



REPORT TO COUNCIL

City of Sacramento

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915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

STAFF REPORT
August 6, 2009

Honorable Mayor and
Members of the City Council

Title: Railyards Title Settlement Agreement and Land Exchange; Sand Cove Park

Location/Council District: District 1

Recommendation: Adopt Resolution: 1) approving the Sacramento Downtown Railyards Title Settlement and Exchange Agreement with State Lands Commission, State of California Department of Parks and Recreation and S. Thomas Enterprises of Sacramento, LLC; 2) authorizing the transfer of title for Sand Cove Park to the State Lands Commission; 3) approving leases with the State Lands Commission for Sand Cove Park and the Waterfront Parcel; and 4) authorizing legislation to allow for transfer of title for Sand Cove Park and the Waterfront Parcel from the State Lands Commission to the City.

Contact: J. P. Tindell, Park Planning and Development Manager, 808-1955;
Sheryl Patterson, Senior Deputy City Attorney, 808-7292

Presenters: J. P. Tindell, Park Planning and Development Manager, 808-1955

Department: Parks and Recreation

Division: Park Planning and Development Services

Organization No: 190001121

Description/Analysis

Issue: This staff report concerns the transfer title for Sand Cove Park to the State Lands Commission in exchange for a lease-back of the Park and lease of a four acre vacant parcel of land along the Sacramento River within the Railyards (Waterfront Parcel), which is currently owned by the State of California Department of Parks and Recreation (State Parks).

Under the Sacramento Downtown Railyards Title Settlement and Exchange Agreement (Exchange Agreement), State Parks would transfer its jurisdiction over the Waterfront Parcel to the State Lands Commission (State Lands), to allow for State Lands to place a public trust claim against the property. State Lands would then lease the Waterfront Parcel property to the City to allow for its

future development as part of Riverfront Park, pursuant to the Railyards Specific Plan and the Sacramento Riverfront Master Plan. Transfer of title for Sand Cove Park is required to also allow for imposition of a public trust claim against this property before it is eventually transferred back to the City.

The leases for Sand Cove Park and the Waterfront Parcel will be at no cost to the City, but development is restricted to park and water-oriented recreation uses. The leases prohibit commercial activities unless approved by State Lands, due to the public trust requirements that these riverfront lands be readily accessible for the use and enjoyment of the public at no cost. However, imposition of parking and recreational user fees would be permitted.

As part of the Exchange Agreement, State Lands and the City will jointly sponsor legislation to allow for State Lands to transfer title to Sand Cove Park and the Waterfront Parcel to the City. However, the proposed legislation will allow for State Lands' oversight of the City's development and operation of these two parks. The City would have to submit its park development plans to State Lands for approval, any revenues generated from park uses would be restricted to fund maintenance and improvements for these two parks, and any excess revenues over \$250,000 annually would have to be remitted to State Lands.

The Exchange Agreement also provides for release of the public trust claim from property owned by Thomas Enterprises in exchange for the transfer of the Boiler Shop and the Erector Shop to State Parks at no cost. This transfer of the two buildings is the consideration for State Parks to release its interest in the Waterfront parcel. The Boiler Shop will continue to be used by State Parks for locomotive maintenance and eventually the two Central Shops buildings will be developed into the Railroad Technology Museum pursuant to an agreement between State Parks and Thomas Enterprises, which is to be executed concurrently with the Exchange Agreement.

Policy Considerations: The Exchange Agreement, including the proposed lease and legislation, does not alter the existing use of Sand Cove Park. Obtaining the rights to allow for future development of the Waterfront Parcel into a public park is consistent with the Riverfront Master Plan and the Railyards Specific Plan to activate this portion of the Sacramento River for public recreation use.

Commission/Committee Action: Future plans for development of the Waterfront Parcel will be reviewed by the City's Parks and Recreation Commission. The proposed legislation is consistent with the adopted legislative platform for the Sacramento River as approved by the Law and Legislation Committee and the Committee will have oversight of this legislation as it moves forward.

Environmental Considerations:

California Environmental Quality Act (CEQA): Under the California Environmental Quality Act (CEQA) guidelines, the transfer and lease-back of the existing Sand Cove Park and the lease of the undeveloped Waterfront Parcel does not constitute a project subject to environmental review because no changes to the existing operation of Sand Cove Park are proposed and the Exchange Agreement does not commit the City to develop the Waterfront Parcel. Development of the Waterfront Parcel as the future Riverfront Park was evaluated in the Railyards Specific Plan Environmental Impact Report, which was certified in December of 2007.

