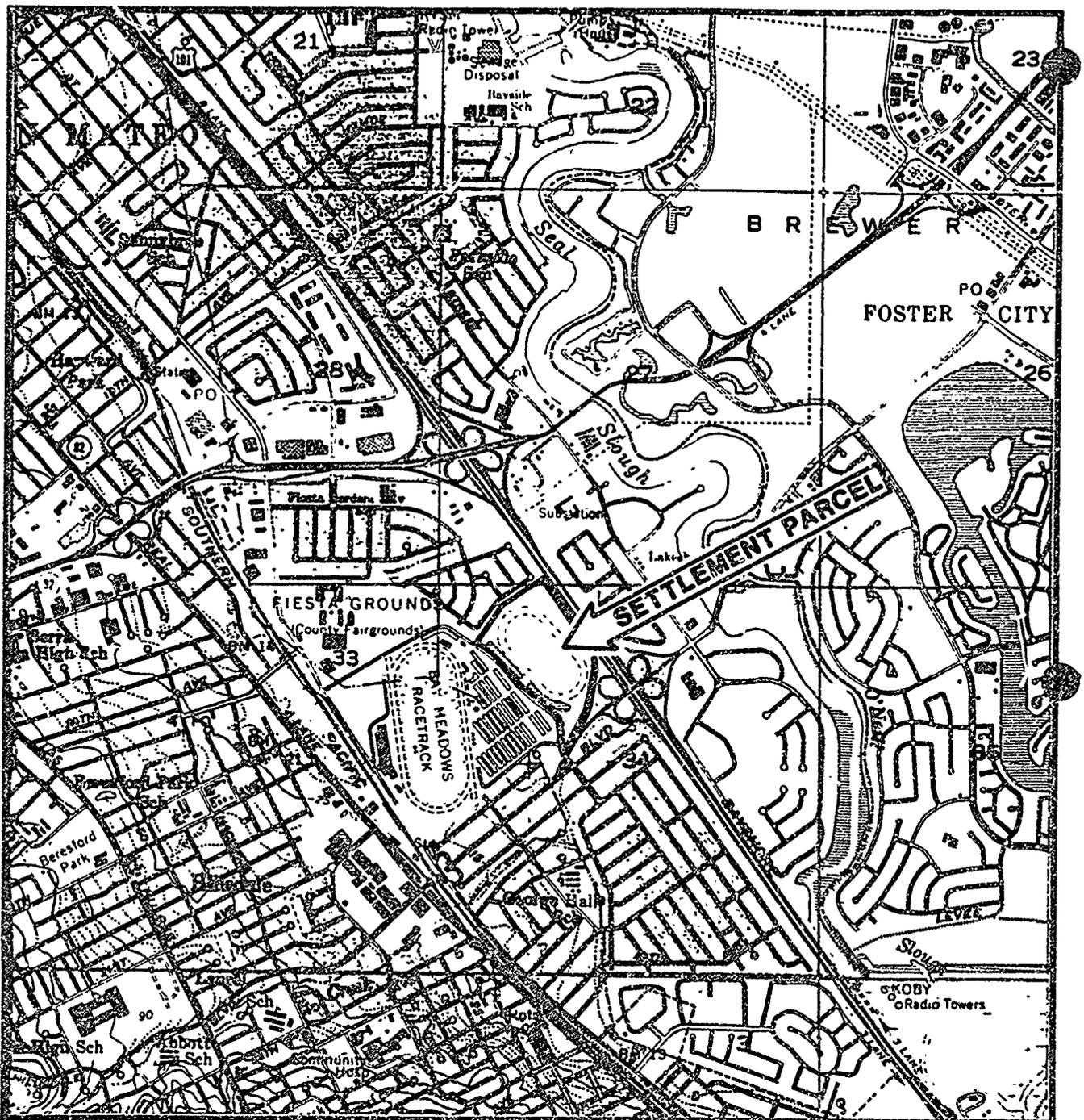
1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

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2. FIND THAT, WITH RESPECT TO THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S AND CITY'S INTEREST IN THE SUBJECT PROPERTY FOR FUNDS WITH WHICH TO BUY AN EXCHANGE PARCEL:
- 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. THAT THE MONIES RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTEREST IN THE SUBJECT PROPERTY BEING RELINQUISHED BY THE STATE AND THE CITY.
 - C. THE SUBJECT PROPERTY HAS BEEN IMPROVED, RECLAIMED, AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTABLE 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 FACT 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 IS AUTHORIZED BY APPLICABLE PROVISIONS OF LAW.
 - G. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SUBJECT PROPERTY WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST MAY BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:

