

MINUTE ITEM

This Calendar Item No. C39 was approved as Minute Item No. 39 by the California State Lands Commission by a vote of 3 to 0 at its 8/26/97 meeting.

CALENDAR ITEM

C39

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W 24199
D. Plummer
B. Stevenson
K. Olin

CONSIDER APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT BETWEEN THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION AND THE CITY OF SAN RAFAEL, ACTING BY AND THROUGH ITS REDEVELOPMENT AGENCY REGARDING CERTAIN LANDS SITUATED WITHIN THE CITY OF SAN RAFAEL.

PARTY:

City of San Rafael
Redevelopment Agency
P.O. Box 151560
San Rafael, California 94915-1560
Attn.: Jake Ours

Staff of the Commission has been requested by the city of San Rafael, through its Redevelopment Agency (City), to determine the extent of State interest within approximately 2.3 acres of land (TRUST TERMINATION PARCELS) located within the city of San Rafael. The TRUST TERMINATION PARCELS are shown for reference only on Exhibit A (which is attached and incorporated by reference as a part of this item).

Commission staff has conducted a study of the evidence of title to the TRUST TERMINATION PARCELS and has drawn a number of factual conclusions, including those summarized below:

1. Portions of the TRUST TERMINATION PARCELS were purportedly patented by the State to Timothy Mahon on November 12, 1868, as Survey No. 1 Swamp and Overflowed lands, Marin County.
2. Within the perimeter description of Swamp and Overflowed Survey No. 1 were several substantial tidal sloughs that traversed the area, and marshes which may have been subject to tidal action.

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3. Due to discrepancies in surveying the township line between Townships 1 and 2 North, Range 6 West, M.D.M., there exists an area within the TRUST TERMINATION PARCELS that is unsold State owned land.
4. By Chapter 83, Statutes of 1923, as amended, the State of California granted in trust to the city of San Rafael all tide and submerged lands, whether filled or unfilled, within the City's boundaries.

The staff is of the opinion that the title evidence and the applicable legal principles lead to the conclusion that a portion of the TRUST TERMINATION PARCELS remains subject to sovereign title interests held by the city of San Rafael subject to supervisory and reversionary interests of the State of California. The exact extent and nature of the State's interest is, however, subject to uncertainty and dispute.

The city of San Rafael and the staff have negotiated a title settlement which has been memorialized in a title settlement agreement which is on file with the office of the California State Lands Commission. The Agreement utilizes Chapter 1742, Statutes of 1971, which authorizes the city of San Rafael to settle title to historic tide or submerged lands within the city of San Rafael's grant. The consideration provided in an agreement terminating the Public Trust interests is required to be approved by the California State Lands Commission.

The basic terms of this Agreement are:

- A. The city of San Rafael, acting as trustee pursuant to Chapter 83, Statutes of 1923, as amended, shall quitclaim to itself, acting in its proprietary capacity or by and through its Redevelopment Agency, any and all sovereign interests in the TRUST TERMINATION PARCELS it may hold by virtue of that statute, as amended.
- B. The State shall quitclaim to the city of San Rafael, acting in its proprietary capacity or by and through its Redevelopment Agency any and all of the State's rights by virtue of its sovereignty in the TRUST TERMINATION PARCELS reserved to the State by Chapter 83, Statutes of 1923, as amended.
- C. The city of San Rafael will make a contribution in the sum of \$61,000 to a land bank fund administered by the city of San Rafael for the acquisition of land in or along the present San Rafael Canal, which property shall take on the legal character of tide and submerged lands granted to the

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city of San Rafael pursuant to Chapter 83, Statutes of 1923, as amended. This contribution will be made from funds separate from granted lands operations or from monies held from earlier granted lands title settlements.

The Staff of the Commission recommends the approval and execution of the proposed Agreement in a form similar to that on file in the Commission's offices.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 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: Public Resources Code section 21080.11.