Sustainability Considerations: The proposed action is consistent with the adopted Department of Parks and Recreation Sustainability Plan goals to increase the amount of publicly accessible and protected parkland and green space, and enhance, restore and protect existing natural resources including rivers. Obtaining control of the Waterfront Parcel will allow for future development of additional parkland along the Sacramento River and creation of a continuous open space corridor along the river between Old Sacramento and Tiscornia Park.

Other: Future development of the Waterfront Parcel into the Riverfront Park, as well as improvement of public trail amenities along the Sacramento River between Old Sacramento and Tiscornia Park, is the obligation of Thomas Enterprises under the terms of the Railyards Development Agreement.

Rationale for Recommendation: The proposed actions maintain City control over Sand Cove Park, allow for the City to obtain rights to the Waterfront Parcel to allow for its future development as a public park, facilitate development of the Railroad Technology Museum, and resolve the Railyards public trust claim dispute to allow for development in accordance with the approved Railyards Specific Plan.

Financial Considerations: The proposed actions do not require an expenditure of City funds. The leases and land transfers are all at no cost. The escrow costs related to the transfer of title for Sand Cove Park to State Lands is to be paid for by Thomas Enterprises.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: _____

for J. P. Tidell
JAMES L. COMBS
Director, Parks and Recreation

Recommendation Approved:

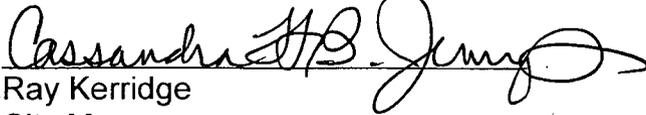
for 
Ray Kerridge
City Manager

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Attachment 1

Background

Public Trust Claim - The State Lands Commission (State Lands) claims jurisdiction over lands that were previously submerged rivercourses prior to the construction of levees and improvements that changed the location of the river channel. In 1862 and 1868, the Legislature approved statutes to grant rights to the City to construct levees using materials from the old bed of the American River and to straighten the channels of the Sacramento and American Rivers. In 1892, the City sold its rights to the old riverbed of the American River that traversed what is now known as the Sacramento Railyards. There is some disagreement as to whether these statutes and actions eliminated the State's public trust claim over a portion of the Railyards. State Lands asserts that its claim is still in existence and use of such lands is limited to public open space and recreation.

During the public hearings in December of 2007 for the Railyards development project, State Lands asserted their rights to such claim and objected to the City's approval of the tentative map, which allowed for development within the area State Lands asserts is still subject to the public trust. Thereafter, State Lands threatened to sue the City and Thomas Enterprises in regards to the map approval; the parties have entered into tolling agreements in 2008 and 2009 to allow for resolution of this dispute by means of the proposed Exchange Agreement.

Railroad Technology Museum – Part of the consideration for State Lands to relinquish its public trust claim in the Railyards is for Thomas Enterprises to transfer to State Parks two Central Shop buildings, the Boiler and Erector Shops, to allow for the development of the planned Railroad Technology Museum. Under the terms of the agreement between Thomas Enterprises and State Parks, which is scheduled to be approved by the State on August 26, title to the Boiler Shop will be transferred through the Exchange Agreement escrow and transfer of the Erector Shop will be dependent on when State Parks (through its foundation) has sufficient funding to undertake development of the museum.

Sand Cove Park – State Lands requires that its public trust claim be imposed on other lands along the Sacramento River in exchange for its removal from Thomas Enterprises' Railyards property, since State Lands will not be reimbursed for the value of the relinquishment of its claim (similar to an easement interest). Attachment 2 shows the location of the Sand Cove Park and the Waterfront Parcel. In order to place a public trust claim on other property, title must be held by State Lands. Thereafter, State Lands can transfer the property back to the City, but authorization is needed from the State Legislature.

The State Lands Commission has the authority to grant 49 year leases, so they will lease-back Sand Cove Park to the City until the legislation is approved. The 49 year lease will be at no cost, but State Lands could impose a lease rate in the future if the City decides to use the park for commercial purposes which generate revenue. The

lease provides that the park can only be used for public recreation. Commercial uses (other than parking and user fees) must first be approved by State Lands. Sand Cove Park is currently used for passive recreation and at present the City has no plans for commercial development.

Riverfront Park/Waterfront Parcel – The four acres of undeveloped land along the Sacramento River, between Old Sacramento and the Robert T. Matsui Waterfront Park at the Sacramento River Intake Facility, is currently owned by State Parks, which has no plans for its development. Development of this site as part of the Railyards Riverfront Park was approved in concept in the Railyards Specific Plan. Attachment 3 shows the Waterfront Parcel in context with the Railyards Land Use Plan; park and open space parcels are shown in green. State Parks is willing to transfer the Waterfront Parcel to State Lands to allow for it to be subject to a public trust claim and thereafter leased and transferred to the City, in the same manner as described above for Sand Cove Park.

