

MINUTE ITEM

This Calendar Item No. 40
 was added as a Calendar Item
 No. 40 to the State Lands
 Commission, 3/24/83 of 3
 to 0 at its 3/24/83
 meeting.

CALENDAR ITEM

40

3/24/83
 W 503.1057
 Stevenson
 Graber
 Valentine
 SLL 108

AUTHORIZATION TO SETTLE LAWSUIT ENTITLED
 CENTEX WEST, INC. V. STATE OF CALIFORNIA
 AND THE CITY OF SAN MATEO

In 1969, the State of California, acting through the State Lands Commission, filed a lawsuit against San Mateo County and Westbay Community Associates to quiet title to approximately 10,000 acres of land in San Mateo County (Superior Court of California, County of San Mateo, Case No. 144257). Through a series of complex procedural steps, Centex West, Inc. was joined as a party in the lawsuit and filed a cross-complaint against the State of California and the City of San Mateo as to a 125-acre parcel of land to which it held record title located partly in the City of San Mateo and partly in Foster City. This Centex cross-complaint was subsequently severed from the main action for separate resolution. Centex later sold its interests to Foster City (the Estero Municipal Improvement District). The purpose of this calendar item is to seek approval for a settlement which has been negotiated between the Estero Municipal Improvement District, the State Lands Commission, and the City of San Mateo as trustee of sovereign land granted to it by Chapter 245, Statutes of 1933, as amended.

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CALENDAR ITEM NO. 4 (CONT'D)

Estero claims title to the subject parcel of the lawsuit (shown for reference in its general location on Exhibit A, which is incorporated by reference as a part of this calendar item), as a successor in interest to Swamp and Overflowed Lands Surveys Nos. 66, 67, and 68, San Mateo County, dated September 16, 1982. The State and the City of San Mateo claim the same property arguing that the Surveys did not pass title to tide and submerged land included within their perimeters (including Seal Slough, a navigable waterway) and that all of the land within the Surveys had been eroded and made a part of San Francisco Bay by 1930. The State and San Mateo alleged that the part of the subject parcel lying above the tides had been filled by acts of man subsequent to 1930.

The basic terms of the proposed settlement are:

1. Estero will receive a 41-acre parcel of land free of sovereign claims. This parcel is denominated the TRUST TERMINATION PARCEL and is shown on Exhibit B (which is incorporated by reference as a part of this calendar item), in its general location. The TRUST TERMINATION PARCEL is now above the ordinary tides;
2. Estero will also receive a parcel of land along the perimeter of the TRUST TERMINATION PARCEL. This property, shown in its general location as the ACCESS PARCEL on Exhibit B, will be subject to a public trust easement in favor of the State including a right to public access;
3. The State will receive title to a 40-acre parcel of land within the boundaries of Foster City. This tract, the PARCEL TO STATE shown in its general location on Exhibit B, will be held as sovereign land subject to the public trust for commerce, navigation, and fisheries; and
4. The City of San Mateo will receive title to a 43-acre tract of land within its boundaries. This tract, shown in its general location on Exhibit B as the GRANTED LANDS PARCEL, will be held in trust by the City as sovereign lands subject to Chapter 245, Statutes of 1933, as amended, and to the interests reserved to the State by that Chapter.

The City of San Mateo, the State Lands Commission, and the Office of the Attorney General have reviewed the merits of the lawsuit regarding title to the subject parcel as

(Revised 3/21/83)

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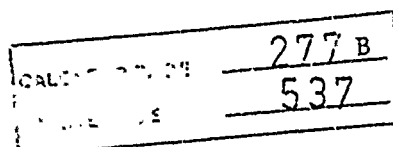
shown on Exhibit A. The State Lands Commission has also appraised the area as part of the analysis. The staff of the State Lands Commission and the Office of the Attorney General have concluded that the settlement is in the State's interest and that the land to be quieted in the State and the City of San Mateo as sovereign lands is equal in value to that quieted in Estero free of sovereign claims.

AB 884: N/A.

EXHIBITS: A. Plat of Subject Parcel.
A-1. Description of Subject Property.
B. Plat of Settlement Parcels.
B-1. Description of Granted Land Parcel.
B-2. Description of Parcel to State.
B-3. Description of Trust Termination Parcel.
B-4. Description of Access Parcel.