EXHIBITS:

- A. Site Map (for reference only)

PERMIT STREAMLINING ACT DEADLINE:

N/A

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061, AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE AND TO DELIVER INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF MARIN COUNTY, THE SUBJECT TITLE SETTLEMENT AGREEMENT IN A FORM SUBSTANTIALLY SIMILAR TO THAT ON FILE WITH THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION; TOGETHER WITH ALL OTHER SUPPORTING DOCUMENTS NECESSARY TO EFFECTUATE THE AGREEMENT.
3. APPROVE THE EXECUTION OF THE AGREEMENT BY THE CITY OF SAN RAFAEL AND THE QUITCLAIMING TO THE CITY OF SAN RAFAEL, ACTING IN ITS PROPRIETARY CAPACITY OR BY AND THROUGH ITS REDEVELOPMENT AGENCY OF ALL RIGHT, TITLE, AND INTEREST HELD

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BY THE CITY BY CHAPTER 83, STATUTES OF 1923, AS AMENDED, IN LAND IN THE AGREEMENT REFERRED TO AS THE TRUST TERMINATION PARCELS.

4. FIND, UPON RECORDATION OF THE TITLE SETTLEMENT AGREEMENT AND PURSUANT TO CHAPTER 1742, STATUTES OF 1971, THAT:
 - A. THE TRUST TERMINATION PARCELS HAVE BEEN FILLED AND RECLAIMED IN CONNECTION WITH THE DEVELOPMENT OF THE SAN RAFAEL WATERFRONT;
 - B. THE TRUST TERMINATION PARCELS ARE NO LONGER BELOW THE PRESENT LINE OF MEAN HIGH TIDE;
 - C. THE TRUST TERMINATION PARCELS ARE NOT NECESSARY OR USEFUL FOR COMMERCE, NAVIGATION, OR FISHERIES;
 - D. THE PUBLIC TRUST FOR COMMERCE, NAVIGATION, AND FISHERIES AND ANY RIGHTS OF THE STATE AND THE CITY OF SAN RAFAEL, BASED UPON CHAPTER 83, STATUTES OF 1923 (AS AMENDED) IN THE TRUST TERMINATION PARCELS, ARE TERMINATED.
5. FIND, PURSUANT TO CHAPTER 1742, STATUTES OF 1971, THAT THE MONIES TO BE RECEIVED BY THE CITY OF SAN RAFAEL AND STATE IS EQUAL TO OR GREATER THAN THE VALUE OF SOVEREIGN INTERESTS IN THE TRUST TERMINATION PARCELS AND THAT MONIES GENERATED BY THIS SETTLEMENT WILL BE DEPOSITED INTO A LAND BANK FUND CREATED PURSUANT TO MUTUAL INSTRUCTIONS OF THE CITY OF SAN RAFAEL AND THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION. THE FUND SHALL BE USED FOR THE PURCHASE OF LAND WHICH WILL TAKE ON THE LEGAL CHARACTER OF TIDE AND SUBMERGED LANDS GRANTED TO THE CITY OF SAN RAFAEL.
6. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY OR APPROPRIATE TO EFFECTUATE THIS AGREEMENT INCLUDING REPRESENTATION OF THE COMMISSION IN ANY LEGAL ACTION TO DETERMINE THE LEGALITY OF THIS AGREEMENT.

