

CALENDAR ITEM  
C52

MINUTE ITEM  
This Calendar Item No. C52  
was approved as Minute Item  
No. 52 by the State Lands  
Commission by a vote of 3  
to 0 at its 10-17-95  
meeting.

A 19

S 8

10/17/95  
PRC 6504  
PRC 6505  
PRC 6506  
Plummer  
Stevenson  
Cox

CONSIDER ENTRY INTO A LEASE SETTLEMENT AGREEMENT WITH THE  
RESOLUTION TRUST CORPORATION AND ACCEPTANCE OF A DEED  
TERMINATING LEASES PRC 6504.1, 6505.1 AND 6506.1 FOR THREE PARCELS OF  
FILLED TIDE AND SUBMERGED LAND LOCATED IN THE CITY OF BURLINGAME,  
SAN MATEO COUNTY.

**APPLICANT:**

Resolution Trust Corporation  
3500 Maple Avenue  
Dallas, Texas 75219-3935

**BACKGROUND:**

At its meeting on October 26, 1983 (Minute Item 28), the Commission authorized issuance of three commercial leases to Burlingame Group for the construction and maintenance of a hotel and two free-standing restaurants. The leases run for 49 years from November 1, 1983, and cover approximately 8.8 acres of Bay frontage in the City of Burlingame. The Commission later approved assignment of the leases to Burlingame Joint Venture I (BJV).

BJV encumbered the leaseholds pursuant to a deed of trust on or about August of 1984. First South Savings Association, a Texas S&L (First South), was named as beneficiary by document recorded August 22, 1984. BJV never developed the parcels and First South received the leasehold estates pursuant to a trustee's deed upon power of sale recorded July 9, 1987. The Commission recognized First South as Lessee at its meeting of August 20, 1987.

The Resolution Trust Corporation (RTC) was appointed receiver of First South, on December 14, 1990. Following receivership, the RTC tried to market the leases through an asset manager, and made lease payments through February of 1993.

The Financial Institutions Reform, Recovery and Enforcement Act of 1989, under which the RTC operates, provides a procedure by which claims against a failed savings and loan may be resolved administratively (12 U.S.C. § 1821) and in December of 1994, staff filed for payment of the past rent and other specified amounts. The claim was filed to protect the legal position of the Commission and without waiving the State's position that the RTC, as lessee, was bound to perform fully as lessee, separate from federal claims procedures.

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**CURRENT SITUATION:**

Staff of the Commission and RTC have reached a settlement of the State's claim which will result in the following: payment of past due rent in the amount of \$500,000; recompense of \$200,000 to cover costs of cleanup, maintenance, security of the property, and for costs associated with marketing a new lease of the property, including staff time and expenses and consultant and advertising fees; and a deed for the leasehold estate from RTC to the State of California, acting by and through the State Lands Commission.

**STATUTORY AND OTHER REFERENCES:**

- A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

**AB 884:**

N/A

**OTHER PERTINENT INFORMATION:**

- 1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code 21065 and 14 Cal. Code Regs. 15378.

