CALENDAR ITEM

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W503.1970 / AD 537/G16-01/PRC 8824.9

S 11 J. Lucchesi

C. Tiedemann

CONSIDERATION OF A PROPOSED SETTLEMENT OF *SANTA CRUZ SEASIDE CO. V. CITY OF SANTA CRUZ, ET AL.*, SUPERIOR COURT CASE NO. CV 156815 (COUNTY OF SANTA CRUZ), INVOLVING A PROPOSED TITLE SETTLEMENT AND LAND EXCHANGE AGREEMENT AND ISSUANCE OF A 49-YEAR GENERAL LEASE – PUBLIC AGENCY USE – OF LANDS ACQUIRED BY THE STATE LANDS COMMISSION TO THE CITY OF SANTA CRUZ INVOLVING CERTAIN PARCELS ALONG THE SAN LORENZO RIVER AND THE PACIFIC OCEAN, WITHIN THE CITY OF SANTA CRUZ

PARTIES:

State of California
State Lands Commission
100 Howe Ave., Suite 100 South
Sacramento, California 95825

City of Santa Cruz
809 Center Street, Room 10
Santa Cruz, California 95060

Santa Cruz Seaside Company
400 Beach Street
Santa Cruz, California 95060

BACKGROUND:

On April 12, 2007, Santa Cruz Seaside Company ("Seaside") filed *Santa Cruz Seaside Company v. City of Santa Cruz*, CV 156815, to quiet title against the city of Santa Cruz ("City") and the State, acting by and through the State Lands Commission ("State" or "Commission" or "CSLC") to certain property (the "Triangle Property"). This case is the second of two Santa Cruz County Superior Court cases relating to a title dispute over a six-acre parking lot adjacent to the San Lorenzo River in the city of Santa Cruz.

The first case (Santa Cruz County Superior Court No. CV 151927) was filed in 2006 by Seaside against the City and the State to quiet title to an approximately four-acre portion of the parking lot property. In this first case, the superior court ruled against the

City and the State, upholding the validity of a 1933 Santa Cruz Superior Court judgment that quieted title in the property to Seaside. In June 2007, the Commission voted not to appeal the court's decision.

In the second quiet title action, which is the subject of this staff report, Seaside seeks to quiet title in the Triangle Property, which includes the remaining portion of the parking lot property. The Triangle Property is depicted on Exhibit A. The Triangle Property is physically separated from the San Lorenzo River by a federal levee that was constructed in the late 1950's. The Triangle Property also includes parcels that are subject to a 1924 Santa Cruz Superior Court judgment (*Anson v. City and County of Santa Cruz*, No. 9535), which quieted title in the predecessors of Seaside, similar to the 1933 judgment referenced above in the first case. Seaside claims that it owns the Triangle Property in fee simple absolute. Seaside further claims that there are no sovereign or public trust ownership interests, either in fee or as a public trust easement in the Triangle Property. The State and the City claim public trust ownership interests, including fee and public trust easement interests, in portions of the Triangle Property.

The litigation concerning the Triangle Property has been informally stayed since April 2008 while Seaside, City staff and Commission staff, with assistance and advice from the Attorney General's Office, have been negotiating a settlement of the title dispute through a land exchange pursuant to Public Resources Code section 6307. The Santa Cruz City Council considered and approved a settlement agreement, including the proposed Title Settlement and Land Exchange Agreement (Agreement) at a public hearing on June 9, 2009. At the June 17, 2009 case management conference, the Superior Court advised the parties that if the case is not resolved by the end of September 2009, it will be set for trial.

PROPOSED TITLE SETTLEMENT AND LAND EXCHANGE:
Since continued litigation of this matter would likely be extremely protracted and costly with uncertain results, all parties agreed to enter into settlement negotiations that have resulted in the proposed Agreement. The Agreement is on file at the Sacramento office of the State Lands Commission. The parties to the Agreement consider it expedient, necessary, and in the best interests of the parties to resolve this quiet title action through a title settlement and land exchange agreement thereby avoiding the anticipated substantial costs, time requirements, and uncertainties of litigation.

Pursuant to the provisions of Division 6 of the Public Resources Code, the Commission has exclusive jurisdiction of the State's right, title and interest in tide and submerged lands owned by the State by virtue of its sovereignty, held in trust for the benefit of the people of California, including the jurisdiction and authority to enter into compromise

agreements, in lieu of litigation. Further, pursuant to Public Resources Code section 6307, the Commission is authorized to enter into land exchange agreements.