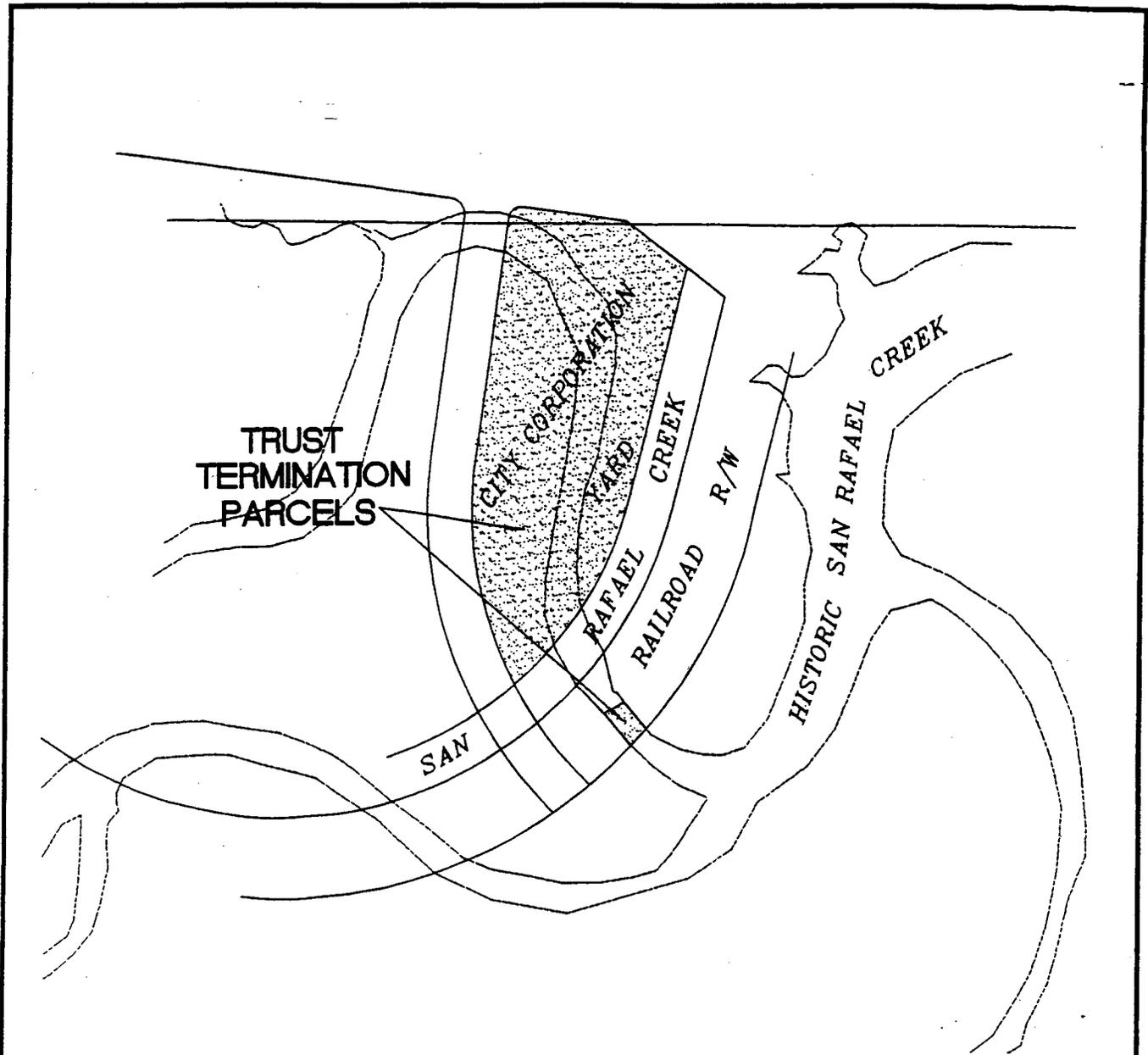
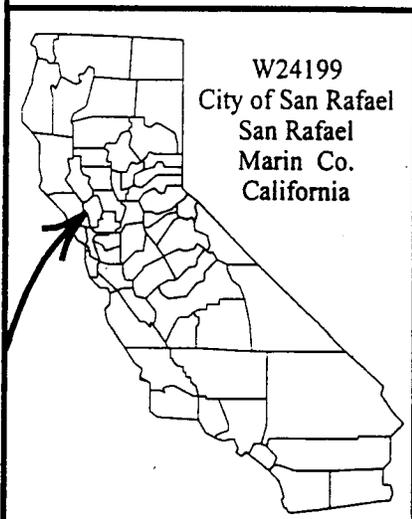


EXHIBIT A
Site Map



This Exhibit is solely for the purpose of generally defining the settlement area, and is not intended to be, nor shall it be construed as a waiver or limitation of any State interest in the subject or any other property.