

MINUTE ITEM

This Calendar Item No. 133 was approved as Minute Item No. 133 by the California State Lands Commission by a vote of 3 to 0 at its 6-19-98 meeting.

**CALENDAR ITEM
133**

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06/19/98
W 23944
D. Plummer
B. Stevenson
D. Eagan

**REQUEST FOR APPROVAL OF AGREEMENT AMONG THE CALIFORNIA STATE LANDS COMMISSION, THE CITY AND COUNTY OF SAN FRANCISCO, AND THE CATELLUS DEVELOPMENT CORPORATION REGARDING TRANSFER OF LAND TO THE UNIVERSITY OF CALIFORNIA, SAN FRANCISCO;
CITY AND COUNTY OF SAN FRANCISCO**

APPLICANTS::

Catellus Development Corporation
Attention: Douglas B. Stimpson
201 Mission Street, 2nd Floor
San Francisco, CA 94105

Michael P. Koppersmith
Coblentz, Patch, Duffy & Bass, LLP
222 Kearny Street, 7th Floor
San Francisco, CA 94108-4510

Elizabeth A. Dietrich
Deputy City Attorney
Office of the City Attorney
City and County of San Francisco
1390 Market Street, 6th Floor
San Francisco CA, 94102-5408

Neil H. Sekhri
Deputy City Attorney
Office of the City Attorney/Port Division
City and County of San Francisco
3100 Ferry Building
San Francisco, CA 94111

INFORMATION:

The purpose of this calendar item is to seek authorization by the State Lands Commission of an agreement which will provide the land necessary for the first phase of the expansion of the campus of the University of California at San Francisco (the "Agreement"). Through the Agreement, state title interests in streets laid out on filled tidelands within the campus site will be sold, and title in other lands settled, as part of an overall agreement to create a unified parcel for transfer of land to the University as part of the first phase of development. The first phase site involved lies south of Market Street, within the Mission Bay Development Area ("Mission Bay"). Attached as Exhibit A and incorporated by reference is a reference plat that shows the subject site within Mission Bay, and the planned area of the University campus. Later transfers of contiguous land to the University for subsequent construction phases will be addressed when an

CALENDAR PAGE	685
MINUTE PAGE	004013

CALENDAR ITEM NO. 133 (CONT'D)

agreement relating to the remainder of Mission Bay is brought before the State Lands Commission.

The parties to the Agreement for the subject property are Catellus Development Corporation, a Delaware Corporation ("Catellus"), the City and County of San Francisco, acting as a charter city and county, and also acting by and through the San Francisco Port Commission ("City"), and the State of California, acting by and through the State Lands Commission.

Mission Bay, and the settlement of state land titles within it, has been the subject of several acts of the Legislature. These acts are found at Chapter 1143, Statutes of 1991, as amended by Chapter 86, Statutes of 1992, and as further amended by Chapter 203, Statutes of 1997. Together, these statutes are referred to in the Agreement and in this calendar item as "the Act." The Act requires State Lands Commission approval prior to the entry of the State and City into land title settlements concerning Mission Bay.

The State has several types of title interests within the subject property, and within Mission Bay as a whole. As recognized in the Act, certain of the lands within Mission Bay are tide and submerged lands granted in trust by the Legislature to the City through the Burton Act (Chapter 1333, Statutes of 1968, as amended). Some of these granted lands lie within the Port area and are administered by the Port Commission; others do not, and are administered by the City separate from the Port Commission. The majority of lands within Mission Bay consist of lots, blocks, and streets laid out in now filled tidelands pursuant to various statutes in the years following statehood. The lots and blocks were conveyed to private parties, and are now almost entirely held by Catellus. Certain of the streets were later granted to the City. Many of these streets are "paper" streets owned by the State and City as public trust lands, and are not open public streets. They do not conform to any plan for the future development of the area, and do not serve any purpose for the public trust, nor are they susceptible to public trust uses. It is these streets which are in dispute between Catellus, the City, and the State. Court judgments have been rendered concerning some of the streets, and the parties to the Agreement dispute the effect of these judgments.

The Act authorizes, with approval by the State Lands Commission, the sale of state streets as permitted in Article X, Section 3 of the California Constitution,

CALENDAR PAGE	686
MINUTE PAGE	004014

CALENDAR ITEM NO. 133 (CONT'D)

and the exchange of Burton Act lands and the State's title in contested streets. The Act and the agreements it contemplates serve the objective of state acquisition of land necessary for the University campus, and of other land in a consolidated pattern that is useable for the public trust purposes enumerated in the Act. The eventual pattern of ownership of land that is to be subject to the public trust is depicted in the diagram which is made a part of Section 13.6 of the Act. This trust land configuration, as well as additional transfers of land to the University for campus expansion, will be accomplished by a future agreement, which will be brought before this Commission for the remainder of Mission Bay property.