The proposed Agreement involves several parcels of land within the City. One parcel includes the previously described Triangle Parcel. Two of the parcels (the "Volleyball Parcel" and "West Lawn Parcel") are beachfront properties located adjacent to the Pacific Ocean immediately west of the Beach Boardwalk. The final parcel is located adjacent to the railroad trestle over the San Lorenzo River ("Trestle Parcel"). The Volleyball Parcel, the West Lawn Parcel, and the Trestle Parcel are depicted on Exhibit A.

Specifically, the terms of the proposed Agreement provide that:

1. The City will quitclaim its interests in the Triangle Property to the State.
2. The State will then quitclaim its interests, free of any public trust interests, in the Triangle Property to Seaside, thereby quieting title to the Triangle Property in Seaside.
3. Seaside will then quitclaim the West Lawn Parcel and the Volleyball Parcel to the Commission.
4. Seaside will grant to the Commission an easement for public trust purposes, including public access, over the Trestle Parcel, which will allow access to the Trestle Parcel by pedestrians and bicyclists.
5. The Commission will, upon the close of escrow, enter into a 49-year lease with the City for the West Lawn Parcel, the Volleyball Parcel and the Trestle Parcel to be used for public trust purposes consistent with the provisions of the City's trust grant (Chapter 342, Statutes of 1872, as amended).
6. The Commission staff and the City will pursue obtaining necessary State legislation to include the West Lawn Parcel, the Volleyball Parcel, and the easement in the Trestle Parcel in the City's trust grant.

STAFF RECOMMENDTATION

Commission staff has reviewed the information submitted for the proposed Agreement including appraisals, surveys, title reports, historic use reports, and other studies conducted for the title settlement and land exchange.

Staff is recommending Commission approval of the proposed Agreement for several reasons. The Triangle Property is relatively small at approximately 1.6 acres, has been filled and reclaimed, and is physically separated from the San Lorenzo River by the federal levee. It is highly unlikely that the federal levee will be removed or replaced in the foreseeable future. In contrast, the Volleyball and West Lawn properties and Trestle Parcel easement to be acquired by the public trust provide public access to the Pacific Ocean and the San Lorenzo River, as well as provide public beachfront

recreational opportunities for the statewide citizenry. Further, the monetary value of the Volleyball and West Lawn Parcels and the Trestle Parcel easement are equal to or greater than the monetary value of the public trust interests in the Triangle Parcel.

As described in the preceding paragraph the facts support each of the necessary findings the Commission must make. Staff therefore recommends that the Commission approve the Agreement and authorize its execution and the execution and recordation of all documents necessary to implement it, including the issuance of a 49-year lease to the City.

OTHER PERTINENT INFORMATION:

1. The State, acting by and through the Commission, is authorized under Division 6 of the Public Resources Code, and specifically pursuant to section 6307 of such code, to enter into land exchange agreements.
2. Pursuant to Section 6501.1 of the Public Resources Code, the Commission has the authority to lease Sovereign Lands for specified purposes.
3. The City of Santa Cruz is the State's trustee of the legislatively granted sovereign tide and submerged lands pursuant to Chapter 342, Statutes of 1872, as amended.
4. **For the Title Settlement and Land Exchange**: Pursuant to the Commission's delegation of authority and the State CEQA guidelines (Title 14, California Code of Regulations, section 15061), 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.
5. **For the 49-Year Lease**: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2). Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.
6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

A. Location and Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TITLE SETTLEMENT AND LAND EXCHANGE: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CALIFORNIA CODE OF REGULATIONS 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 21080.11, INVOLVING AN AGREEMENT SETTLING TITLE DISPUTES WITH THE STATE LANDS COMMISSION.

49-YEAR LEASE: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

AUTHORIZATION:

1. FIND THAT, WITH RESPECT TO THE PROPOSED TITLE SETTLEMENT AND LAND EXCHANGE AGREEMENT, WHICH FINDINGS SHALL BE EFFECTIVE ON CLOSE OF ESCROW AS PROVIDED IN THE AGREEMENT:
    A. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS AND CLAIMS WITHIN THE AGREEMENT AREA;
    B. THE LANDS AND INTERESTS IN LANDS TO BE ACQUIRED BY THE STATE PURSUANT TO THIS AGREEMENT ARE OF SUCH A CONFIGURATION THAT THEY CAN BE USED MORE EFFECTIVELY BY THE CITY OF SANTA CRUZ, AS TRUSTEE, IN FURTHERANCE OF PUBLIC TRUST PURPOSES THAN THE FILLED TIDELANDS TO BE CONVEYED AND WILL IN FACT PROVIDE A SIGNIFICANT BENEFIT TO THE PUBLIC TRUST;
    C. THE LANDS TO BE RELINQUISHED BY THE STATE HAVE BEEN CUT OFF FROM WATER ACCESS AND ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS OR NAVIGABLE WATERWAYS BY VIRTUE OF HAVING BEEN FILLED, ARE RELATIVELY SMALL IN AREA, AND ARE NO LONGER USEFUL FOR PUBLIC TRUST PURPOSES;