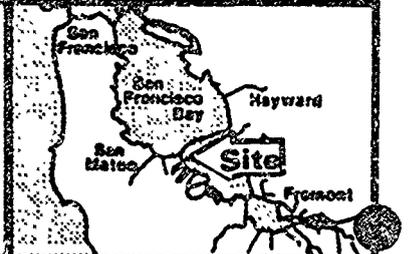
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- A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
 - B. A PATENT CONVEYING TO CALIFORNIA JOCKEY CLUB THE SUBJECT PROPERTY IN SAN MATEO COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "B", FREE OF THE PUBLIC TRUST.
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
SETTLEMENT PLAT

A Portion of USGS Quadrangle SAN MATEO 1956,
Photorevised 1980.



Prepared by: D. Crum

Date: 10/16/89 A: 20 S: 11

EXHIBIT A

Title Study: California Jockey Club

W24267

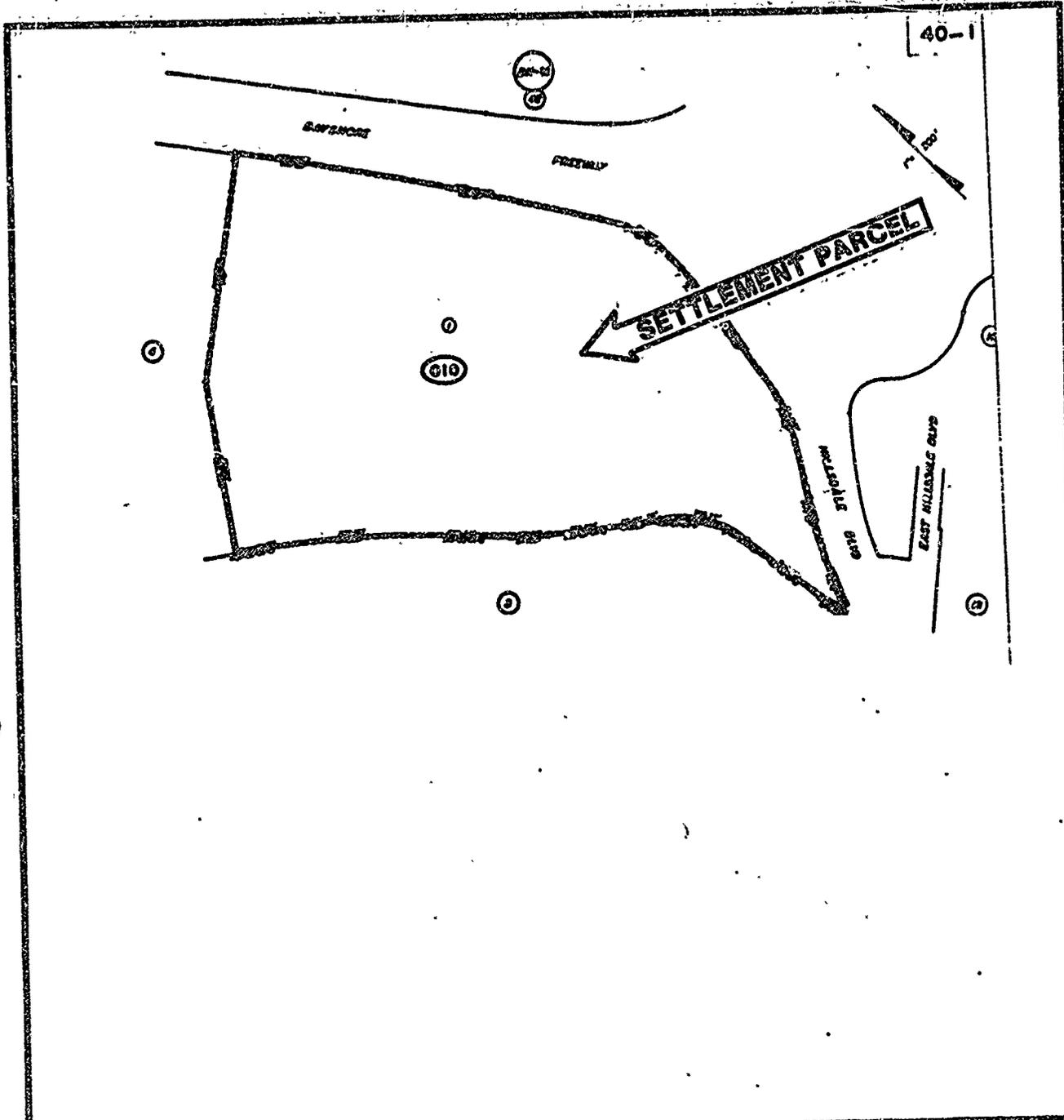
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STATE LANDS COMMISSION

