MINUTE ITEM

This Calendar Item No. C37 was approved as Minute Item No. 37 by the California State Lands Commission by a vote of 3 to 0 at its 6-2-03 meeting.

CALENDAR ITEM
C37

A 73

S 38

06/02/03
G10-06 / AD 454
C. Fossum
J. Lucchesi
J. DeGraff

CONSIDERATION OF A PROPOSED TITLE SETTLEMENT AND EXCHANGE AGREEMENT, BETWEEN CITY OF OCEANSIDE, CH OCEANSIDE, LLC, AND THE CALIFORNIA STATE LANDS COMMISSION, SETTLING VARIOUS TITLE AND BOUNDARY DISPUTES ON LANDS LOCATED IN AND ALONG THE SAN LUIS REY RIVER, CITY OF OCEANSIDE, SAN DIEGO COUNTY

PARTIES:
City of Oceanside
300 N. Coast Highway
Oceanside, CA 92054
c/o: Steven R. Jepsen, City Manager

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

Concordia Homes
c/o CH Oceanside LLC
1903 Wright Place, Suite 120
Carlsbad, CA 92008

BACKGROUND:
The California Legislature, by Chapter 846, Statutes of 1979, granted sovereign property rights including "the sovereign interests of the State of California in lagoons, estuaries and rivers within the City limits of the City of Oceanside." Section 13 of Chapter 846 authorizes the City to: (a) establish the boundaries of the sovereign interests by agreement; or (b) exchange certain sovereign interests under certain limited circumstances, both subject to the approval of the California State Lands Commission (CSLC or Commission).

The Commission, at its meeting of October 29, 1979, (Calendar Item No. 28) authorized the execution of the San Luis Rey River Boundary Settlement and Exchange – BLA 192 between the State of California, the city of Oceanside and certain private parties. This

agreement settled a title dispute which existed among the parties involving the ownership of approximately 25 acres located along the Pacific Ocean at the mouth of the San Luis Rey River in the city of Oceanside.

RENAISSANCE TERRACE TITLE SETTLEMENT AND EXCHANGE AGREEMENT:

The Renaissance Terrace Title Settlement and Exchange Agreement (Agreement) between the State of California, the city of Oceanside (City) and CH Oceanside, LLC (Concordia) provides for the settlement of property interests of the respective parties through an agreed common boundary, an exchange and conveyance of certain property interests and claims of interest in lands on either side of the agreed line; the termination of any public trust easement claims as to certain portions of said lands; the execution of all documents and maps necessary to accomplish the provisions of said agreement; and approval of all acts of the City and authorization to the CSLC staff and the Attorney General necessary to accomplish the provisions of said Agreement in order to confirm, and exchange, the respective interests in lands within the subject property (as shown on Exhibit A), in the City, as trustee, and in Concordia.

The staff of the CSLC has conducted an extensive study and investigation of the area within and adjacent to the subject property and has examined historical maps, aerial photos, hydrological data, and other evidence concerning such area. Staff of the CSLC has also reviewed surveys and maps prepared by Concordia of the San Luis Rey River along or through the subject property. In the area involved in the proposed settlement, the San Luis Rey River has been affected by human activities, which have had a direct impact upon, among other characteristics, the River location, velocity and volume of flow, seasonal flow patterns, and sediment transport and deposition. An example of the direct artificial influences is the impoundment and diversion of water for the construction and operation of Interstate 5 and the adjacent railroad right of way. Consequently, the Ordinary High Water Mark (OHWM) in this area along or through the subject property is no longer reflective of the pre-artificial conditions.

Uncertainty exists as to the precise location of the OHWM of the San Luis Rey River bed before the flows were controlled and artificial influences impacted the River. There is a *bona fide* dispute between the City, State, and Concordia as to the existence, extent, nature and location of their respective rights, titles and interests in the subject property.

The Agreement provides for the resolution of property interest claims by the parties to the lands within the subject property by an exchange of interest claims on either side of an agreed common boundary (as shown on Exhibit A). In order to effectuate this boundary: (1) City, as trustee of the State, and State will exchange and convey to Concordia any and all of their right, title and interests, including claims of any Public Trust interests in those lands depicted as Upland

Parcel on Exhibit A; and (2) Concordia will exchange and convey to the City, as trustee of the State, all of Concordia's right, title and interest in those lands depicted as River Parcel on Exhibit A.

Staff has conducted an on-site investigation of the subject property. The River Parcel, to be conveyed to the City, as trustee of the State, includes open space and a regional bike trail along the San Luis Rey River.

A judicial resolution of the parties' rights, titles and interests in the subject property could require costly, protracted, and vigorously disputed litigation with uncertain results if the controversy could not be resolved by settlement. The parties consider it expedient and necessary and in the best interests of the City, State, the public, and Concordia to resolve this title dispute by compromise settlement, thereby avoiding the anticipated substantial costs, time requirements, and uncertainties of such litigation.

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. Map 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 PUBLIC RESOURCES CODE SECTIONS 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. FIND THAT THIS AGREEMENT IS IN THE BEST INTERESTS OF THE STATE FOR PROTECTION AND PRESERVATION OF THE SOVEREIGN PUBLIC TRUST LANDS IN THE SAN LUIS REY RIVER.

3. FIND THAT THE LANDS TO BE CONVEYED TO THE CITY, AS TRUSTEE OF THE STATE, ARE TO BE ACCEPTED AS PUBLIC TRUST LANDS FOR THE BENEFIT OF THE PEOPLE OF THE STATE OF CALIFORNIA AND; ANY LAND SO ACQUIRED SHALL HAVE THE

SAME STATUS AS TO ADMINISTRATION, CONTROL, AND DISPOSITION AS THE LANDS FOR WHICH IT WAS EXCHANGED.

4. FIND THAT THE LANDS TO BE CONVEYED TO CONCORDIA HAVE EITHER NEVER BEEN OR ARE NO LONGER WITHIN THE ACTIVE CHANNELS OF THE SAN LUIS REY RIVER HAVE BEEN FILLED AND RECLAIMED AND; ARE NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION, FISHING OR OTHER TRUST USES AND PURPOSES AND ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND; UPON RECORDATION OF THE AGREEMENT ARE FREE FROM THE PUBLIC TRUST FOR COMMERCE, NAVIGATION AND FISHERIES.

5. FIND THAT THE CITY, AS TRUSTEE OF THE STATE, WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS RELINQUISHED BY THE CITY AND STATE PURSUANT TO THE AGREEMENT.

6. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDING OF THE RENAISSANCE TERRACE TITLE SETTLEMENT AND EXCHANGE AGREEMENT AND ASSOCIATED DEEDS AND ACCEPTANCES ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION, IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.

7. AUTHORIZE AND DIRECT THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION AND/OR THE ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKOWLEDGMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE TITLE SETTLEMENT AND EXCHANGE AGREEMENT.