

**STAFF REPORT
C44**

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08/23/18
W 27176
N. Lavoie

**CONSIDER APPROVAL OF THE 2018 CATEGORY 2
SANDY BEACH BENCHMARK RENTAL RATE**

INTRODUCTION:

As described in this staff report, staff recommends the Commission approve the 2018 Category 2 Sandy Beach Benchmark, which will inform recommended rents for leases authorizing the use and occupation of sovereign land in the Mare Island Strait, near Vallejo, Solano County.

OVERVIEW OF BENCHMARKS FOR RENTAL RATES:

Benchmarks are used to establish uniform rental rates in specific geographic regions with large concentrations of similar facilities, mostly private recreational improvements within the Commission's jurisdiction. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(5).) For proposed leases involving certain types of structures in regions where benchmarks have been approved, staff will recommend an annual rent based on the applicable benchmark rental rate and the lease area. Benchmark rental rates are based on an analysis of similar land uses or substitute facilities in the local area. Generally, staff updates the benchmarks for rental rates every 5 years. The use of benchmarks not only improves consistency and transparency throughout a geographic region, it also improves staff efficiency in setting and adjusting rent for large numbers of leases, saving time and money for both the applicant and the State.

The Commission has two types of benchmarks for rental rates:

- Category 1, which are generally applied to private docks, piers, and buoys
- Category 2, which are generally applied to cantilevered decks, sundecks, or other non-water dependent uses

This item only addresses a Category 2 benchmark. A map showing all the Commission's current benchmark areas is attached as Exhibit A ([Benchmark Map](#)), and a list of all the Commission's current benchmark rental rates is attached as Exhibit B ([Current Benchmark Rates](#)). The Category 1 benchmark for this area is the San Francisco Bay Area Benchmark which was established in 2016 and is scheduled for an update in 2021.

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Category 2 Benchmark Methodology

The Sandy Beach Benchmark has been used by the Commission since 2013, when staff undertook a compliance effort at the Sandy Beach community. This recommendation will be the first update to the Benchmark. Category 2 benchmarks are based on nearby upland land values because the improvements (residence, decks, or certain other non-water dependent encroachments) represent an extension of the residence or private backyard of the upland residence—a purpose unrelated to the docking and mooring of boats.

Appraisal staff uses the following general process to establish and update a Category 2 benchmark. First, staff conducts research to identify recent nearby upland property sales. The initial research seeks to identify land value because the property being leased is the underlying sovereign land, and not the privately-owned improvements. If vacant land sales are not available, then the assessed improvement values are subtracted from the sales prices of improved properties to reflect the land value of the sale property. Next, staff analyzes the sales data and determines a per-square-foot value representative of the area. The benchmark is calculated by applying a 9 percent annual rate of return to the appraised value of the leased land pursuant to California Code of Regulations, title 2, section 2003, subdivision (a)(1). The Category 2 benchmark may then be discounted to reflect that the sovereign land to be leased may not have the same utility or intensity of use as the upland properties from which the data were drawn, due to topography or other physical characteristics, the nature of the sovereign land use, certain legal constraints, or the upland owner's decision, but nevertheless still contributes to the value of the upland property.

Category 2 Sandy Beach Benchmark

Using the methodology described above, appraisal staff researched eight home sales adjoining sovereign land along the Mare Island Strait within the Sandy Beach Community. The sales occurred between 2014 and 2017, with a price range of \$360,000 to \$785,000 (with a land value range of \$149,999 to \$224,469). The mean unit value is \$40.87 per square foot while the median is \$41.96 per square foot. Based on all of the data gathered and analyzed, a unit value of \$41 per square foot is concluded as reasonable for the typical upland residential property.

The undiscounted benchmark rate, with the 9 percent rate of return applied, is \$3.69 per square foot. This benchmark rate applies to residential encroachments that should be given no reduction in utility or

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intensity of use as compared to the upland land value. For features such as an open or covered deck, staff recommends the application of a discount of 75 percent to reflect the lower intensity of use of the sovereign lands occupied. This approach is consistent with how staff applies discounts for similar facilities throughout the state.

