

ORIGINAL

**AGREEMENT REGARDING THE EXPENDITURE OF
TIDELANDS TRUST SETTLEMENT FUNDS IN THE CITY OF SAN
RAFAEL**

RECITALS

The parties to this Agreement are the City of San Rafael, acting as trustee of tide and submerged lands pursuant to Chapter 83, Statutes of 1923, as amended ("City of San Rafael"), the Redevelopment Agency of the City of San Rafael ("Agency"), and the State of California, acting by and through the State Lands Commission and no other state agency ("State").

1. The City of San Rafael received in trust tide and submerged lands in the City from the State of California through Chapter 83, Statutes of 1923, as amended;
2. The Legislature, through Chapter 1741, Statutes of 1971, authorized the settlement of title uncertainties within certain of the tide and submerged lands granted in 1923 to the City;
3. Several settlements have been entered into by the City, State, and private parties. Through these settlements, lands necessary for public trust purposes have been brought into undisputed public ownership;
4. Also through the settlements, funds have been received by the City of San Rafael in exchange for quitclaims by the City and State of filled tide and submerged lands no longer necessary for public trust uses;
5. Pursuant to the settlement and letter agreements, the funds received from the settlements have been invested in the "San Rafael Land Bank Fund," a fully insured, interest-bearing account. These funds are to be released only upon joint direction of the City and State;
6. The City desires to purchase from the Redevelopment Agency of the City of San Rafael the land described in Exhibit A to this Agreement. (Exhibit A is attached to this Agreement and incorporated by reference as a part of it.) This land shall be referred to in this Agreement as the "Mahon Creek Property,"

and is to be purchased using \$732,735 from the San Rafael Land Bank Fund, as approved by the State Lands Commission pursuant to the terms of this Agreement;

7. The Mahon Creek Property is part of a larger area useful for purposes of public access, habitat, and other purposes consistent with the public trust;
8. Title to the Mahon Creek Property will be accepted by the City as land of the legal character of tide and submerged lands, subject to the common law public trust for commerce, navigation, and fisheries, and subject to the trust grant to the City found in Chapter 83, Statutes of 1923, as amended; and
9. The money received by the Redevelopment Agency from this sale of the Mahon Creek Property shall be used by the Agency for the Mahon Creek Project (grading, landscaping, and a bicycle/pedestrian path), or for similar improvements to other public trust lands within the City of San Rafael.

TERMS

Based upon the facts stated in the recitals, the parties agree that:


1. The City of San Rafael is authorized to expend the sum of \$732,735 from the San Rafael Land Bank Fund for the purchase of the Mahon Creek Property described in Exhibit A.
2. The City of San Rafael shall open an escrow account with a title company acceptable to the parties to this Agreement for the deposit of funds and the deed for the Mahon Creek property. This escrow account shall be administered pursuant to escrow instructions approved by the parties to this Agreement. As a condition to the close of escrow, the City and State shall receive from the title company chosen a pro forma title commitment in a form and policy amount acceptable to the City and State.
3. The City of San Rafael shall receive and hold the Mahon Creek Property as land of the legal character of tide and submerged lands, subject to the common law public trust for commerce, navigation, and fisheries, and subject to the grant in Chapter 83, Statutes of 1923, as amended. The deed shall be in a form approved by the City and State.

4. The money received by the Redevelopment Agency from the sale of the Mahon Creek Property shall be used by the Agency for the Mahon Creek Project (grading, landscaping, and a bicycle/pedestrian path), or for similar improvements to other public trust lands within the City of San Rafael.

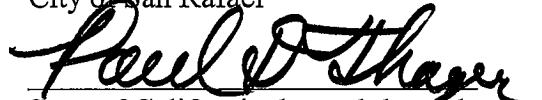
Dated: 12/12/01


City of San Rafael

Dated: 12/12/01

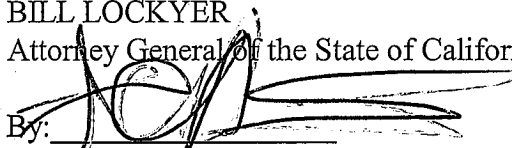

Redevelopment Agency of the
City of San Rafael

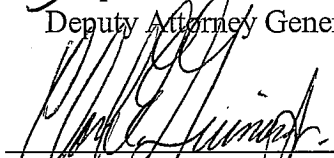
Dated: 2/28/02


State of California, by and through
the State Lands Commission

Approved as to form:

BILL LOCKYER
Attorney General of the State of California

By: 
Joseph C. Rusconi
Deputy Attorney General


Clark E. Guinan, Jr.
Assistant City Attorney
City of San Rafael

Date: August 28, 2000
File: 4.610.12-E

DESCRIPTION
Transfer of Property from
San Rafael Redevelopment Agency
to
City of San Rafael

That certain real property situated in the City of San Rafael, County of Marin, State of California, described as follows:

Parcel 1:

Parcel one as described in the deed from Southern Pacific Transportation Company to San Rafael Redevelopment Agency, recorded October 30, 1997, in document number 97-062019, Marin County Records.