The Waterfront Parcel is the site of a prior manufactured gas plant (MGP) and it likely has significant soil contamination. Under the Remedial Action Plans approved by the State Department of Toxic Substances Control (DTSC), Thomas Enterprises is responsible for remediation of this site because the MGP was previously owned and operated by the Union Pacific Railroad and its predecessors. The targeted date for completion of the soil remediation at this location is 2010. The City will not commence occupation of this parcel under the State Lands' lease until remediation of this property has been completed as certified by DTSC. The Exchange Agreement requires Thomas Enterprises to extend its pollution liability insurance policy to State Parks, State Lands and the City, as well as requires Thomas Enterprises to indemnify these parties for any future claims or costs related to soil and groundwater contamination at the Waterfront Parcel.

Once the contamination at the Waterfront Parcel has been remediated, the City and Thomas Enterprises will develop plans for improvement of this property as a public park and its development will occur with the implementation of the Railyards Specific Plan under a turnkey agreement as specified in the Railyards Development Agreement.

State Lands Oversight - The Exchange Agreement includes the text of the proposed legislation, which requires the City to obtain State Lands' approval for any future park development plans as well as approval of all capital improvements costing over \$1,000,000 and prior notice must be provided for improvements over \$100,000. The City must also provide a report every five years regarding its use of the public trust lands and pay the staff costs for State Lands to review the park plans and the five-year reports. Also, all revenues generated by park concessions must be devoted to maintenance and improvement of that park and any excess revenues above \$250,000 must be remitted to State Lands on an annual basis. A copy of the proposed legislation is provided as Attachment 4.

Docks State Park Property – Once State Parks obtains title to the Boiler Shop, it can release its interest in the property in the Docks area which the City is interested in

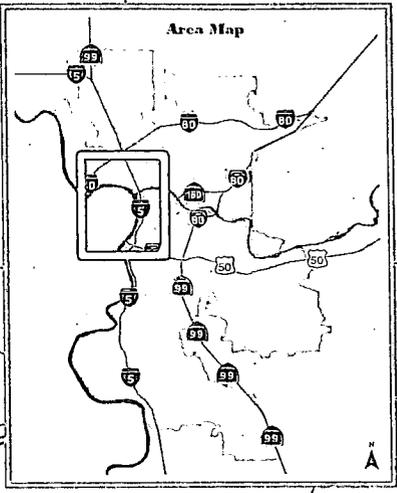
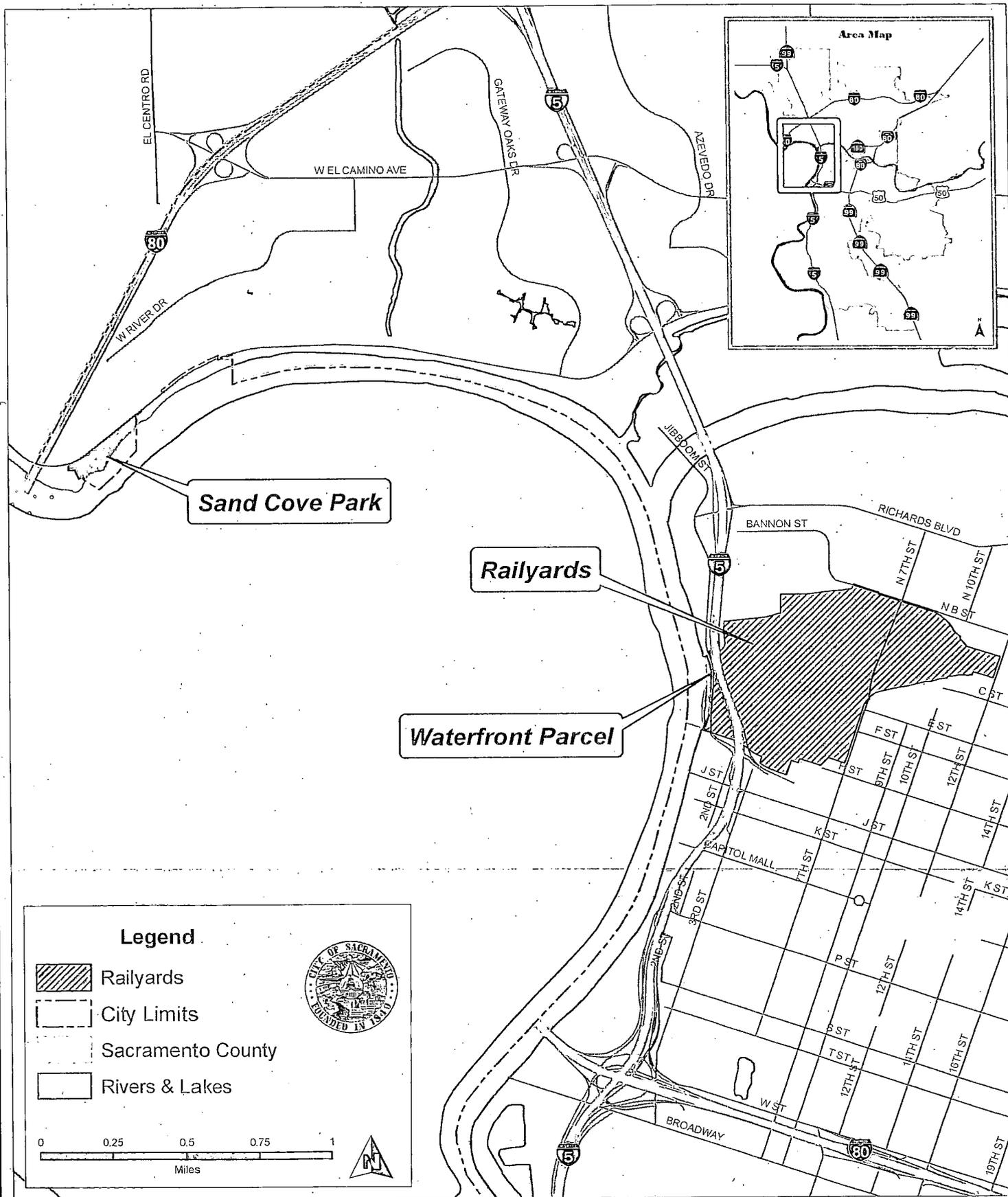
acquiring. State Parks needs a permanent location for maintenance of its locomotives and the Docks property was the alternate location if State Parks was unsuccessful in obtaining title to the Boiler Shop, where it currently conducts such maintenance activities.