Table 1 summarizes the comparison between the 2013 and 2018 Category 2 benchmark rental rates, expressed on a per-square-foot (sf) basis.

TABLE 1

Benchmark		2008	2013	2018
Category 2 Sandy Beach	Undiscounted	\$6.75/sf	\$2.16/sf	\$3.69/sf
	Discounted*	\$1.69/sf	\$0.54/sf	\$0.92/sf

*Represents a 75 percent discount.

Although the increase in land value from 2013 to 2018 is significant, it is representative of the market as a whole. As Table 1 illustrates, the Sandy Beach Benchmark has followed the highs of the real estate market leading up to 2008 (when the benchmark was substantially higher than the proposed 2018 benchmark) and the lows of the market in the years of the real estate crash that began in 2008.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

The California Constitution specifically prohibits the Legislature from making or authorizing any gift of public money or thing of value to any individual, municipality, or corporation (Cal. Const., art. XVI, § 6). A "thing of value" includes the use of State-owned land, and to allow its use for private benefit with no rent or compensation for such use would constitute an impermissible gift.

The Commission has broad discretion in all aspects of leasing State lands, including the method or amount of rent that is most appropriate, and how rent should be adjusted during the term (Pub. Resources Code, §§ 6501.1, 6503, 6503.5; Cal. Code Regs., tit. 2 § 2000, 2003). Rents must be in the best interests of the State, and may be based on one or more of the following methods,

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including, but not limited to: 9 percent of appraised land value; a percentage of annual gross income, where the percentage is based on an analysis of the market for like uses and other relevant factors; a comparison to rents for other similar land or facilities; benchmarks for regions with large concentrations of similar facilities, with benchmark rental rates to be based on analysis of similar or substitute facilities in the local area; other such methods or information that are based on commonly accepted appraisal practices and principles; and for leases for recreational piers or buoys, rent shall be based on local conditions and local fair annual rental values. (Cal. Code Regs., tit. 2, § 2003; Pub. Resources Code, § 6503, 6503.5.)

In determining which rent method should apply, the Commission may consider the amount of rent the State would receive under various rental methods, and whether relevant, reliable, and comparable data is available concerning the value of the leased land (Cal. Code Regs., tit. 2, § 2003, subd. (d)(1), (2)).

Use of benchmarks improves the consistency and transparency of how the Commission establishes rent throughout a specific geographic region for a certain category of leases. It also improves staff efficiency in setting and adjusting rent for large numbers of leases and saves time and money for both the applicant and the State. Approval of the new benchmark rental rates will not result in a change in the use of, or impacts to, Public Trust resources, and considering the requirements discussed above, provides a reasonable method for determining rents in the geographic regions covered by the benchmarks. Adjustment of the benchmark assures that the people of the State are fairly compensated according to current market rates for the private use of State-owned land, consistent with the State Constitution. Staff believes approval of the new benchmarks will not substantially interfere with Public Trust uses and values and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 2.1 of the Commission's Strategic Plan to optimize returns for the responsible development and use of State lands and resources, both onshore and offshore; and Strategy 2.2 to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
2. Approval of the 2018 Category 2 Sandy Beach Benchmark rental rate is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

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Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Benchmark Map
- B. Current Benchmark Rates
- C. 2018 Category 2 Sandy Beach Benchmark Memorandum

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the Benchmark will not result in a change in the use of, or impacts to, Public Trust resources, will not substantially interfere with Public Trust uses and values, and is in the best interests of the State.

AUTHORIZATION:

Approve the 2018 Category 2 Sandy Beach Benchmark rental rate of \$3.69 per square foot, and the application of a 75-percent discount as appropriate to adjust for any reduced utility or intensity of use of the sovereign lands occupied, effective August 23, 2018.