The staff of the State Lands Commission and the Office of the Attorney General have researched the location and nature of state and private title interests within the subject property. An Agreement has been drafted to sell streets in consideration for conveyance of land to the University, as contemplated by the Act. The Agreement, in general terms, does the following:

1. Provides that the State sell to the City all of its right, title, and interest in parcels labeled the City Street Parcels within the subject property. The City Street Parcels are shown on Exhibit B, attached to this calendar item and made a part of it by this reference. In connection with this conveyance, the State shall terminate the public trust for commerce, navigation, and fisheries in the City Street Parcels, and, where it applies, the trust established by the Burton Act. As provided in the Act, the State shall retain minerals in Burton Act property;
2. Provides that the State sell to Catellus all of its right, title, and interest in parcels labeled the State Street Sale Parcels, and that the State terminate the public trust in them. These State Street Sale parcels are shown on Exhibit C, attached to this calendar item and made a part of it by this reference;
3. Provides that, in consideration for the sales of the State Street Sale Parcels and the City Street Parcels, the City and Catellus will convey to the University of California the blocks and streets which together comprise the property for a portion of the first phase of the expansion campus. These conveyances will occur pursuant to agreements which the City and Catellus have entered with the University (the "Contribution Agreements").

CALENDAR PAGE	687
MINUTE PAGE	004015

CALENDAR ITEM NO. 133 (CONT'D)

The Contribution Agreements include terms stating that the land conveyed to the University shall revert to the City and/or Catellus if the University does not fulfill certain conditions. A term has been added to the Agreement now before the State Lands Commission to address the possible, but unlikely, event of reversion of University property. The Agreement provides that, if a reversion does occur, the parties will put themselves into substantially the same condition in terms of interests and claims to land as would have existed had the transactions in the Agreement not occurred.

The staff has reviewed an appraisal of the property involved in the Agreement, and has concluded that the economic value of land to be received by the University equals or exceeds the value of the land or interests sold by the State in the streets.

STATUTORY AND OTHER REFERENCES:

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

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

- 1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14 California Code of Regulations section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: Public Resources Code section 21080.11

EXHIBITS:

- A. Site Map of the Mission Bay Development Area, Including the University Expansion Campus and Its First Phase.
- B. Site Map of the City Street Parcels.
- C. Site Map of the State Street Sale Parcels.

CALENDAR ITEM NO. 133 (CONT'D)

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS SECTION 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE THE PROPOSED AGREEMENT AND PATENTS IN FORMS SUBSTANTIALLY SIMILAR TO THOSE NOW ON FILE IN THE OFFICES OF THE STATE LANDS COMMISSION, INCLUDING THE FINDINGS TO TAKE EFFECT UPON RECORDING OF THE AGREEMENT AND PATENTS, WHICH WILL RESULT IN A TERMINATION OF SOVEREIGN RIGHTS IN THE CITY STREET PARCELS AND THE STATE STREET SALE PARCELS;
3. FIND, EFFECTIVE UPON RECORDATION OF THE AGREEMENT THAT:
 - A. THE TIDELANDS WITHIN THE CITY STREET PARCELS AND THE STATE STREET SALE PARCELS GRANTED PURSUANT TO THE BURTON ACT HAVE BEEN FILLED AND RECLAIMED, ARE CUT OFF FROM ACCESS TO THE WATERS OF SAN FRANCISCO BAY; ARE NOT USED OR NECESSARY FOR NAVIGATION; AND ARE NO LONGER NEEDED OR REQUIRED FOR THE PROMOTION OF THE PUBLIC TRUST OR THE BURTON ACT TRUST;
 - B. NO SUBSTANTIAL INTERFERENCE WITH THE PUBLIC TRUST OR THE BURTON ACT TRUST USES AND PURPOSES WILL ENSUE BY VIRTUE OF THE SALE; THAT THE SALE IS CONSISTENT WITH THE FINDINGS AND DECLARATIONS IN SECTION 2 OF THE ACT; AND THAT THE SALE IS IN THE BEST INTERESTS OF THE STATE AND THE CITY; AND
 - C. THE CONSIDERATION FOR THE SALE OF LANDS OR INTERESTS IN LANDS PURSUANT TO SECTION 3 OF ARTICLE X OF THE CALIFORNIA CONSTITUTION SHALL BE CONVEYANCE TO THE UNIVERSITY OF LANDS OR INTERESTS IN LAND FOR THE

CALENDAR ITEM NO. 133 (CONT'D)

EXPANSION OF ITS SAN FRANCISCO CAMPUS, THE VALUE OF WHICH EQUALS OR EXCEEDS THE VALUE OF THE LANDS OR INTERESTS IN LANDS THAT ARE TO BE SOLD PURSUANT TO SECTION 3 OF ARTICLE X OF THE CALIFORNIA CONSTITUTION.