Railyards Development – With the release of the State Lands claim over the area, Thomas Enterprises can proceed to implement the Railyards Specific Plan and tentative map. In addition, State Lands' threat to sue the City over its approval of the Railyards entitlements will be amicably resolved.



**City of Sacramento
Department of Parks and Recreation**

Attachment 2 : Railyards Title Settlement Agreement and Land Exchange



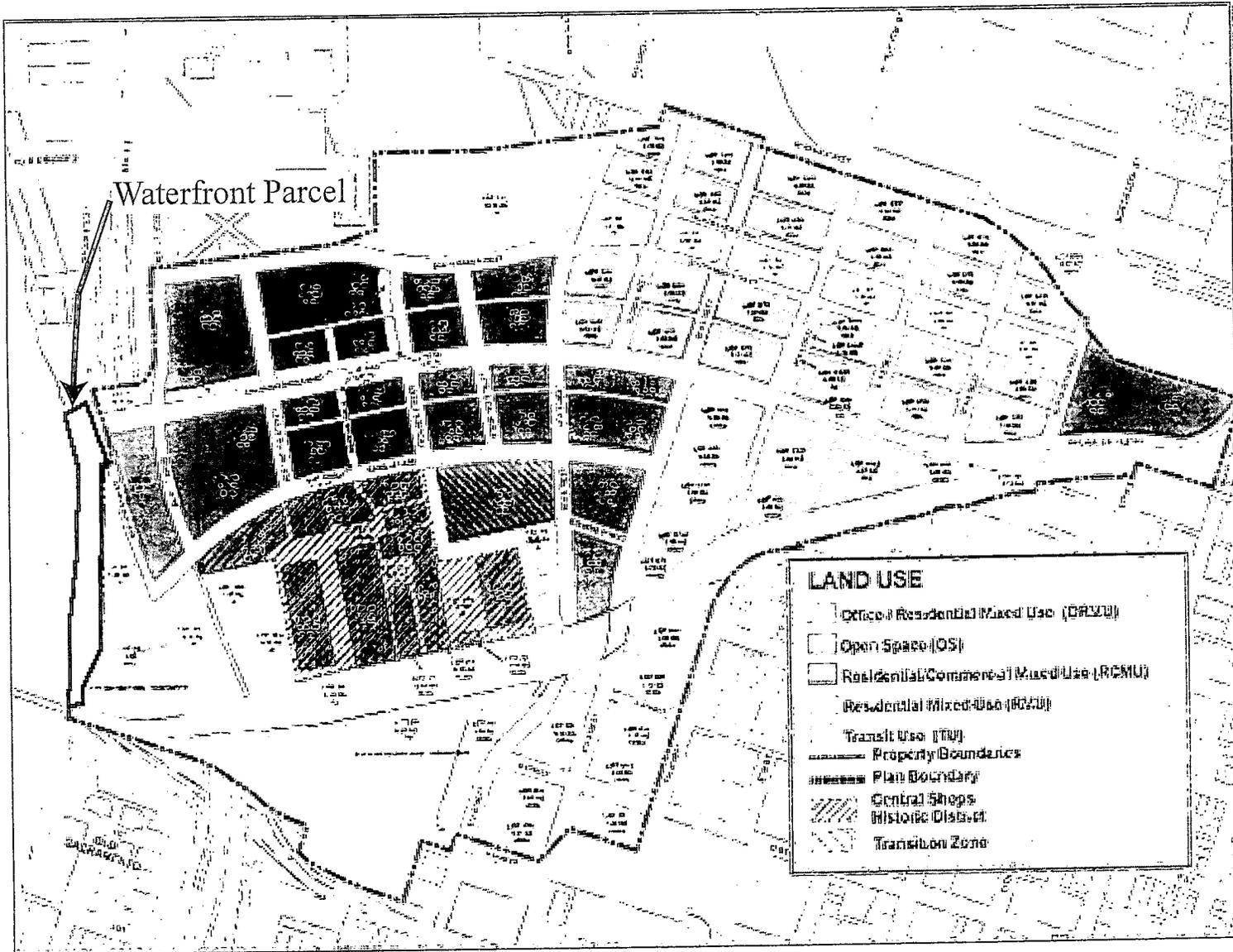
Legend

- Railyards
- City Limits
- Sacramento County
- Rivers & Lakes



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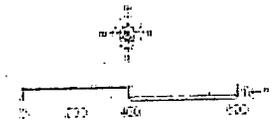
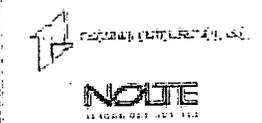
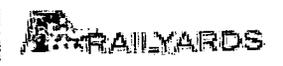




Waterfront Parcel

LAND USE

- Office/Residential Mixed Use (ORMU)
- Open Space (OS)
- Residential/Commercial Mixed Use (RCMU)
- Residential Mixed-Use (RMU)
- Transit Use (TU)
- Property Boundaries
- Plan Boundary
- Central Shops Historic District
- Transition Zone



LAND USE PLAN
November 13, 2007

P-1.01

Attachment 4

Draft Legislation Regarding Sand Cove Park and Waterfront Parcel

An act to grant in trust to the City of Sacramento certain public trust lands.

SECTION 1. As used in this act, the following definitions apply:

- (a) "Attorney General" means the attorney general of the State of California.
- (b) "City" means the City of Sacramento, a municipal corporation of the State of California, in Sacramento County, and its successors.
- (c) "Commission" means the State Lands Commission.
- (d) "Public trust purposes" means purposes related to commercial navigation, fisheries, water-oriented recreation and public access, and ecological preservation.
- (e) "Sacramento Waterfront Parcel" means that parcel described in Exhibit B to the Sacramento Downtown Railyards Title Settlement and Exchange Agreement (AD 498).