EXHIBIT A

CALIFORNIA STATE LANDS COMMISSION
BENCHMARKS

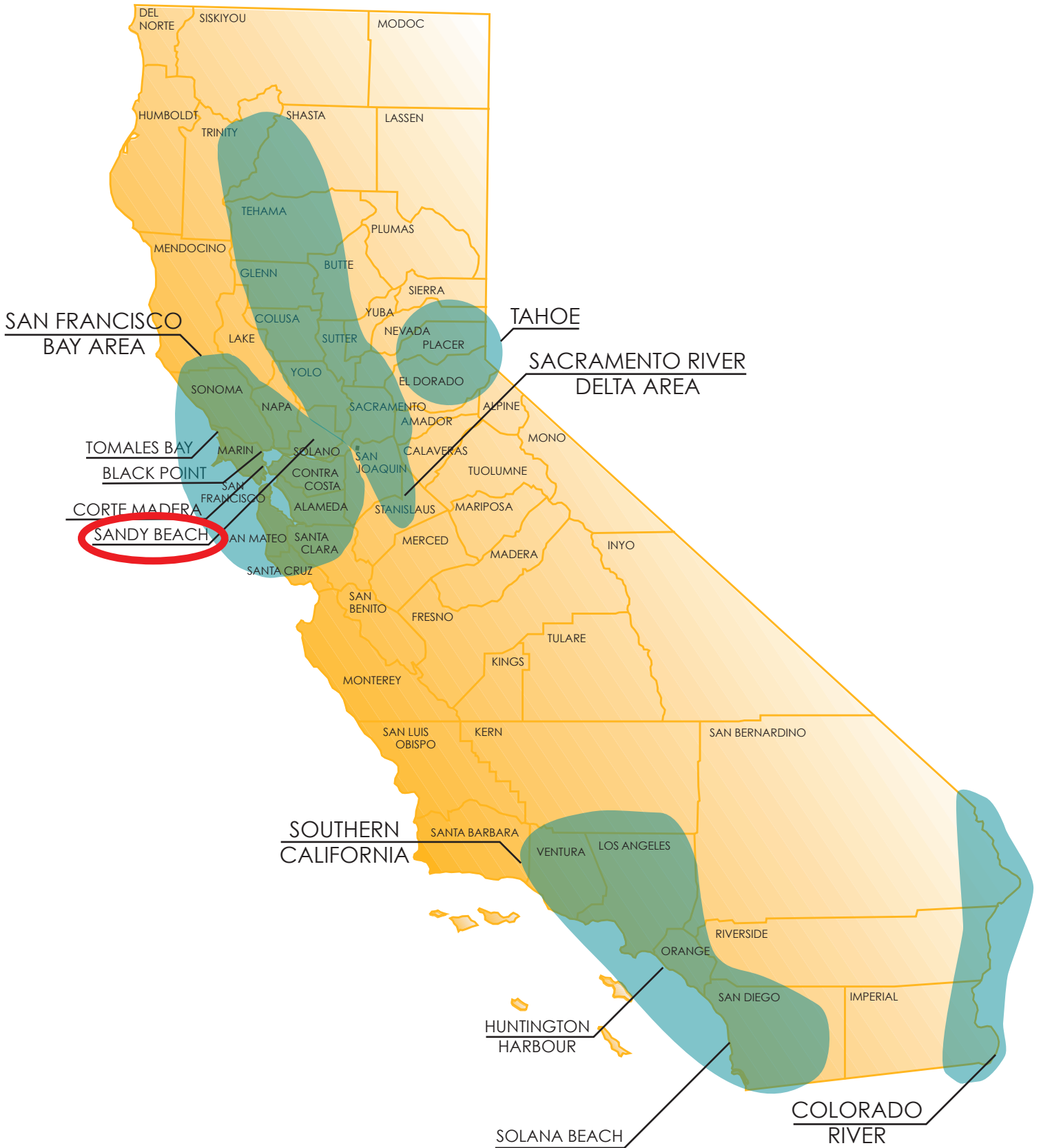


EXHIBIT B

State Lands Commission Benchmarks

Location	Rental Rate (\$/SF)	Last Updated	Proposed Update
Category 1			
Colorado River	\$ 0.171	February 2017	2022
San Francisco Bay Area	\$ 0.198	June 2016	2021
Lake Tahoe Berths	\$ 0.79	February 2018	2023
Lake Tahoe Buoys*	\$ 377	February 2018	2023
Sacramento River	\$ 0.214	March 2015	2020
Delta Area	\$ 0.165	March 2015	2020
Southern California	\$ 0.374	October 2016	2021
Tomales Bay Berths	\$ 0.114	December 2015	2020
Tomales Bay Buoys*	\$ 125	December 2015	2020
Category 2**			
Sandy Beach	\$ 2.16	May 2013	2018
Corte Madera	\$ 5.40	March 2014	2019
Black Point	\$ 0.35	May 2015	2020
Huntington Harbour	\$ 31.50	October 2016	2021
Solana Beach	\$ 46.80	October 2017	2022

*per buoy

** The Category 2 Benchmark may be discounted to reflect that the sovereign land being leased may not have the same utility as the upland property.

Note: Benchmarks are generally updated every five years.

EXHIBIT C

State of California

State Lands Commission

Memorandum

Date: May 4, 2018

To: Brian Bugsch, Chief *RBB*
Land Management Division

Grace Kato, Assistant Chief
Land Management Division

From: Chaun Wong *CW*
Associate Property Appraiser
Land Management Division

Subject: Sandy Beach Category 2 Benchmark 2018 - Rental rate for non-water dependent use areas extending on and over sovereign land in the Mare Island Strait near Sandy Beach, Solano County, California

As requested, I have conducted research relevant to establishing the fair market rent for non-water dependent use areas extending onto and over sovereign land in the Mare Island Strait near Sandy Beach, Solano County, California. These non-water dependent uses consist of porches, sun decks, small portions of residences, and other residential-related improvements that extend onto and over sovereign lands and essentially represent extensions of the usable area of the adjoining residential lots.