**EXHIBITS:**

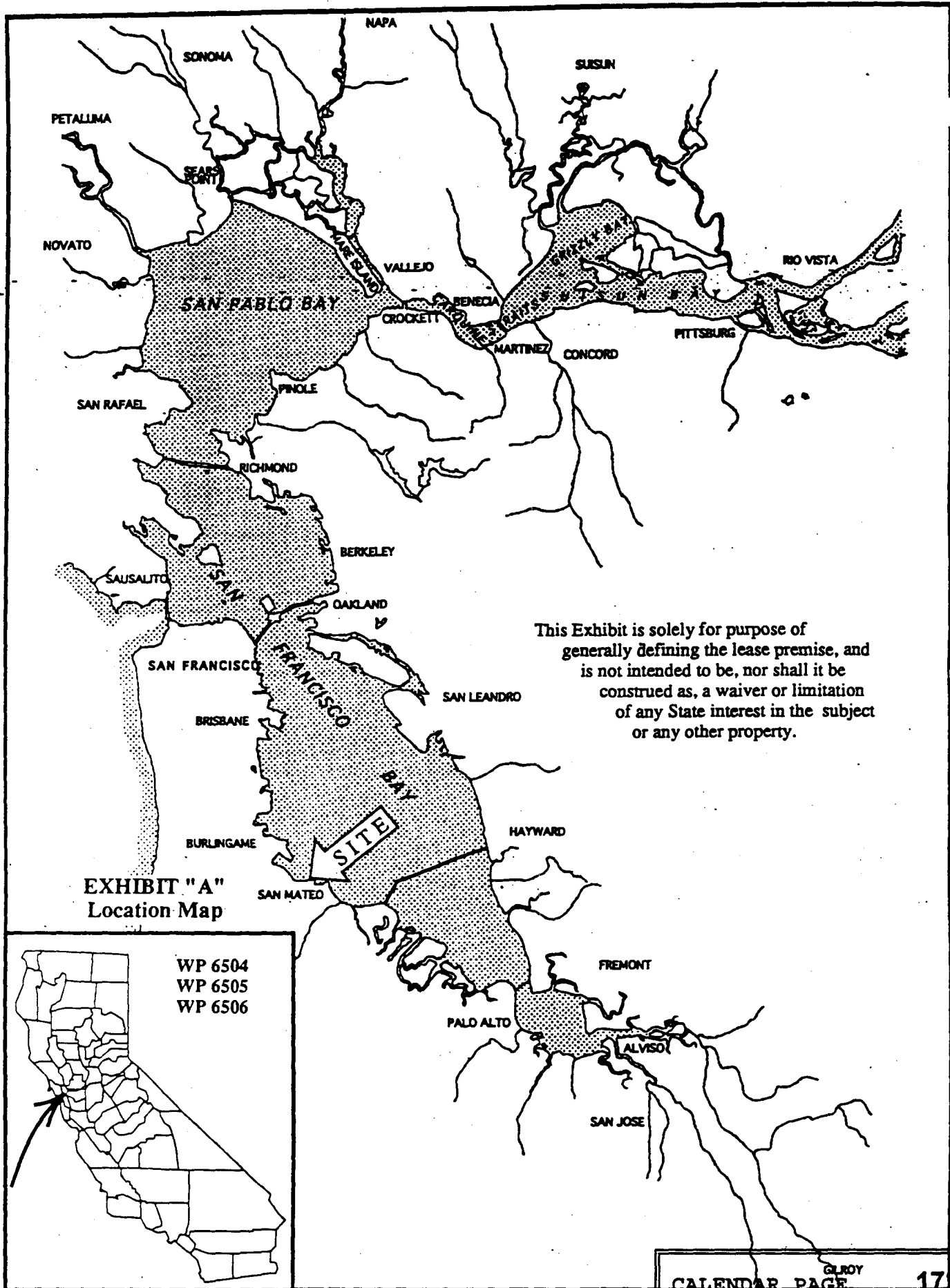
- A. Location Map

**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 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL. CODE REGS. 15378.
- 2. AUTHORIZE STAFF TO ACCEPT \$500,000.00 AS FULL PAYMENT OF PAST DUE RENT FOR THE PERIOD FEBRUARY 1993 THROUGH THE DATE OF RECORDATION OF THE DEED TERMINATING ANY LEASEHOLD INTEREST OF THE RESOLUTION TRUST CORPORATION IN LEASES PRC 6504.1, PRC 6505.1, AND PRC 6506.1.

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3. AUTHORIZE STAFF TO ACCEPT \$200,000.00 AS RECOMPENSE FOR COSTS OF CLEANUP, MAINTENANCE, SECURITY, AND MARKETING OF A NEW LEASE FOR THE PROPERTY, INCLUDING COSTS FOR STAFF TIME AND CONSULTANT AND ADVERTISING FEES.
4. AUTHORIZE EXECUTION AND RECORDATION OF THE LEASE SETTLEMENT AGREEMENT ON BEHALF OF THE COMMISSION.
5. AUTHORIZE THE ACCEPTANCE AND RECORDATION OF A DEED CONVEYING THE LEASEHOLD ESTATE HELD BY THE RESOLUTION TRUST CORPORATION IN LEASES PRC 6504.1, PRC 6505.1 AND PRC 6506.1.
6. AUTHORIZE STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL ACTIONS NECESSARY TO: EFFECTUATE THE LEASE SETTLEMENT AGREEMENT; TO COMPLETE THE CLEANUP OF THE PROPERTIES; TO PROVIDE FOR ONGOING MAINTENANCE AND SECURITY; AND TO ACTIVELY MARKET THE LEASE PROPERTIES.



This Exhibit is solely for purpose of generally defining the lease premise, 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"**  
Location Map