IT IS RECOMMENDED THAT THE COMMISSION:

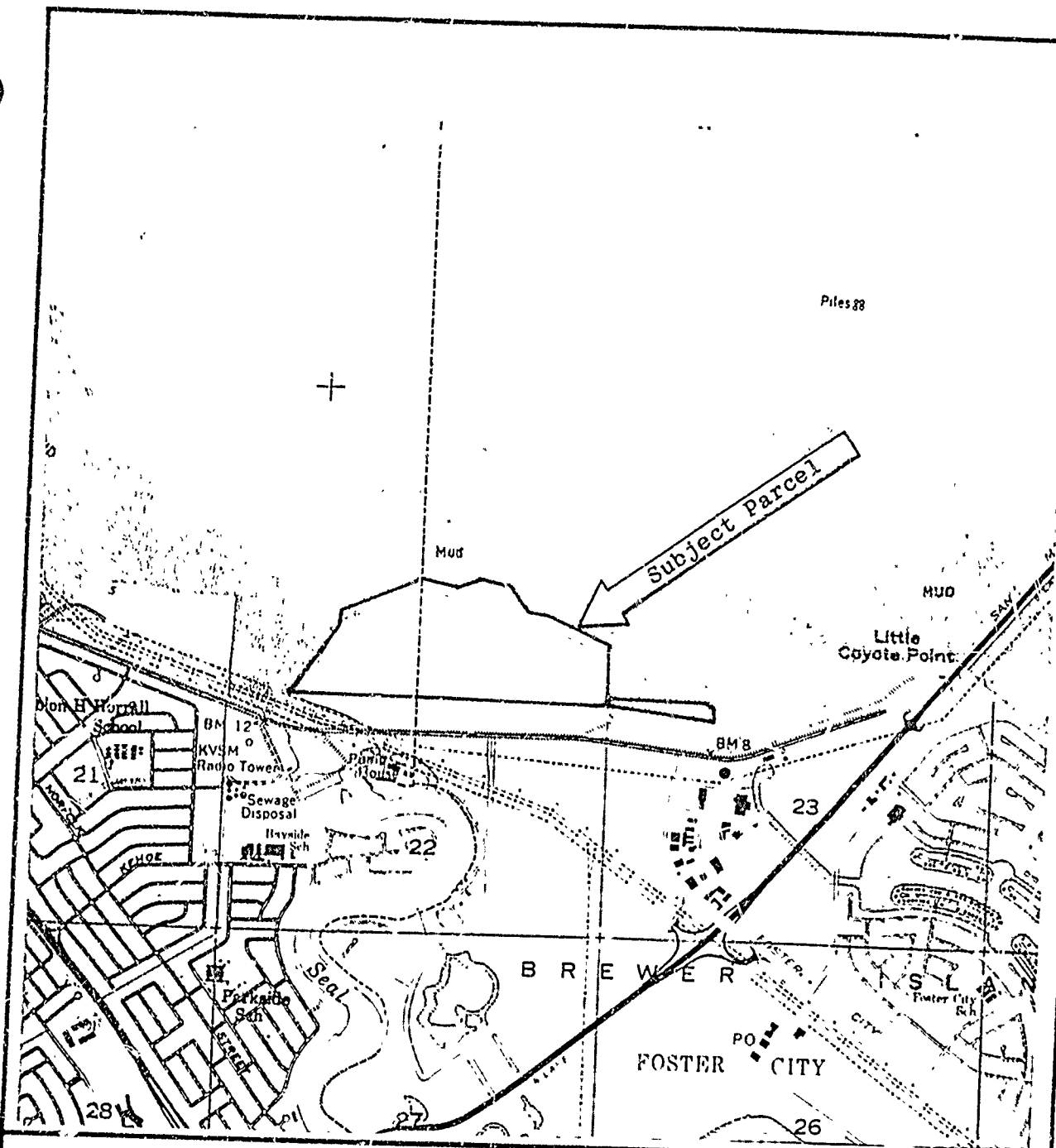
1. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY QUESTIONS AND THAT CEQA IS THEREFORE INAPPLICABLE. (P.R.C. 21080.11)
2. DETERMINE THAT THE TRUST TERMINATION PARCEL HAS BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF SAN FRANCISCO BAY, AND IN THE PROCESS OF SUCH DEVELOPMENT HAS BEEN FILLED AND RECLAIMED, IS NO LONGER SUBMERGED OR BELOW THE PRESENT LINE OF MEAN HIGH TIDE, AND IS NO LONGER NECESSARY OR USEFUL FOR COMMERCE, NAVIGATION OR FISHERIES, OR FOR SUCH USES OR TRUSTS AS ARE OR HAVE BEEN IMPOSED BY THE STATUTORY GRANTS OF TIDE AND SUBMERGED LANDS FROM THE STATE TO THE CITY, AND IS HEREBY FREED FROM SUCH STATUTORY AND COMMON LAW TRUSTS.
3. APPROVE THE EXCHANGE AND SETTLEMENT AGREEMENT IN A FORM SUBSTANTIALLY THE SAME AS THAT NOW ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND THE CONVEYANCES PROVIDED FOR IN THE AGREEMENT.
4. FIND THAT THE VALUE OF THE LAND DEEDED TO THE STATE AND TO THE CITY OF SAN MATEO PURSUANT TO THIS AGREEMENT HAS A VALUE EQUIVALENT TO OR EXCEEDING THE VALUE OF THE INTEREST OF THE STATE LAND BEING CONVEYED TO THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT.
5. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND DELIVER THE EXCHANGE AGREEMENT INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE SAN MATEO COUNTY RECORDER.