SETTLEMENT PLAT

1988 San Mateo County Assessor's Map Book 40,
Page 1, Parcel 1.



Prepared by: D. Crum

Date: 10/16/89 A: 20 S: 11

EXHIBIT A

Title Study: California Jockey Club

W 24267

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EXHIBIT "B"

A parcel of real property situated in the County of San Mateo, State of California, described as follows:

BEGINNING at the most Easterly corner of the lands shown on that certain map entitled "FIESTA GARDENS UNIT NO. 2, SAN MATEO, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on May 18, 1955 in Book 42 of Maps at pages 19 and 20, Records of San Mateo County, California; thence along said last mentioned boundary, South $53^{\circ} 37' 30''$ West 710.90 feet and South $35^{\circ} 27' 13''$ West 542.53 feet to the most Southerly corner of said Fiesta Gardens Unit No. 2, said point being on the Northeasterly boundary of that certain 100 foot wide strip of land described as Parcel 5 in that certain grant deed from California Jockey Club, a corporation, to Conway & Culligan Development Company, a corporation, which deed was recorded in the office of the County Recorder of the County of San Mateo, State of California, on the 7th day of July, 1950, in Book 1893 of Official Records at page 131 (File Number 70045-I); thence Southeasterly along said Northeasterly boundary 1300 feet more or less to the most Northerly corner of that certain 1.586 acre parcel described as Parcel 2 in that certain Deed of Dedication from Thomas J. Culligan, et ux, to the City of San Mateo dated March 16, 1955 and recorded April 14, 1955 in Book 2777 of Official Records, page 595 (Document No. 42252-M); thence along the Easterly boundary line of said last mentioned parcel, from a tangent that bears South $57^{\circ} 36' 04''$ East, along a curve to the right with a radius of 325 feet, through an angle of $52^{\circ} 02' 43''$, an arc distance of 295.22 feet; thence South $5^{\circ} 33' 21''$ East 290.95 feet; thence along a tangent curve to the left with a radius of 250 feet through an angle of $21^{\circ} 03' 51''$, an arc distance of 91.91 feet to the Westerly boundary line of that certain 9.993 acre parcel described in that certain Final Order of Condemnation filed September 10, 1954 under Action No. 61573, entitled "The People of the State of California vs. California Jockey Club", recorded September 10, 1954 in Book 2648 of Official Records at page 360 (File No. 85120-L), Records of San Mateo County, California; thence along the Westerly boundary of said 9.993 acre parcel North $24^{\circ} 02' 46''$ East 150 feet more or less to the Northerly terminus of the course described therein as North $24^{\circ} 02' 46''$ East 291.22 feet; thence continuing along said boundary along a tangent curve to the right a radius of 1243 feet through an angle of $15^{\circ} 00' 56''$ an arc length of 325.75 feet to a point of reverse curvature, said point being North $50^{\circ} 56' 18''$ West 43.00 feet from Engineer's Station 116+85.98 on the "E5" line of the Department of Public Works survey for the Bayshore Freeway in San Mateo County, Road IV-SM-68-C; thence from a tangent that bears North $39^{\circ} 03' 42''$ East along a curve to the left with a radius of 457 feet, through an angle of $30^{\circ} 34'$, an arc distance of 243.80 feet; thence North $8^{\circ} 29' 42''$ East 434.68 feet; thence along a tangent curve to the left with a radius of 457 feet through an angle of $41^{\circ} 32' 24''$, an arc distance of 331.33 feet; thence North $33^{\circ} 02' 42''$ West 727.21 feet to a point in the Southwesterly line

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of the Bayshore Highway as established by that certain Deed from Courtiss-Wright Corp., to the State of California, recorded April 10, 1944 in Book 1111 of Official Records at page 239, Records of San Mateo County, California; thence along said last mentioned line, North $36^{\circ} 22' 30''$ West 414.84 feet to the point of beginning.

END OF DESCRIPTION

REVIEWED BY BOUNDARY INVESTIGATION UNIT IV, SUPERVISED
BY R.D. LA FORCE, 10-12-89.

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