- (f) "Sand Cove Parcels" means those parcels described in Exhibit C to the Sacramento Downtown Railyards Title Settlement and Exchange Agreement (AD 498).
- (g) "State" means the State of California.
- (h) "Trust lands" means the Sacramento Waterfront Parcel and the Sand Cove Parcels.

SEC. 2. It is the intent of the Legislature, in enacting this act, to do all of the following:

- (a) To set forth the trust provisions, conditions, uses and purposes established for the City's government, management, and control of the public trust lands along the Sacramento River granted under this statute.
- (b) To convey in trust to the City the State's right, title and interest to the Sand Cove Parcels and the Waterfront Parcel.

SEC. 3. Since the admission of the State of California into the United States, certain tide and submerged lands have been, and are now held, in trust by the State for the benefit of all Californians for public trust purposes of commercial navigation, fisheries, water-oriented recreation and public access, and ecological preservation. The State has a trusteeship duty to govern, administer, and control those lands for public trust purposes. The State is authorized, when the interests of the public will benefit, to delegate, grant and convey in trust to local governments, limited and defined areas of public trust lands along with the authority and responsibility to govern, control, improve, and develop those lands in the interests of all of the inhabitants of the State for public trust purposes.

SEC. 4. The State of California hereby grants and conveys in trust to the City all of the right, title, and interest of the State held by virtue of its sovereignty in and to the Sand Cove Parcels and the Waterfront Parcel.