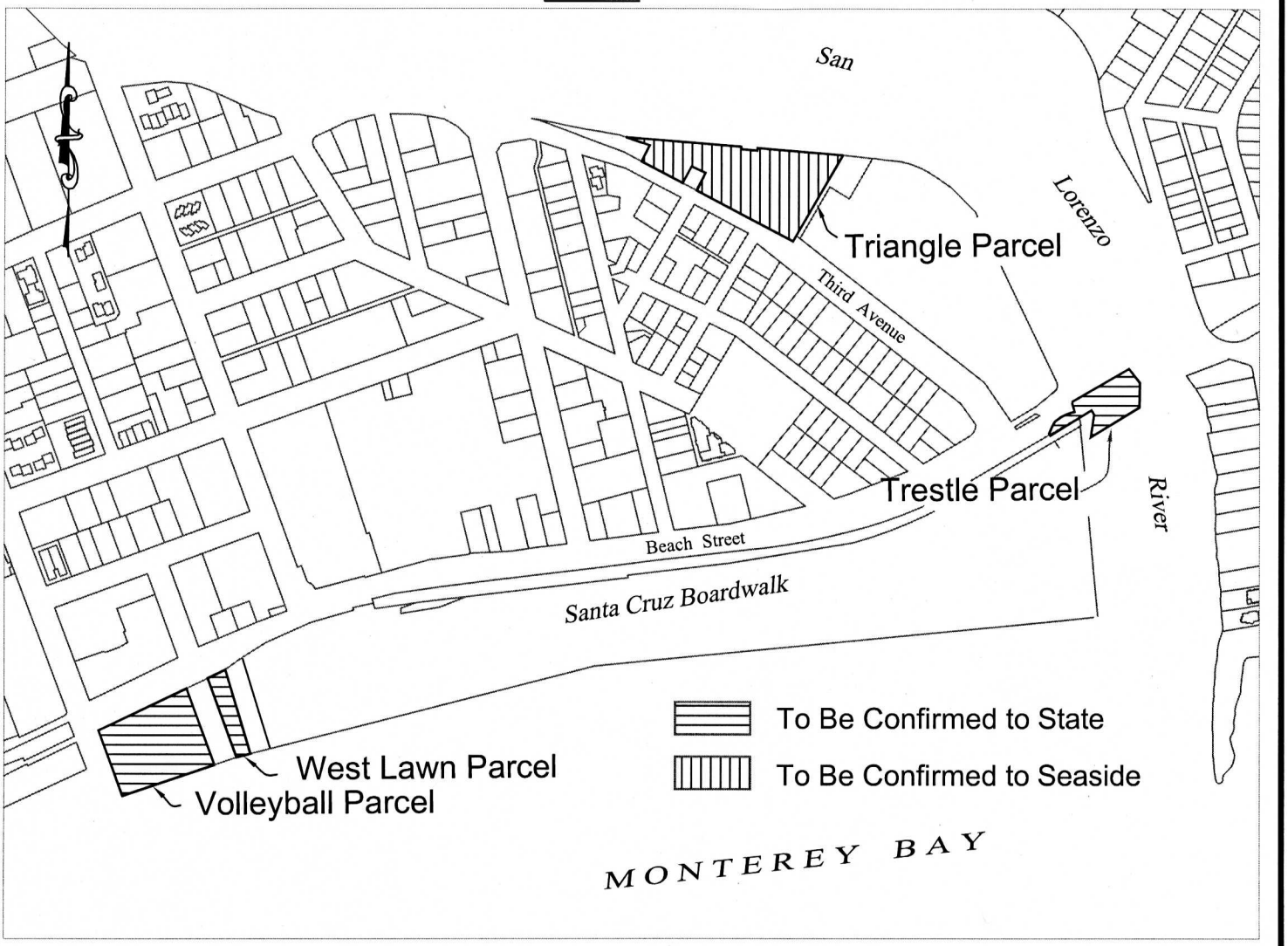
D. THE MONETARY VALUE OF THE LANDS AND INTERESTS IN LAND RECEIVED BY THE STATE IN TRUST PURSUANT TO THE AGREEMENT IS EQUAL TO OR GREATER THAN THAT OF THE LANDS AND INTERESTS IN LANDS TO BE RELINQUISHED BY THE STATE;
E. THE EXCHANGE DOES NOT SUBSTANTIALLY INTERFERE WITH PUBLIC RIGHTS OF NAVIGATION AND FISHING;
F. THE TITLE SETTLEMENT AND LAND EXCHANGE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF THE LAW;
G. THE EXCHANGE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND CONSISTENT WITH PUBLIC TRUST NEEDS TO ENHANCE TRUST LAND OWNERSHIP ALONG THE SHORELINE; TO ENHANCE PUBLIC ACCESS TO AND ALONG THE WATER; AND TO RESOLVE A BOUNDARY AND TITLE DISPUTE.