An appraisal is the act or process of developing an opinion of value that must be numerically expressed as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or numerical benchmark. It should be noted that this report does constitute an appraisal as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). The compiled research, analyses, and conclusions presented in this appraisal represents a correlation of residential land values into benchmark rental rates for non-water dependent use areas located on Sandy Beach. The benchmark is intended to be used by Commission staff in negotiations with lessees. It should also be noted that this appraisal has been performed and the report has been prepared in substantial compliance with USPAP as it relates to value of sovereign land. Presented on the following pages are the introduction, the scope of the current research, and discussions of the pertinent findings resulting in the updated benchmark rental rates.

Introduction

The subject properties consist of 51 parcels of patented tidelands located along the Mare Island Strait near the city of Vallejo, Solano County in an area known as Sandy Beach. All properties with encroachments onto sovereign lands are currently under lease. The uplands and adjoining subject tidelands were subdivided and developed into

small residential lots of various sizes. Access to the residential lots is via Sandy Beach Road which is a private road exclusively used by the homeowners. There is no beach area along any of the subject properties and little, if any, opportunity for the general public to make use of these sovereign lands. A 1955 survey performed by California State Lands Commission staff determined that many of the porches, decks, and small portions of some residences located along Sandy Beach Road encroached below the low water line. Although the residential use of the subject properties is not consistent with the Public Trust, it may be authorized at Sandy Beach only to the extent that the structures now exist, and for so long as the sovereign lands are not needed for Public Trust purposes.

Methodology

The Commission's authority to lease lands and charge rent comes from the California State Constitution, the Public Resources Code, and the California Code of Regulations.

The Commission's mandate to charge rent comes from the Gift Clause of the California State Constitution, which states in part that:

"The Legislature shall have no power to...make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever..." Cal. Const. Art. XVI -6.