CALENDAR ITEM NO. 40 (CONTD)

6. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AND EXCHANGE AGREEMENT, INCLUDING APPEARANCES IN COURT AND THE FILING OF PLEADINGS TO SETTLE THIS LAWSUIT ACCORDING TO THE TERMS DESCRIBED IN THE SETTLEMENT AND EXCHANGE AGREEMENT.
7. AUTHORIZE THE CITY OF SAN MATEO TO EXECUTE THE SETTLEMENT AND EXCHANGE AGREEMENT PURSUANT TO CHAPTER 245, STATUTES OF 1933, AS AMENDED.

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STATE LANDS COMMISSION

PLAT OF SUBJECT PARCEL



Prepared by: D. Plummer	Date: 7/6/82	A: 19 S: 6	EXHIBIT A
Title Study: CentexBulge-Foster City	W 503.1057	Z3 -N39-E148	

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EXHIBIT "A-1"

SUBJECT PARCEL

DESCRIPTION

That certain real property described in Exhibit "A" of that Quitclaim Deed from Centex West, Inc. to Estero Municipal Improvement District a public entity, recorded January 15, 1980 in Reel 7931, Image 105 Official Records of San Mateo, more particularly described as follows:

Beginning at a point on the arc of a curve from which the northwest corner of the lands described in Parcel One of the deed from Arden Investment Company, a corporation, to Schilling Estate Company, a corporation, recorded February 1, 1939 in Book 821 Official Records of San Mateo County at page 44, bears South $11^{\circ} 46' 45''$ East distant 213.98 feet and from which the center of said curve bears North $10^{\circ} 33' 45''$ East; thence North $3^{\circ} 23'$ West 417.9 feet; thence North $35^{\circ} 05' 30''$ East 1049.4 feet; thence North $9^{\circ} 50' 30''$ East 264.0 feet; thence North $68^{\circ} 20' 30''$ East 1254.0 feet; thence South $73^{\circ} 39' 30''$ East 462.0; thence North $64^{\circ} 50' 30''$ East 330.0 feet; thence South $80^{\circ} 39' 30''$ East 396.0 feet; thence South $32^{\circ} 39' 30''$ East 462.0 feet; thence South $81^{\circ} 09' 30''$ East, 330.0 feet; thence South $67^{\circ} 24' 30''$ East 1012.4 feet; thence South $0^{\circ} 09' 30''$ East 126.0 feet to a point from which a concrete monument bears South $0^{\circ} 09' 30''$ East distant 5871.5 feet; thence North $63^{\circ} 15'$ East 72.6 feet; thence due East 705.9 feet; thence South $89^{\circ} 41'$ East 543.1 feet; thence South $43^{\circ} 00'$ East 132.0 feet; thence South $1^{\circ} 00'$ East 462.0 feet; thence South $29^{\circ} 14'$ East 154.0 feet to a concrete monument on the arc of a curve of radius 1382.7 feet, from which the center of said curve bears North $1^{\circ} 04' 30''$ East; thence in a westerly direction on the arc of said curve to the right and parallel and concentric with and distant 200 feet measured radially and northerly from the northern boundary line of the above described parcel one, an arc distance of 139.78 feet; thence tangent to the last described curve and parallel with and distant 200 feet measured at right angles northerly from the northern boundary line of said parcel one, North $83^{\circ} 08'$ West 1662.1 feet to a point marked by a concrete monument; thence on the arc of a curve to the left, whose tangent at the last described point is the last described course, of radius 1482.7 feet and parallel and concentric with and distant 200 feet northerly from the northerly boundary line of said parcel one, an arc distance of 165.62 feet; thence tangent to the last described curve and parallel with and distant 200 feet measured northerly at right angles from the northerly boundary line of said parcel one, North $89^{\circ} 32'$ West 3729.2 feet to a point; thence on the arc of a curve to the right, whose tangent at the last described point is the last described course, of radius 1382.7 feet and whose long chord bears North $84^{\circ} 29' 75''$ West 243.32 feet and parallel and concentric with the northern boundary line of said parcel one, an arc distance of 243.64 feet to the point of beginning.