2. FIND THAT THE LANDS TO BE CONVEYED TO THE STATE ARE TO BE ACCEPTED AS PUBLIC TRUST LANDS FOR THE BENEFIT OF THE PEOPLE OF THE STATE OF CALIFORNIA, TO BE HELD BY THE STATE OF CALIFORNIA FOR PUBLIC TRUST PURPOSES.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDATION OF THE 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.
4. APPROVE AND AUTHORIZE THE ISSUANCE OF A 49-YEAR GENERAL LEASE- PUBLIC AGENCY USE – OF THE TRESTLE PARCEL, THE VOLLEYBALL PARCEL, AND THE WEST LAWN PARCEL TO THE CITY OF SANTA CRUZ, AS TRUSTEE, AS PROVIDED FOR IN THE AGREEMENT.
5. AUTHORIZE AND DIRECT THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO

CARRY OUT THE TITLE SETTLEMENT AND EXCHANGE AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

NO SCALE

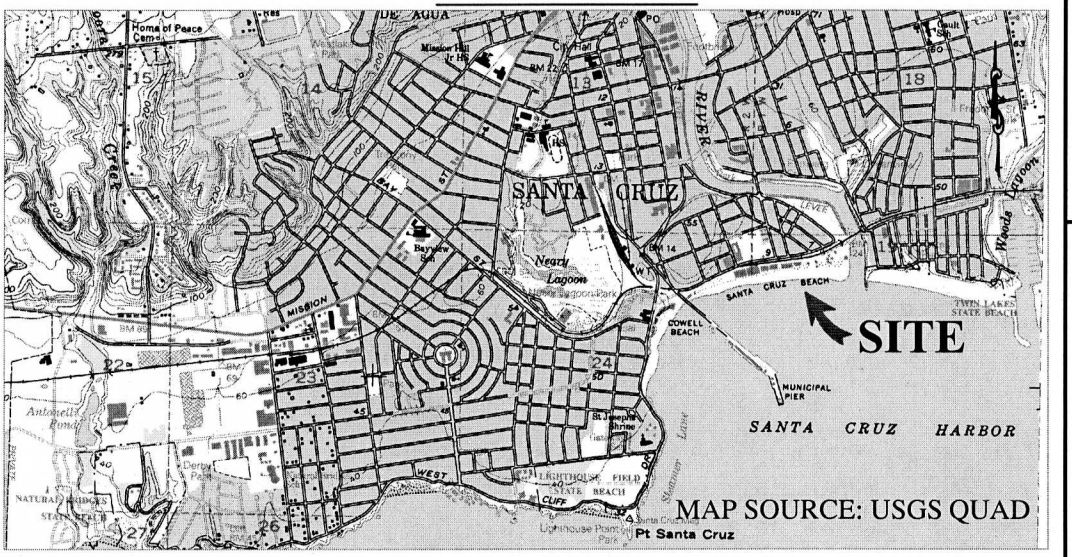
SITE



SANTA CRUZ SEASIDE EXCHANGE AGREEMENT

NO SCALE

LOCATION



This Exhibit is solely for purposes of generally defining the land exchange and lease premises, is based on unverified information provided by the Lessee or other parties 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.

Exhibit A

W503-1970 / AD 537
G16-01 / PRC 8824

CITY OF SANTA CRUZ
SANTA CRUZ COUNTY

mjb 7-22-09