Section 6503 of the Public Resources Code states that:

"The Commission shall appraise the lands and fix the annual rent or other consideration thereof."

The California Code of Regulations¹ provides the Commission with broad discretion in all aspects of leasing.

"Leases or permits may be issued to qualified applicants and the Commission shall have broad discretion in all aspects of leasing including category of lease or permit and which use, method or amount of rental is most appropriate...based on what it deems to be in the best interest of the State"

The Code of Regulations then goes on to outline the types of leases and the methods of setting rent for each. Of these, the "9% of the appraised value of the leased land"² method is considered the most directly applicable. For purposes of this analysis, the land to be leased is sovereign land located waterward of the low water mark. Since there is not an active real estate market for sovereign land, the basis for the annual rent is the adjoining upland property. At Sandy Beach, the adjoining upland property generally consists of single family homes on residential lots. The rent to be set is based

¹ Title 2, Administration, Division 3, State Property Operations, Article 2 Section 2000, General (b).

² Title 2, Administration, Division 3, State Property Operations, Article 2 Section 2003(a)(1).

on the value of the underlying land and does not include the value of any improvements. Thus, for valuation purposes, the value of waterfront residential lots at Sandy Beach is the basis of the rental rate.

The market value of residential land is typically estimated through use of the Sales Comparison Approach. In this approach, recent sales and current listings of similar properties are compared to the subject on the basis of pertinent factors such as location, size, shape, etc. Waterfront residential lots are typically valued on either a per-lot or on a per-waterfront-foot basis. However, because the lease areas generally do not represent a full residential lot, the unit of comparison used is the price per square foot of land area. An indication of value is then concluded based on a comparative analysis of these factors. Per the California Code of Regulations, rent is then set based on 9% of the concluded value of the leased land.

Market Value of Upland Property

A search was made for recent sales of vacant residential lots (typical in size, ranging from 0.10 acre to 0.50 acre)³ fronting the Mare Island Strait near Sandy Beach in Solano County. However, due to its built-up nature, no comparable sales of vacant waterfront lots were found. Rather than use comparable sales that do not front the water, which would necessitate adjustments for location, an allocation technique is employed. In this analysis, residential land values are extracted from recent sales of single family houses in the Sandy Beach area through use of the improvement percentage assigned by the Solano County Assessor's Office. For instance, if a house sold for \$1,000,000 and had an improvement percentage of 40%, then the allocated value of the land is 60%, or \$600,000. For analysis purposes, the unit of comparison used is the price per square foot of the land area.

Summarized in the table on page 6 are the pertinent details of eight sales of single family residences along Sandy Beach Road. The sales took place between July 2014 and October 2017. All of these sales involve waterfront lots along the south end of the eastern shoreline of the Mare Island Strait near Sandy Beach in Solano County. The lot sizes range from 2,734 to 8,712 square feet, with a mean of 4,915 square feet and a median of 4,356 square feet. The sale prices for the improved waterfront lots ranged from a low of \$360,000 to a high of \$785,000, with a mean of \$595,375, and a median of \$612,500. According to the Assessor's allocations, the value of the land in these transactions accounted for between 22.73% and 62.35% of the total price. Based on these percentages, the value of the unimproved land lies between \$17.22 and \$65.26 per square foot. The mean unit value is \$40.87 per square foot, while the median is \$41.96 per square foot.

Analysis of the sales revealed no recognizable trends relating to typical lot area and

³ The typical residential lot size along Sandy Beach Road is judged to be between approximately 0.10 acre and 0.50 acre. Properties below 0.10 acre in size are typically sales of condominiums or townhouses, where the lot size is usually determined by the footprint of the building. These sales are not considered comparable in the appraiser's opinion of land value. Properties above 0.50 acre in size are not considered in the appraiser's land value dataset due to the scarcity of these sales along the waterfront.

land value relationships (i.e., unit prices decreasing as size increase). The lack of a size/price relationship is illustrated in the following table. The presentation of the sales is based on the lot area (SF) of the sales, going from smallest to largest.