EXCEPTING THEREFROM.

(A) The lands described in the deed from Schilling Estate Company, a California Corporation, to Pacific Gas and Electric Company,

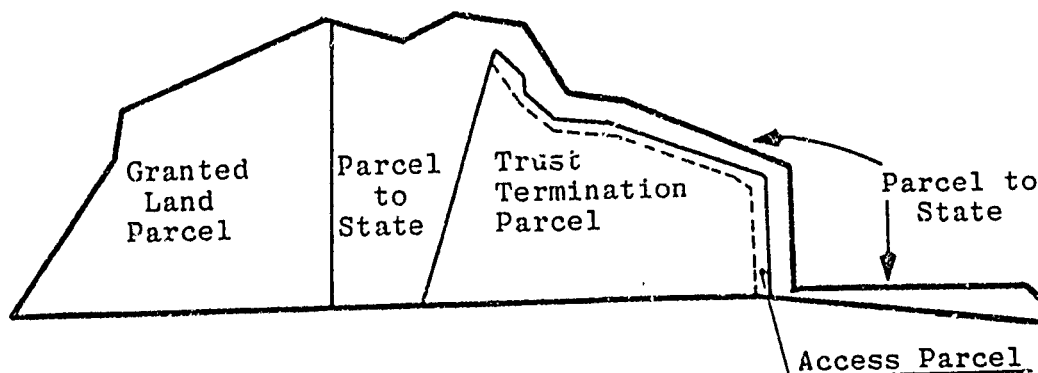
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a California Corporation, dated August 29, 1952 and recorded September 17, 1952 in Book 2295 of Official Records of San Mateo County at Page 717 (29465-K).

(B) The lands described in the deed from Schilling Estate Company, a corporation, to the State of California, recorded June 1, 1954 in Book 2591 of Official Records of San Mateo County at Page 41 (60304-L).

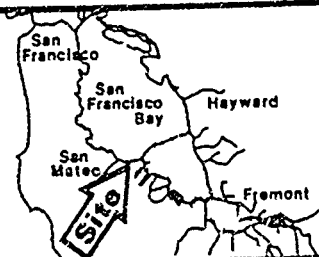
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Granted Land Parcel	--	To City of San Mateo & State of California subject to Legislative Trust Grant (about 43 Ac.)
Parcel to State	--	To State of California in FEE under the Public Trust (about 40 Ac.)
Trust Termination Parcel	--	To Estero Dist. in FEE, free of the Public Trust (about 41 Ac.)
Access Parcel	--	Reserved Easement for the Public Trust.



STATE LANDS COMMISSION

PLAT OF SETTLEMENT PARCELS



Prepared by: D. Plummer

Date: 7/6/82 A: 19 S:6

EXHIBIT B

Title Study: Centex Bulge-Foster City W 503.1057

Z3 -N39-E148

CALENDAR PAGE
LTS 102

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EXHIBIT "B-1"

GRANTED LAND PARCEL

DESCRIPTION

All that certain real property situate in the City of San Mateo, County of San Mateo, State of California, more particularly described as follows:

Commencing at a brass cap monument set in concrete at the northwest corner of the subdivision shown on that subdivision map entitled Mariner's Island Unit No. 2, recorded in Volume 64 of Maps, at pages 31-35, San Mateo County Records, said monument also being on the corporate city limits line of the City of San Mateo and the City of Foster City; thence along said corporate city limits line N 01° 15' 36" E 649.97 feet TO THE TRUE POINT OF BEGINNING, said point being on the northerly line of that parcel of land described in the Grant Deed to the State of California recorded June 1, 1954 in Volume 2591, at Page 41 in the Official Records of San Mateo County, said point also being on the southerly line of that parcel of land described in Exhibit "A" of that Quitclaim Deed from Cantex West, Inc. to Estero Municipal Improvement District, a public entity, recorded January 15, 1980 in Reel 7931, Image 105 Official Records of San Mateo County, said northerly and southerly lines being a common property line; thence leaving said corporate city limits line along said common property line N 88° 29' 49" W 1548.53 feet; thence N 89° 57' 27" W 272.07 feet, to the southwest corner of abovementioned lands of Estero; thence leaving said common property line and along said lands of Estero the following three courses:

