

MINUTE ITEM

This Calendar Item No. 19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 3
to 0 at its 7/22/77 CALENDAR ITEM
meeting.

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19.

APPROVAL OF SETTLEMENT AGREEMENT
CITY OF LOS ANGELES

TRUSTEE:

City of Los Angeles
300 City Hall East
Los Angeles, California 90012

LOCATION:

Granted tide and submerged lands in Los
Angeles Harbor, Los Angeles County.

BACKGROUND:

On January 26, 1977, the Commission adopted
recommendations providing a framework for re-
solving long-standing disputes concerning
tide and submerged lands granted in trust to
the City of Los Angeles and administered by
the Board of Harbor Commissioners. Negotia-
tions have taken place between representatives
of the State Lands Division, the office of the
Attorney General, and the City of Los Angeles
in order to arrive at a settlement agreement.
The Commission recommended that the agreement
settle: (a) the maximum sum that may be
transferred from the Harbor Revenue Fund to
the City General Fund to repay the City for
expenditures made in connection with general
obligation bonds issued for harbor improvement
purposes, (b) the amount and treatment of
interest monies owing to the Harbor Revenue
Fund by the City General Fund, and (c) such
other collateral matters as may be within the
purview of the State Lands Commission.

As negotiations progressed, the collateral
matters, virtually inseparable from the two
main issues, were identified:

1. Claims by the City for reimbursement from
Harbor revenues for sums expended for re-
tirement costs attributable to Harbor
Department employees for the period 1938-1968;
2. Claims by the City for reimbursement from
harbor revenues for expenses incurred in
providing various services to and for the
Harbor Department;
3. The City's use of Harbor Department trust
lands for general municipal purposes;

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4. The status of certain lands within the Harbor District, including but not limited to that certain property transferred to the Harbor Department by Ordinance No. 106, 107, shown in Exhibit "A" as Parcel 1, on file with the office of the State Lands Commission.
5. The comingling of revenues from trust and non-trust assets.

On February 24, 1977, the Executive Officer was authorized to conduct public hearings and to subpoena witnesses and documents in connection with these investigations. A hearing was held in Los Angeles on March 29, 1977.

On March 30, 1977, the Commission was notified that the Council of the City of Los Angeles had adopted a resolution authorizing the City Attorney to prepare a written agreement consistent with certain enumerated principles, for the purpose of resolving, settling and compromising the outstanding issues of concern.

Based on recommendations from Division staff and the office of the Attorney General, Commission Chairman Kenneth Cory, in a letter dated May 7, 1977 and addressed to Mayor Tom Bradley, requested that certain modifications and refinements of the City resolution be incorporated into the eventual settlement agreement.

CURRENT SITUATION:

On June 30, 1977, the Executive Officer was informed that a settlement agreement had been approved by the City Council of Los Angeles which included the elements requested by the Division and the Attorney General.

SUMMARY OF ITEMS SETTLED BY AGREEMENT:

The agreement would resolve a number of long-standing disputes concerning the Harbor Revenue Fund and the lands under the jurisdiction of the Board of Harbor Commissioners in the following manner:

1. Maximum repayment to general fund: \$3,126,309.
Payments to be made from surplus revenues in Harbor Revenue Fund, in accordance with Charter Section 145(4), in annual installments not to exceed the sum of \$750,000 in any fiscal year.

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2. Interest monies owing to Harbor Revenue Fund: Claim waived.
3. City claims for reimbursement for retirement costs: Claims waived.
4. City claims for reimbursement for cost of services provided to and for the Harbor Department: The City shall bill the Board of Harbor Commissioners commencing July 1, 1977. Past claims waived.
5. City's use of Harbor Department trust lands for general municipal purposes: The City shall be billed and billings shall be allocated on the basis of benefit. Past claims waived.
6. Property transferred to Harbor Department: Segregation of revenues from Parcel 1 so as to preclude comingling of trust and non-trust revenues. After deductions for a management fee and an amortization of and a return on Harbor investments, the Harbor may transfer all or portions of remaining non-trust revenues to the General Fund as rent for the use of the land.
7. The comingling of revenues from trust and non-trust assets: All lands under the administration of the Harbor Department, except Parcel 1, are declared to be impressed with the trust created by the grant to the city.
8. All other controverted claims are waived.

BENEFIT TO THE STATE FROM THIS AGREEMENT:

From 1926 to 1976, at irregular intervals, a total of \$5.6 million was transferred from the Harbor Revenue Fund to the General Fund without any agreement between the City and the Board of Harbor Commissioners as to the total amounts each party owed the other. The disparity in the counterclaims has attained as much as \$35 million. As a direct or indirect consequence of these disputes, interest monies were improperly retained in the General Fund instead of being credited to the Harbor Revenue Fund. The Harbor Department has been unwilling to pay for legitimate costs of certain services provided by the City, the City has been unwilling to pay for harbor lands used in whole or part for general municipal purposes, and effective

financial planning has undoubtedly been impaired for both parties. This agreement would settle the dispute as to past monetary claims, settle the status of lands under the jurisdiction of the Board of Harbor Commissioners, and establish procedures for handling billings, rents and payments in the future.

The agreement is a compromise settlement. After almost one year of discussion, research and negotiation into problems which have been disputed for decades, and involving facts dating back over half a century, neither the Division nor the Attorney General's Office has found evidence conclusive enough to either support or refute the positions presented by either party without admitting that significant areas of doubt still existed. An alternate solution to resolve these doubts would be to turn to the courts. But, in the final analysis, because it is unlikely that years of litigation would result in any greater public benefit than is offered by this compromise settlement agreement, it is the recommendation of staff that the agreement, on file in the office of the State Lands Commission, be approved.

EXHIBIT: A. Location Map - Parcel I.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT, PURSUANT TO THE AUTHORIZATION OF THE COMMISSION ON JANUARY 26, 1977, THE STAFF OF THE STATE LANDS DIVISION AND THE ATTORNEY GENERAL DID NEGOTIATE WITH REPRESENTATIVES OF THE LOS ANGELES CITY COUNCIL, LOS ANGELES BOARD OF HARBOR COMMISSIONERS AND CITY ATTORNEY'S OFFICE AND HAVE REACHED A SETTLEMENT AGREEMENT REGARDING: (A) THE MAXIMUM SUM THAT MAY BE TRANSFERRED FROM THE HARBOR REVENUE FUND TO THE GENERAL FUND TO REPAY THE CITY FOR EXPENDITURES MADE IN CONNECTION WITH GENERAL OBLIGATION BONDS ISSUED FOR HARBOR IMPROVEMENT PURPOSES; (B) THE AMOUNT AND TREATMENT OF INTEREST MONIES OWING TO THE HARBOR REVENUE FUND BY THE CITY GENERAL FUND; AND (C) OTHER COLLATERAL MATTERS.
2. FIND THAT THE SETTLEMENT AGREEMENT IS IN THE BEST INTERESTS OF THE STATE.
3. APPROVE THE SETTLEMENT AGREEMENT AND AUTHORIZE THE EXECUTIVE OFFICER, ASSISTANT EXECUTIVE OFFICER, OR MANAGER, LAND OPERATIONS, TO EXECUTE THE AGREEMENT.

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4. AUTHORIZE THE STATE LANDS DIVISION AND/OR OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL NECESSARY STEPS, INCLUDING LITIGATION, TO INSURE THAT THE PROVISIONS OF THE AGREEMENT ARE CARRIED OUT.