4. PURSUANT TO SECTION 6 (b) OF THE ACT, THE STATE LANDS COMMISSION APPROVES THE AGREEMENT, THE ENTRY OF THE CITY INTO THE AGREEMENT, AND CONVEYANCES MADE BY THE CITY TO IMPLEMENT THE AGREEMENT.
5. APPROVE RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
 - A. THE AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION;
 - B. PATENTS OF THE STATE STREET SALES PARCELS AND THE CITY STREET PARCELS AS PROVIDED IN THE AGREEMENT;
6. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

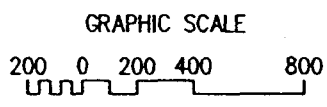
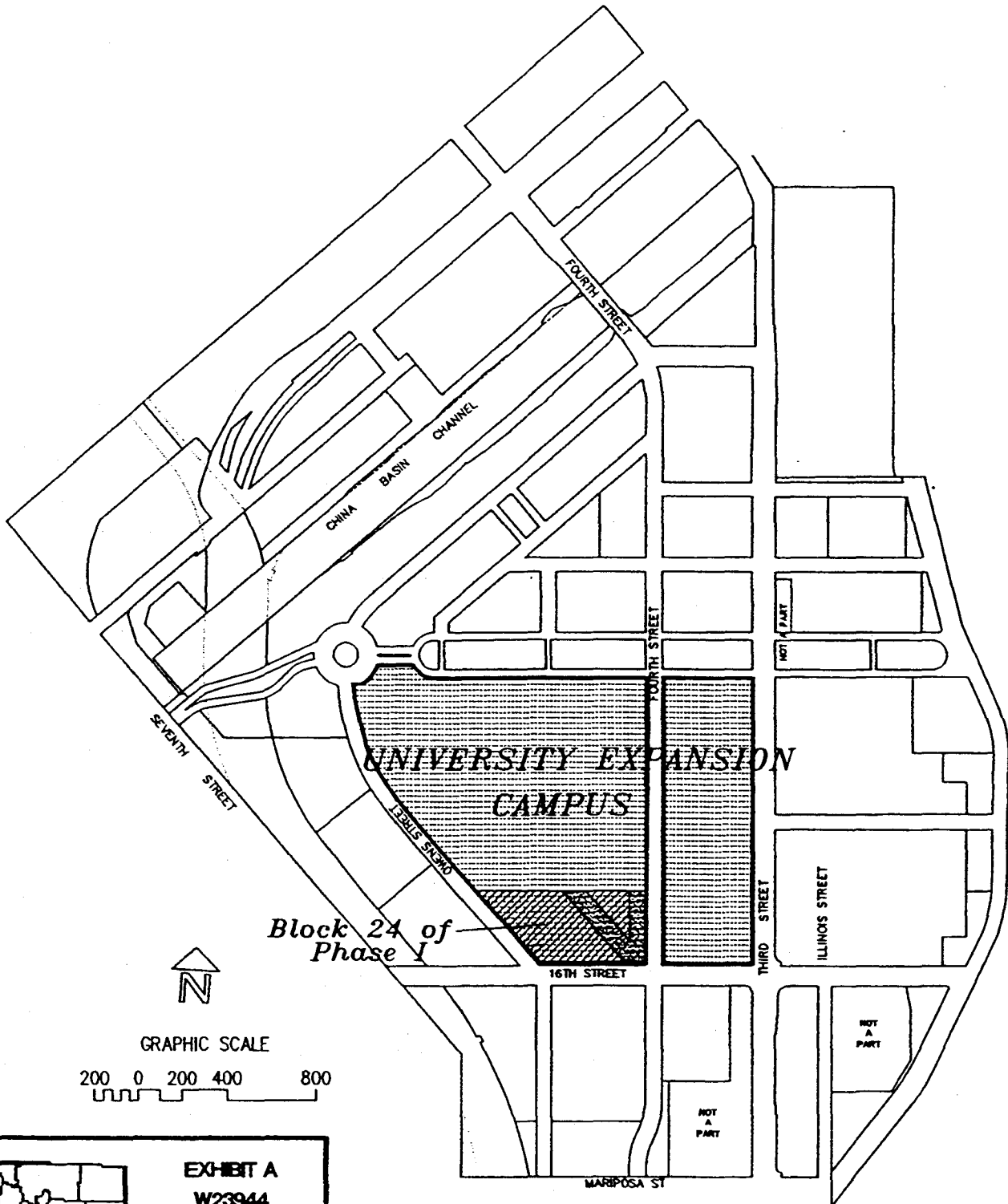