1. N 35° 05' 30" E 1049.4 feet;
2. N 09° 50' 30" E 264 feet;
3. N 68° 20' 30" E 1254 feet to the

southerly line of parcel B-2 as said parcel is shown on that Record of Survey entitled "Record of Survey, Exhibit A of Settlement Agreement", filed July 28, 1977 in Book 8 of Licensed Land Surveyors' Maps at pages 76-88 San Mateo County Records; thence along said southerly line S 72° 38' 46" E 17.59 feet more or less to abovementioned corporate city limits line; thence southerly along said line 1579.98 feet more or less to the point of beginning.

END OF DESCRIPTION

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EXHIBIT "B-2"

PARCEL TO STATE

DESCRIPTION

All that certain real property situate in the City of Foster City, County of San Mateo, State of California, more particularly described as follows:

Commencing at a brass cap monument set in concrete at the northwest corner of the subdivision shown on that subdivision map entitled Mariner's Island Unit No. 2, recorded in Volume 64 of Maps, at pages 31-35, San Mateo County Records, said monument also being on the corporate city limits line of the City of San Mateo and the City of Foster City; thence along said corporate city limits line N 01° 15' 36" E 649.97 feet to the TRUE POINT OF BEGINNING, said point being on the northerly line of that parcel of land described in the Grant Deed to the State of California recorded June 1, 1954 in Volume 2591, at Page 41 in the Official Records of San Mateo County, said point also being on the southerly line of that parcel of land described in Exhibit "A" of that Quitclaim Deed from Centex West, Inc. to Fostero Municipal Improvement District a public entity, recorded January 15, 1980 in Reel 1931, Image 105 Official Records of San Mateo County, said northerly and southerly lines being a common property line; thence continuing along said corporate city limits line northerly 1579.98 feet more or less to the southerly line of Parcel B-2 as said parcel is shown on that Record of Survey entitled "Record of Survey, Exhibit A of Settlement Agreement", filed July 28, 1977 in Book 8 of Licensed Land Surveyors' Maps at pages 76-88 San Mateo County Records; thence along said southerly line of Parcel B-2 the following six courses:

1. S 72° 38' 46" E 444.38 feet;
2. N 65° 51' 14" E 329.98 feet;
3. S 79° 38' 46" E 395.97 feet;
4. S 31° 38' 46" E 461.97 feet;
5. S 80° 08' 46" E 329.98 feet;
6. S 66° 23' 46" E 737.62 feet to a point, said point being the

southerly terminus of that certain course numbered 74, said course being on the dividing line between Parcel B-2 and Parcel B-8, and shown on the above-mentioned Record of Survey; thence leaving the southerly line of Parcel B-2 and following the southerly line of Parcel B-8 the following seven courses:

1. S 66° 23' 46" E 276.01 feet;
2. S 00° 52' 40" W 725.38 feet;
3. N 64° 15' 44" E 72.60 feet;
4. S 88° 59' 16" E 705.85 feet;
5. S 88° 40' 16" E 548.06 feet;
6. S 41° 59' 16" E 131.99 feet;
7. S 00° 00' 44" W 141.39 feet to a point on a non-tangent

curve said point being on the above-mentioned common property line of the lands described in the said deeds recorded June 1, 1954 and January 15, 1980; thence along said common property line also along the arc of a curve concave to the North, having a radius of 932.63

feet, a central angle of $00^{\circ} 16' 47''$, an arc length of 4.55 feet; thence N $82^{\circ} 06' 21''$ W 1549.72 feet; thence leaving said common property line the following nine courses:

1. N $0^{\circ} 52' 45''$ E 685.20 feet;
2. N $66^{\circ} 23' 49''$ W 500.01 feet;
3. N $70^{\circ} 55' 21''$ W 500.02 feet;
4. N $80^{\circ} 08' 49''$ W 77.87 feet;
5. N $85^{\circ} 02' 35''$ W 196.94 feet;
6. N $43^{\circ} 06' 17''$ W 213.66 feet;
7. N $11^{\circ} 03' 26''$ W 97.82 feet;
8. N $40^{\circ} 28' 44''$ W 238.91 feet;
9. S $18^{\circ} 14' 13''$ W 1513.10 feet

to the common property line of the lands described in the said deeds recorded June 1, 1954 and January 15, 1980; thence along said common property line N $88^{\circ} 29' 49''$ W 511.69 feet to the point of beginning.