SEC. 5. The Trust lands granted and conveyed to the City pursuant to this act shall be held by the City in trust for the benefit of all the people of the State for public trust purposes, as more particularly provided in this act. The City may use the Trust lands for the construction, reconstruction, repair, and maintenance of any transportation, utility, or other infrastructure that is incidental, necessary, or convenient to promote or accommodate uses consistent with the public trust. The Trust lands shall be held by the City, subject to the following conditions:

- (a) The City shall not grant, convey, or otherwise alienate the Trust lands, or any part thereof, to any individual, firm, or corporation for any purpose, except as provided in this act. However, the City may lease the Trust lands, or any part thereof, for limited periods not to exceed a maximum period of 49 years, for purposes consistent with the public trust. Those leases shall be subject to any terms or conditions that may be imposed by the City that are deemed to be appropriate for public trust purposes. The City shall collect and retain rents from those leases, and any and all rents and revenues received from the Trust lands and trust assets, hereinafter referred to as "trust revenues", shall be expended only for those uses and purposes consistent with the public trust. The purpose of this requirement is to provide for the segregation of funds derived from the use of the Trust lands in order to ensure that they are expended only to enhance the Trust lands in accordance with the trust uses and purposes upon which the Trust lands are held.
- (b) Pursuant to Public Resources Code Section 6306, on or before October 1 of each year, the City shall file with the Commission a detailed statement of all trust revenues and expenditures relating to its use of the Trust lands and trust assets, including obligations that have been incurred, but not yet paid, covering the fiscal year preceding submission of the statement. This statement shall be prepared according to generally accepted accounting principles and may take the form of an annual audit prepared by or for the City. Prior to Commission approval of a Trust lands use plan as referenced in subsection (d), the following requirements shall apply:
 - (1) At least 30 days before making a capital expenditure in excess of one hundred thousand (\$100,000), but not more than one million (\$1,000,000), in or on the Trust lands, as set forth in Section 8 of this act, the City shall give written notice of that proposed expenditure to the Commission. The notice shall set forth the trust purposes, as set forth in this act, for which the proposed expenditure will be made.
 - (2) The City shall not make a capital expenditure in excess of one million dollars (\$1,000,000) in or on the Trust lands, as set forth in Section 8 of this act, unless the Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.
 - (3) As to the commitment of trust revenues for capital improvements as described above, the Commission may request the opinion of the Attorney General on the matter; and if it does so, a copy of the opinion shall be delivered to the City with the notice of its determination. In the event the Commission notifies the City that the capital expenditure is not authorized, the City shall not disburse any trust revenues for, or in connection with, the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The City is authorized to bring suit against the State for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters.

- Service shall be made upon the Executive Officer of the Commission and the Attorney General, and the Attorney General shall defend the State in that suit. If judgment is given against the State in the suit, no costs may be recovered.
- (c) Any property acquired by the City with trust revenues shall become an asset of the public trust and be subject to the terms and conditions of this act. In addition, the following obligations shall apply to trust revenues:
- (1) On June 30, 2010, and at the end of every third fiscal year thereafter, that portion of the City's trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of trust activities shall be deemed excess revenues; provided, however, that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the Trust lands shall not be deemed excess revenue. Any reserve fund for future capital expenditure must be for projects that are consistent with use plan referenced in Section (d) and have prior Commission approval to be deemed non-excess revenues. Capital improvements of the Trust lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining excess revenues.
 - (2) The excess revenues, as determined pursuant to this section, shall be allocated as follows: 50 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury; 25 percent to the State Treasurer for deposit in the Land Bank Fund pursuant to Public Resources Code Section 8625; 25 percent to the City for expenditures consistent with the provisions of this act.
 - (3) Reimbursement for any and all expenditures by the City of non-trust revenues for improvements made to the Trust lands shall be approved by the Commission in accordance with section (c) in advance of such expenditures or such expenditures shall be deemed a gift to the trust.
- (d) Upon Commission's request, the City shall submit to the Commission, a Trust lands use plan indicating details of intended development, preservation, or other use of the Trust lands. The City shall thereafter submit to the Commission, for approval all changes of, amendments to, or extensions of, the Trust lands use plan. Any use of the Trust lands must be consistent with the Trust lands use plan as approved by the Commission. Any improvements of the Trust land undertaken by the City, pursuant to a prior lease of the Trust land, as authorized by the Commission prior to the passage of this Act shall be deemed an approved component of the Trust lands use plan.
- (1) The Commission shall review with reasonable promptness the Trust lands use plan submitted by the City and any changes or amendments to determine that they are consistent with the public trust and the requirements of this act. Based upon its review, the Commission shall either approve or disapprove the Trust lands use plan. In the event the Commission disapproves the Trust lands use plan, the City must submit a revised plan to the Commission within 180 days. If that revised Trust lands use plan is determined by the Commission to be inconsistent with the Public Trust Doctrine and the requirements of this act, the Commission shall report the matter to the Governor, the Senate and the Assembly for their determination whether all right, title and interest of the City in

and to the Trust lands and improvements thereon shall revert to the State.

i. The Trust lands use plan may consist of any plan, program, or other document which includes all of the following:

1. A general description of the type of uses planned or proposed for the Trust lands. The location of these land uses shall be shown on a map or aerial photograph.