Excepting therefrom that certain parcel described as parcel two in the deed from San Rafael Redevelopment Agency to La Terra Trifoglio L.L.C., recorded April 17, 1998, in document number 98-025308.

Parcel 2:

Parcel two as described in the deed from Southern Pacific Transportation Company to San Rafael Redevelopment Agency, recorded October 30, 1997, in document number 97-062019, Marin County Records.

Parcel 3:

Parcel four as described in the deed from Southern Pacific Transportation Company to San Rafael Redevelopment Agency, recorded October 30, 1997, in document number 97-062019, Marin County Records.

Excepting therefrom a portion of said Parcel 4 described as follows:

Commencing at the intersection of the Southerly line of Second Street with the Easterly line of Lincoln Avenue, said point being the most Westerly corner of the property granted to the City of San Rafael by Deed recorded December 5, 1898, in Book 53 of Deeds at Page 282, Marin County Records; thence along said Southerly line of Second Street, South 83°33'00" East 140.70 feet to the Southwesterly line of Francisco Boulevard; thence leaving the Southerly line of Second Street and along said Southwesterly line of Francisco Boulevard, South 51°37'29" East 98.68 feet to the

Westerly line of said Parcel 4; thence along said line, South 11°32'07" West 94.76 feet to the **true point of beginning**; thence continuing along said line, South 11°32'07" West 192.37 feet; thence continuing along said line, on a curve to the right tangent to the preceding course, having a radius of 441.70 feet, through a central angle of 36°01'15", an arc length of 277.69 feet to the Easterly line of aforementioned Lincoln Avenue; thence along said Easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 60°08'09" East 473.00 feet, through a central angle of 01°17'02", an arc length of 10.60 feet; thence leaving said Easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 31°37'02" West, 315.00 feet, through a central angle of 50°23'55", an arc length of 277.08 feet; thence North 12°06'01" East 102.01 feet; thence North 06°19'27" East 109.66 feet; thence North 80°50'15" West 12.66 feet to the point of beginning.

Parcel 4:

That certain parcel of land as described in the Final Order of Condemnation had in the Superior Court of the State of California, in and for the County of Marin, entitled, "San Rafael Redevelopment Agency, a public body corporate and politic, Plaintiff, vs. Southern Pacific Transportation Company, etc. Defendants", a certified copy of which was recorded May 21, 1997 under Recorder's Serial No. 97-26593, Marin County Records and more particularly described as follows:

BEGINNING at the most Easterly corner of lands conveyed to the City of San Rafael, by deed recorded September 15, 1965 in Book 1983 of Official Records at Page 131, Marin County Records; thence leaving said corner, Easterly 237.00 feet along the Northerly line of Parcel Two of the lands conveyed to Southern Pacific Transportation Company, by deed recorded October 11, 1988 in Official Records Instrument No. 88-57962, Marin County Records, along a curve concave Northerly whose center bears North 35°49'01" East, having a radius of 495.82 feet and a central angle of 27°23'14"; thence leaving said line, radially South 8°25'47" West 25.00 feet; thence Westerly 154.82 feet along a line 25 feet Southerly of and parallel to the first course herein described, being a curve concave Northerly, whose center bears North 8°25'47" East, having a radius of 520.82 feet, and a central angle of 17°01'57"; thence South 36°53'10" West 5.0 feet, more or less, to the Northerly line of the right of way of the former Northwestern Pacific Coast Railroad, the same as mentioned in lands conveyed to the San Francisco and North Pacific Railway Company, by deed recorded September 23, 1891, in Book 18 of Deeds at Page 130, Marin County Records; thence Westerly along said right of way 109 feet; more or less, to the Southeasterly line of lands quitclaimed to Pacific Gas and Electric Company, by deed recorded June 7, 1937 in Book 369 of Official Records at Page 348, Marin County Records; thence leaving said corner, along the Easterly line of said lands, Northerly 10.77 feet, more or less, to the Southwesterly corner of the said lands conveyed to City of San Rafael, (1983-OR-131); thence leaving said corner, and along the Southeasterly line of said lands, North 35°49'01" East 12.00 feet, more or less, to the point of beginning.