EXHIBIT "B-3"

TRUST TERMINATION PARCEL

DESCRIPTION

All that certain real property situate in the City of Foster City, County of San Mateo, State of California, more particularly described as follows:

Commencing at a brass cap monument set in concrete at the northwest corner of the subdivision shown on that subdivision map entitled Mariner's Island Unit No. 2, recorded in Volume 64 of Maps, at pages 31-35, San Mateo County Records, said monument also being on the corporate city limits line of the City of San Mateo and The City of Foster City; thence along said corporate city limits line N 01° 15' 36" E 649.97 feet to a point on the northerly line of that parcel of land described in the Grant Deed to the State of California, recorded June 1, 1954 in Volume 2591, at page 41 in the Official Records of San Mateo County, said point also being on the southerly line of that parcel of land described in Exhibit "A" of that Quitclaim Deed from Centex West, Inc. to Estero Municipal Improvement District a public entity, recorded January 15, 1980 in Reel 7931, Image 105 Official Records of San Mateo County, said northerly and southerly lines being a common property line; thence leaving said corporate city limits line along said common property line S 88° 29' 49" E 511.69 feet to the TRUE POINT OF BEGINNING; thence leaving said common property line the following nine courses:

1. N 18° 14' 13" E 1513.10 feet;
2. S 40° 28' 44" E 238.91 feet;
3. S 11° 03' 26" E 97.82 feet;
4. S 43° 06' 17" E 213.66 feet;
5. S 85° 02' 35" E 196.94 feet;
6. S 80° 08' 49" E 77.87 feet;
7. S 70° 55' 21" E 500.02 feet;
8. S 66° 23' 49" E 500.01 feet;
9. S 00° 52' 45" W 685.20 feet, to the above said common property line; thence along said common line N 82° 06' 21" W 104.09 feet; thence along a tangent curve concave to the south having a radius of 1932.55 feet, through a central angle of 6° 23' 28", an arc length of 215.57 feet; thence N 88° 29' 49" W 1669.0 feet more or less to the point of beginning.

EXHIBIT "B-4"

ACCESS PARCEL

DESCRIPTION

All that certain real property situate in the City of Foster City, County of San Mateo, State of California, more particularly described as follows:

Commencing at a brass cap monument set in concrete at the northwest corner of the subdivision shown on that subdivision map entitled Mariner's Island Unit No. 2, recorded in Volume 64 of Maps, at pages 31-35, San Mateo County Records, said monument also being on the corporate city limits line of the City of San Mateo and the City of Foster City; thence along said corporate city limits line N 1° 15' 36" E 649.97 feet to a point on the northerly line of that parcel of land described in the Grant Deed to the State of California, Recorded June 1, 1954 in Volume 2591, at page 41 in the Official Records of San Mateo said point also being on the southerly line of that parcel of land described in Exhibit "A" of that Quitclaim Deed from Centex West, Inc. to Estero Municipal Improvement District a public entity, recorded January 15, 1980 in Peel 7931, Image 105 Official Records of San Mateo County, said northerly and southerly lines being a common property line; thence leaving said corporate city limits line, along said common property line S 88° 29' 49" E 511.69 feet; thence leaving said common property line N 18° 14' 13" E 1513.10 feet to the TRUE POINT OF BEGINNING; thence along the following eight courses:

1. S 40° 28' 44" E 238.91 feet;
2. S 11° 03' 26" E 97.82 feet;
3. S 43° 06' 17" E 213.66 feet;
4. S 85° 02' 35" E 196.94 feet;
5. S 80° 08' 49" E 77.87 feet;
6. S 70° 55' 21" E 500.02 feet;
7. S 66° 23' 49" E 500.01 feet;
8. S 00° 52' 45" W 685.20 feet, to the above said common property line; thence along said common line N 82° 06' 21" W 40.58 feet; thence leaving said common property line the following eight courses:

1. N 00° 55' 07" E 596.49 feet;
2. N 66° 56' 38" W 654.31 feet;
3. S 68° 28' 08" W 86.32 feet;
4. N 74° 00' 42" W 137.99 feet;
5. N 17° 33' 03" W 76.32 feet;
6. N 77° 21' 30" W 299.79 feet;
7. N 42° 12' 36" W 567.58 feet;
8. N 18° 14' 13" E 94.21 feet to the point of beginning.