2. The projected statewide benefit to be derived from the planned or proposed uses of the Trust lands, including, but not limited to, the financial benefit and the furtherance of those purposes set forth in Section 1 of this act.

3. The proposed method of financing the planned or proposed uses of the Trust lands, including estimated capital costs, annual operating costs, and anticipated annual trust revenues.

4. Estimated timetable for implementation of the Trust lands use plan or any phase thereof.

5. A description of how the City proposes to protect and preserve natural and manmade resources in connection with the use of the Trust lands.

6. The governing body of the City shall submit to the Commission for its approval, procedures, rules, and regulations to govern the use of or development of any leases of the Trust lands. These rules and regulations shall include, but not necessarily be limited to lease rates, the bases upon which the rates are established, lease terms and conditions, provision for renegotiation of rates and terms and assignments, and such other information as may be required by the Commission.

7. All leases or similar agreements with a third party for use of the Trust lands proposed, or entered into, by City after the effective date of this section shall be consistent with the provisions of the Trust lands use plan submitted by the City and approved by the Commission.

8. Upon request, the City shall submit to the Commission a copy of all leases and similar agreements entered into, renewed, or renegotiated for the Trust lands.

(e) Upon the Commission's request, but not earlier than September 30, 2014, the City shall submit an updated report of its utilization of the Trust lands for each immediately preceding five-calendar-year period ending with June 30 of the calendar year in which the report is required to be submitted.

(1) The update shall include all of the following:

i. A general description of the uses to which the Trust lands have been placed during the period covered by the report.

ii. A list of the holders of all leases and permits granted or issued by the City for the Trust lands, which list shall specify, as to each such holder:

1. The use to which the Trust lands have been placed by the lessee or permittee.

2. The consideration provided for in each such lease or permit, and the consideration actually received by the City for the lease or permit granted or issued.

3. An enumeration of the restrictions that the City has placed on the use of the Trust lands and each area thereof for the period covered by the report.
- (f) The City shall reimburse the Commission for staff costs related to the review of the Public Trust lands Use report and updates.
 - (g) The City shall demonstrate good faith in carrying out the provision of the approved Trust lands use plan.
 - (h) The Commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning the Trust lands are being complied with in good faith.
 - (i) There is hereby reserved in the people of the State of California the right to fish in the waters on and from the Trust lands with the right of convenient access to those waters for fishing purposes.
 - (j) The State shall have the right to use without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the Trust lands by City for any vessel or other watercraft or railroad owned or operated by, or under contract to, the State as long as such use is consistent with the approved Trust lands use plan. The State's use of those facilities shall be governed by the City's rules and regulations.
 - (k) The Trust lands granted and conveyed to the City are subject to the express reservation and condition that the State may at any time in the future use those lands, or any portion thereof, for highway purposes without compensation to the City, or its successors or assignees, or any person, firm, or public or private corporation claiming any right to those lands, except that in the event improvements have been placed with legal authority upon the property taken by the State for highway purposes, compensation shall be made to the person entitled thereto for the value of the interest in the improvements taken or the damages to that interest.
 - (l) The State of California reserves all rights to any remains or artifacts of archaeological or historical significance and to all minerals and mineral rights in the Trust lands, whether now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and the perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the State of California or to its successors and assignees. Notwithstanding section 6401 of the Public Resources Code, any mineral right retained pursuant to this section shall not include the right of the State or its successors or assignees in connection with any mineral reservation, removal, or disposal activity, to do either of the following:
 - (1) Enter upon, use, or damage the surface of the Trust lands or interfere with the use of the surface by the City or by the City's tenants.
 - (2) Conduct any mining activities of any nature whatsoever above a plane located five hundred feet below the surface of the Trust lands without permission of the City.
 - (m) In the management, conduct, operation, and control of the Trust lands or any improvements, or structures on that land, the City shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith nor shall the City

discriminate against or unlawfully segregate any person or group of persons on account of sex, race, color, creed, national origin, ancestry, or physical handicap for any use or service in connection herewith.

- (n) The Trust lands shall be improved by the City without expense to the State of California, except that nothing contained in this act shall preclude the City from accepting and retaining any grant of funds or subvention from the State or other governmental agencies made available for the purpose of aiding in the development of those Trust lands for any public purpose consistent with the promotion and accommodation of commercial navigation, fisheries, water-oriented recreation and public access, or ecological preservation.