EXHIBIT A
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 Catalus Development Corporation
 City and County of San Francisco
 City of San Francisco
 San Francisco County
 California

**MISSION BAY
 DEVELOPMENT AREA**

CALENDAR PAGE	691
MINUTE PAGE	004019

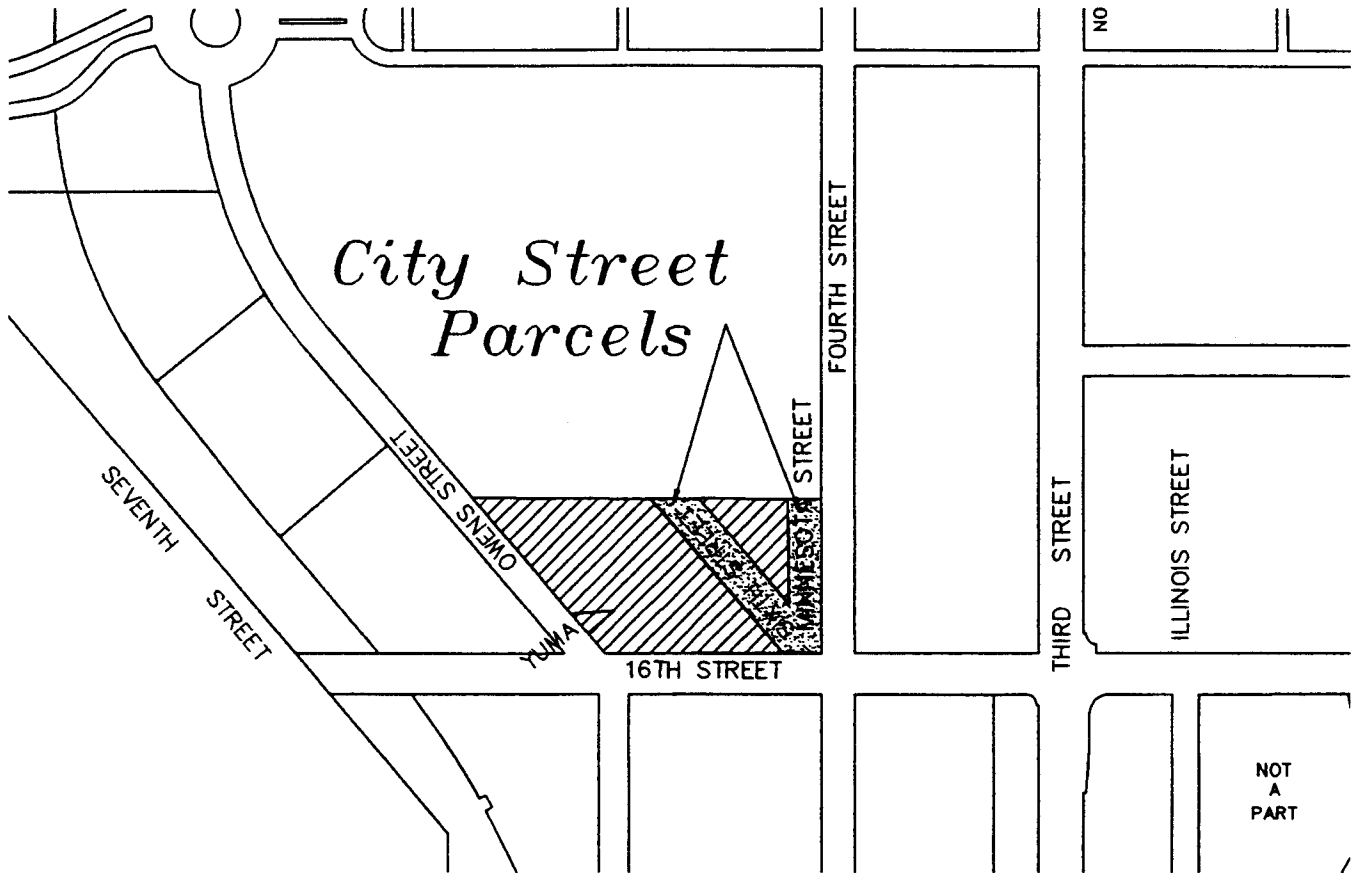
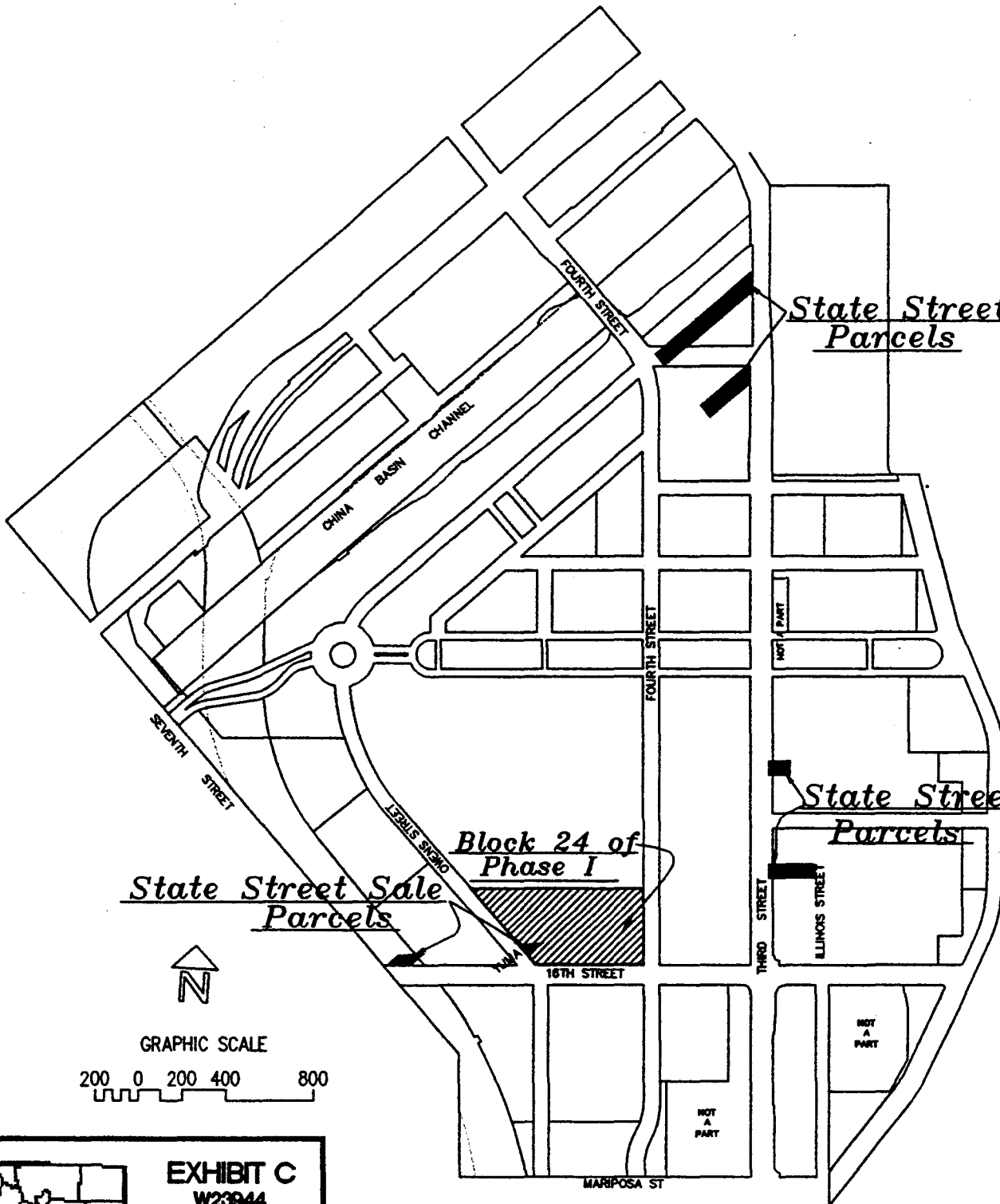


EXHIBIT B

W23044
 Caelus Development
 Corporation
 City and County
 of San Francisco
 City of San Francisco
 San Francisco County
 California

CALENDAR PAGE	692
MINUTE PAGE	004020



*State Street Sale
Parcels*

*State Street Sale
Parcels*

*State Street Sale
Parcels*

*Block 24 of
Phase I*



GRAPHIC SCALE

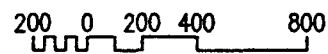


EXHIBIT C
W23944
 Castelus Development
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 City and County
 of San Francisco
 City of San Francisco
 San Francisco County
 California

MISSION BAY DEVELOPMENT AREA

CALENDAR PAGE	693
MINUTE PAGE	004021