Lot Area (SF)	Land Value Per SF
2734	\$65.26
3920	\$39.27
3920	\$48.23
4356	\$45.65
4356	\$51.53
4791	\$31.31
6534	\$29.50
8712	\$17.22

Similarly, analysis of the sales revealed no recognizable trends relating to typical water frontage and land value relationships (i.e., unit prices increasing as water frontages increase). The lack of a water frontage/price relationship is illustrated in the following table. The presentation of the sales is based on the water frontage (LF) of the sales, going from smallest to largest.

Water Frontage (LF)	Land Value Per SF
27.17	\$65.26
37.93	\$48.23
44.56	\$51.53
47.47	\$45.65
60.19	\$31.31
71.56	\$38.27
76.69	\$29.50
99.35	\$17.22

Furthermore, lease areas impacted by the Sandy Beach Category 2 Benchmark are also of various lot areas, water frontages, locations, shapes, topographies, zonings, etc. Due to the uniqueness of each lease area and the lack of significant land value trends relating to typical lot area or typical water frontage; no particular sale is deemed a better indicator in concluding a land value benchmark. Therefore, an analysis of the overall dataset is warranted and deemed appropriate in concluding land value for the Sandy Beach Category 2 Benchmark. Consequently, emphasis is placed on the mean and median unit prices (\$40.87 and \$41.96 per square foot, respectively). Therefore, a

rounded market value of \$41 per square foot is concluded as reasonable for the upland residential property.

Market Value of the Upland Property: **\$41 per square foot**

Benchmark Rental Rate

Applying the 9% annual rate of return to the previously concluded market value of the upland property results in an annual rental rate of \$3.69 per square foot⁴.

Benchmark Rental Rate

\$3.69 per square foot

The concluded value is based on the leased land having the same utility as the adjoining upland. If the leased land does not have the same utility, then a lower benchmark rental rate may be warranted. A lower utility is generally expressed as a percentage of the full benchmark rental rate.

⁴ Calculated as $\$41 \times 0.09 = \3.69 .

LAND VALUE INDICATIONS

**Allocated Assessed Land Values from Recent Sales
Sandy Beach Road**

No.	APN	Address	City	County	Sale Date	Lot Area (SF)	Sale Price	% Assessed Land Value	Land Value	Land Value Per SF
1	0062-020-140	9 Sandy Beach Rd	Vallejo	Solano	10/18/2017	3,920	\$400,000	47.27%	\$189,081	\$48.23
2	0062-030-070	22 Sandy Beach Rd	Vallejo	Solano	10/3/2017	2,734	\$785,000	22.73%	\$178,409	\$65.26
3	0062-020-220	7 Sandy Beach Rd	Vallejo	Solano	7/25/2017	4,356	\$360,000	62.35%	\$224,469	\$51.53
4	0062-030-230	39 Sandy Beach Rd	Vallejo	Solano	9/16/2016	6,534	\$771,000	25.00%	\$192,750	\$29.50
5	0062-020-260	8 Sandy Beach Rd	Vallejo	Solano	9/9/2015	4,356	\$595,000	33.42%	\$198,853	\$45.65
6	0062-040-100	43 Sandy Beach Rd	Vallejo	Solano	4/24/2015	8,712	\$627,000	23.92%	\$149,999	\$17.22
7	0062-030-040	19 Sandy Beach Rd	Vallejo	Solano	8/20/2014	4,791	\$615,000	24.39%	\$149,999	\$31.31
8	0062-030-320	34 Sandy Beach Rd	Vallejo	Solano	7/10/2014	3,920	\$610,000	24.59%	\$149,999	\$38.27
Overall Indications										
						2,734	\$360,000	22.73%	\$149,999	\$17.22
						8,712	\$785,000	62.35%	\$224,469	\$65.26
						4,915	\$595,375	32.96%	\$179,195	\$40.87
						4,356	\$612,500	24.80%	\$183,745	\$41.96