SEC. 7. Whenever the Commission finds that the City has violated or is about to violate the terms of its trust grant or any other principle of law relating to its obligation under the Public Trust Doctrine, it shall notify the City of these violations. The City shall have 30 days from receipt of such notice of violation to conform to the terms of its grant and the principles and laws under the Public Trust Doctrine. In the event the City fails or refuses to so conform, the Commission is authorized to bring such actions as are necessary to enforce the rights of the State and people as beneficiary of the Public Trust Doctrine. The Attorney General shall represent the State and people in all such actions or proceedings. If the judgment is given against the State in any such action or proceeding, no costs can be recovered from the State and people.

SEC. 8. Lands granted pursuant to this act are:

- (a) The Sand Cove Parcels, being those parcels described in Exhibit C to the Sacramento Downtown Railyards Title Settlement and Exchange Agreement (AD 498).
- (b) The Sacramento Waterfront Parcel, being that parcel described in Exhibit B to the Sacramento Downtown Railyards Title Settlement and Exchange Agreement (AD 498).

SEC. 9. The City may resolve title and boundaries of the Trust lands, with the formal concurrence and approval of the Commission. The City may take and hold title, subject to the public trust and this statutory trust, to lands exchanged pursuant to Public Resources Code Section 6307, with the participation and formal approval of the Commission.

SEC. 10. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 11. The Legislature finds and declares that, because of the unique circumstances applicable only to the lands described in this act, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

RESOLUTION NO.

Adopted by the Sacramento City Council

AUGUST 6, 2009

**APPROVING THE SACRAMENTO DOWNTOWN RAILYARDS TITLE SETTLEMENT
AND EXCHANGE AGREEMENT WITH STATE LANDS COMMISSION,
STATE DEPARTMENT OF PARKS AND RECREATION AND
S. THOMAS ENTERPRISES OF SACRAMENTO, LLC**

BACKGROUND

- A. In order to resolve the public trust claim of the State Lands Commission (State Lands) regarding the location of the prior channel of the American River within the Railyards property owned by S. Thomas Enterprises of Sacramento, LLC (Thomas Enterprises), the Sacramento Downtown Title Settlement and Exchange Agreement (Exchange Agreement) is proposed to allow for transfer of the State Lands' public trust claim to property currently owned by the City of Sacramento (City) and the State Department of Parks and Recreation (State Parks) along the Sacramento River.
- B. The Exchange Agreement provides for the City to transfer title to Sand Cove Park to State Lands and for State Parks to transfer its jurisdiction over the Waterfront Parcel to State Lands. These properties will then become subject to a public trust claim to limit their use to public access and recreation and be leased to the City. The City would obtain title to these two properties under the terms of proposed legislation. The proposed 49- year leases and legislation are included as part of the Exchange Agreement and State Lands is bound to confer those interests to the City, subject to approval by the State Legislature for the subsequent property transfer.
- C. The consideration for the City's transfer of title to Sand Cove Park to State Lands is the agreement to obtain rights to the Waterfront Parcel to allow for future development of Riverfront Park in accordance with the Sacramento Riverfront Master Plan and the Railyards Specific Plan, as well as the agreement to lease-back to the City Sand Cove Park, all at no cost.
- D. In accordance with City Code Section 3.88.100, the City Council finds that the conveyance of title to Sand Cove Park to State Lands at no cost is in the best interest of the City because the property will still be under the City's jurisdiction and used as a public park under the terms of the lease with State Lands; the City

will obtain rights to develop the Waterfront Parcel as a public park, and the City will likely be able to obtain title to these two properties in the future, all at no cost to the City.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Sacramento Downtown Title Settlement and Exchange Agreement (Exchange Agreement) between the City of Sacramento, the State Lands Commission, the State Department of Parks and Recreation, and S. Thomas Enterprises of Sacramento, LLC, is hereby approved. The City Manager is hereby delegated the authority to execute the Exchange Agreement.
- Section 2. The sale of Sand Cove Park to the State Lands Commission at no cost, as set out in the Exchange Agreement, is hereby approved. The City Manager is authorized to execute the grant deed on behalf of the City of Sacramento and to execute all required escrow agreements to facilitate the transfer of title for Sand Cove Park to the State Lands Commission.
- Section 3. The lease of Sand Cove Park and the Waterfront Parcel by the City from the State Lands Commission, in accordance with the form lease set out in the Exchange Agreement, is hereby approved. The City Manager is hereby delegated the authority to execute the leases for Sand Cove Park and the Waterfront Parcel with the State Lands Commission.
- Section 4. The draft legislation to allow for the State Lands Commission to subsequently transfer title for Sand Cove Park and the Waterfront Parcel to the City, as set out in the Exchange Agreement, is hereby approved. Staff is directed to work with the State Lands Commission to seek an author to introduce this legislation, subject to the oversight of the legislative process and approval of any changes to the proposed legislation by the Law and Legislation Committee.