



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** General Services  
**Department No.:** 063  
**For Agenda Of:** September 2, 2014  
**Placement:** Administrative  
**Estimated Tme:** N/A  
**Continued Item:** No  
**If Yes, date from:** N/A  
**Vote Required:** 4/5

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**TO:** Board of Supervisors  
**FROM:** General Services Matthew P. Pontes, Director (560-1011)  
Contact Info: Greg Chanis, Assistant Director (568-3096)  
**SUBJECT:** Approval of Settlement Agreement and Acceptance of Deed of Gift for “The Landing of Cabrillo” Work of Art; First District

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**County Counsel Concurrence**

Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management/Community  
Services Department/Arts Commission  
As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute a Settlement Agreement and Release between the County, Santa Barbara County Courthouse Docent Council (Docent Council), Rodney Baker, the Towbes Foundation, Montecito Bank & Trust, Michael Towbes, and A. Barry Cappello resolving potential litigation regarding the ownership and display of the Dan Sayre Groesbeck painting entitled the “Landing of Cabrillo”;
- b) Approve and authorize the Chair to execute a Deed of Gift, accepting the “Landing of Cabrillo” painting valued at \$200,000, from the Docent Council, to be made a permanent part of the Santa Barbara County Courthouse Collection for prominent display to the public;
- c) Approve the attached Budget Revision Request #BJE-0003626, recognizing the County’s acceptance of the painting as a donation from the Docent Council; and
- d) Find that the proposed approval of the Settlement Agreement (Recommendation a), acceptance of the Deed of Gift (Recommendation b), and approval of the Budget Revision Request (Recommendation c) are not “projects” under the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15378(b)(5), as they involve administrative activities of a governmental decision making

body that will not result in direct or indirect physical changes in the environment; and approve and direct staff to file and post the attached Notice of Exemption on that basis.

**Summary Text:**

The Docent Council (a non-profit 501(c)(3) corporation), working with the General Services Department, has agreed to formally donate a 9’-6” by 12’-3” painting entitled “Landing of Cabrillo” by Dan Sayre Groesbeck (Painting), commissioned in 1924 and recently valued at \$200,000 to the County. The Painting hung in the Mural Room Lobby of the Santa Barbara Courthouse from 1994 through 2013. The Mural Room paintings were also painted by Mr. Groesbeck. In accordance with the Settlement Agreement, the Docent Council is formally offering to gift the Painting to the County of Santa Barbara to be made a permanent part of the Santa Barbara Courthouse Collection for public display. The gift must be officially accepted by the Board, in compliance with County Policy D4.1 and Board Resolution 99-485, *Acceptance of Gifts by County*. Acceptance of the gift would resolve potential litigation by Mr. Cappello, against the County and other parties.

**Background:**

The Santa Barbara County Courthouse is a City/State/National Historic Landmark with many historic features that include furniture, paintings, hangings, clock works, carpets, pottery, photographs, as well as other minor objects that are collectively defined as the “Courthouse Art Collection.” The Docent Council was founded in 1974 as a charitable and educational organization whose mission has been to share the history, stories, and treasures of the Santa Barbara Courthouse.

The Painting was commissioned by the now-defunct County National Bank & Trust Company for its branch located at 1000 State Street in 1924. The Painting served as the inspiration for the County’s commissioning of Mr. Groesbeck to paint the Santa Barbara Courthouse Board Assembly Room Murals. The room is now referred to as the *Mural Room*.

In 1959, Crocker Bank acquired County National Bank & Trust Company and the Painting was moved across the street to 1001 State Street where Crocker had its local headquarters branch. The remaining County National Bank location was sold. Eventually, through bank mergers in the early 1980s, Wells Fargo & Company became owner of the Painting, transferring the Painting to its Corporate Foundation. Wells Fargo & Company already had a bank branch and headquarters located in Santa Barbara across from the Santa Barbara Courthouse on Anacapa Street. It began to liquidate the assets acquired through the merger with Crocker that included the Painting.

In an effort to keep the Painting from leaving the community, two individuals—David Bisol, then-Executive Director of the Santa Barbara Historical Museum and then-President of the Courthouse Docent Council, Marjorie Hayes—were instrumental in persuading the Wells Fargo Foundation to donate the Painting to the Santa Barbara Historical Museum. Unfortunately, the Santa Barbara Historical Museum did not have gallery space to display the Painting. Ms. Hayes, on behalf of the Santa Barbara Historical Museum and the Courthouse Docent Council, then arranged for the Painting to be moved to the Santa Barbara Courthouse in 1993 and mounted on a wall in the Mural Room Lobby in the Courthouse. In 1994, the Museum transferred title of the Painting to the Docents for its perpetual care at the Courthouse.

On March 21, 2013, the Docents voted to loan the Painting for display at Montecito Bank & Trust located at 1000 State Street, the former location of County National Bank which had originally commissioned the Painting. This action was done at the request of the Towbes Foundation, a 501(c)(3) California corporation, based on the fact that the Painting had been a prominent feature on the far wall of the building when used by County National Bank and part of the community’s history at that location.

Following the relocation of the Painting, A. Barry Cappello informed the County and other parties of his intent to file a taxpayer lawsuit in which he would bring claims against the County, the Docent Council,

Rodney Baker, the Towbes Foundation, Montecito Bank & Trust, and Michael Towbes, related to the transfer and relocation of the Painting. Mr. Cappello contended that the transfer of the Painting to Montecito Bank & Trust would improperly deprive the County of an alleged possessory interest in the painting and constitute an illegal gift of public funds.

Without any party admitting liability, the Settlement Agreement proposes to resolve this potential lawsuit. It provides that the Docent Council will gift the Painting to the County and that the County will accept the Painting for permanent, public display in the Courthouse. It also provides that the parties will release all claims they may have against each other. The Settlement Agreement has been approved by the Docent Council, Rodney Baker, Mr. Cappello, and the Towbes entities.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

<b><u>Funding Sources</u></b>	<b><u>Current FY Cost:</u></b>	<b><u>Annualized On-going Cost:</u></b>	<b><u>Total One-Time Project Cost</u></b>
General Fund			
State			\$ -
Federal			\$ -
Fees			
Other: Santa Barbara Courthouse Docent Council			\$ 200,000.00
<b>Total</b>			<b>\$ 200,000.00</b>

Narrative:

No funding is requested for this action. This project has no impact on the operating budget of General Services. The \$200,000 contribution to the County of Santa Barbara was given from the Santa Barbara County Courthouse Docent Council (Docent Council).

Once the Board takes action to accept the Painting, it will be added to the Santa Barbara Courthouse Schedule of Works of Art and reported to the County Risk Manager.

**Staffing Impacts:**

**Legal Positions:**

0

**FTEs:**

0

**Special Instructions:**

Please retain a signed original and return (5) five certified copies of the Groesbeck Painting Settlement Agreement, one copy of the Deed of Gift and Minute Order to the General Services Department; Attention: Don Grady, Real Property Manager, and provide a copy of the Minute Order to Betsy Schaefer of Auditor/Controller.

**Attachments:**

1. Groesbeck Painting Settlement Agreement and Release
2. Deed of Gift
3. #BJE-0003626
4. Notice of Exemption