AGREEMENT FOR THE SETTLEMENT OF A TITLE DISPUTE
IN THE CITY OF SAN MATEO, COUNTY OF SAN MATEO, AMONG
THE CITY OF SAN MATEO, PW ACQUISITIONS IV, LLC, A DELAWARE
LIMITED LIABILITY COMPANY, AND THE CALIFORNIA STATE
LANDS COMMISSION

Instructions to the County Recorder of
the County of San Mateo

This document includes two deeds from one of the parties to another party. Please index this
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The parties to this Agreement, dated April 29, 1998, are the State of California, acting by and through the State Lands Commission and no other state agency ("State"), the City of San Mateo ("City"), and the PW Acquisitions IV, LLC, a Delaware Limited Liability Company ("Private Party").

RECITALS

A. This Agreement concerns a parcel of real property in the City of San Mateo, County of San Mateo, State of California, referred to throughout this Agreement, for convenience, as the Subject Parcel. The Subject Parcel is shown for reference purposes only in Exhibit A and is described in Exhibit B. Both Exhibits A and B are attached to this Agreement and are incorporated as parts of it by this reference.

B. Upon its admission to the United States of America on September 9, 1850, the State, by virtue of its sovereignty, received in trust for the purposes of commerce, navigation, and fisheries, water-related commerce, and preservation in its natural state, all right, title, and interest in previously ungranted tide and submerged lands within its boundaries.

C. By Chapter 536 of the Statutes of 1915, as amended by Chapter 245 of the Statutes of 1933, and Chapter 1099 of the Statutes of 1976 ("Granting Statutes"), the Legislature granted to the City all tide and submerged lands within the City for specified public trust purposes.

D. Private Party is the current record owner of, or has an interest in, the Subject Parcel, as described in that deed dated July 11, 1997, and recorded as Instrument Number 97-086963 in the Official Records of the County of San Mateo.

E. The State and the City contend that the Subject Parcel, in whole or in part, at the time of the admission of the State of California into the Union, and in its natural condition thereafter, was
subject to the ordinary tides, and was traversed by the waters of sloughs which were tributaries of San Francisco Bay. The State further contends that, as lands of the legal character of tidelands and submerged lands, the Subject Parcel, in whole or in part, is subject to a public trust ownership in the City and State, consisting of a fee or an easement, or both, for commerce, navigation, fisheries, water-related recreation, and preservation in its natural state.

F. Private Party contends that the Subject Parcel, in its entirety, at the time of the admission of the State of California into the Union, and at all subsequent times, was not subject to the ebb and flow of the ordinary high tides and was not traversed by tidal tributaries of San Francisco Bay. Private Party maintains that as of September 28, 1850, and at all relevant times thereafter, the Subject Parcel was either land within the confirmed Rancho Las Pulgas (and, therefore, in private ownership and subject to no City or State interests under Summa Corporation, v. State of California ex rel. State Lands Commission (1984) 466 U.S. 198), or was a category of land known as swamp and overflowed lands, which swamp and overflowed lands were duly confirmed and patented by the United States to the State of California, which in turn, patented the lands as swamp and overflowed lands to Private Party’s predecessors in interest. Private Party contends that the State, after granting any swamp and overflowed the lands within the Subject Property into private ownership, retained no interest in the property whatsoever and, if any such interest did remain, it has been duly and properly terminated by subsequent events.

G. The Subject Parcel has been filled and reclaimed and removed from the public channels, and is no longer available or useful or reasonably susceptible of use or required for public trust purposes.

H. There is a bona fide dispute between the State, the City, and the Private Party as to the existence, extent, nature and location of their respective rights, titles, and interests in the Subject Parcel.
I. A resolution of the parties's rights, titles, and interests in the Subject Parcel will require costly, protracted, and vigorously disputed litigation with uncertain results if the controversy can not be resolved by settlement.

J. The parties hereto consider it expedient and necessary and in the best interests of the City, the State, the public, and the Private Party to resolve this title dispute by compromise settlement, thereby avoiding the anticipated substantial costs, time requirements, and uncertainties of litigation.

K. In the interest of settlement, the State, the City, and Private Party have conducted independent studies and evaluations of the title evidence, the principles of law and the merits of the State's, City's, and Private Party's legal positions. A land appraisal and study completed by the State has shown that the value of the claimed State sovereign interests in the Subject Parcel is less than or equal to $10,000.

L. The State is authorized by Division 6 of the Public Resources Code, including Section 6307 thereof, to exchange interests in real property held by the State by reason of its sovereignty for interests in other lands of equal or greater value.

M. Sections 8600 through 8633 of the Public Resources Code authorize the State Lands Commission to conduct land exchanges pursuant to Section 6307 of the Public Resources Code by the acceptance of money to be deposited into the Land Bank Fund created by Section 8610 of the Public Resources Code, and further designate the State Lands Commission as trustee of the Land Bank Fund, with exclusive jurisdiction and authority to administer the fund and the interests in real property acquired pursuant to these statutes.

N. The parties hereto have, after negotiations, reached an agreement for the resolution of
their conflicting claims in the Subject Parcel. In general, this Agreement provides that:

1. The City will quitclaim to the State all of the right, title and interest of the City in the Subject Parcel which exists by virtue of the Granting Statutes.

2. The State will quitclaim to Private Party all of the sovereign right, title, and interest of the State, including the interest described in subparagraph 1, above, in the Subject Parcel.

3. The quitclaim described in subparagraph 2, above, is intended to terminate any State sovereign interest under the jurisdiction of the State Lands Commission, including, but not limited to the public trust for commerce, navigation, fisheries, water-related recreation, preservation in its natural state, and other public trust uses in the Subject Parcel.

4. Private Party will deposit the sum of $10,000 into the Land Bank Fund created by Public Resources Code Section 8610 for the purposes specified therein.

5. The State will accept the monies to be deposited into the Land Bank Fund in order to purchase other lands useful for trust purposes, which lands will be held as sovereign lands subject to the public trust. City will make its best efforts identify, and State will make its best efforts for a period of three years to acquire, such lands within the City.

**AGREEMENT**

In consideration of the foregoing recitals and the following conveyances and terms, the parties hereby
agree as follows:

1. **City's Quitclaim to State of Interests Arising from Granting Statutes.**

   City hereby remises, releases, and forever quitclaim to State all of its right, title, and interest existing by virtue of Chapter 536, Statutes of 1915, Chapters 245, Statutes of 1933, and Chapter 1099, Statutes of 1976, all as amended, in the Subject Parcel described in Exhibit B.

2. **State's Quitclaim of Interests in the Subject Parcel to Private Party.**

   State hereby remises, releases, and forever quitclaims to PW Acquisitions IV, LLC, a Delaware Limited Liability Company, all of the State's right, title, and interest existing by virtue of its sovereignty, including, but not limited to, any interest held by the State as trustee of the public trust for commerce, navigation, fisheries, water-related recreation, and preservation in its natural state, including those interests quitclaimed to the State by the City pursuant to Paragraph 1, above, in the Subject Parcel described in Exhibit B.

3. **Private Party's Contribution of $10,000 to the Land Bank Fund.**

   Private Party agrees to contribute $10,000 (ten thousand dollars and no cents) to the Land Bank Fund established by Public Resources Code Section 8610, as full compensation for any and all State sovereign right, title, or interest in the Subject Parcel.

4. **State Lands Commission Findings.**

   The State Lands Commission, by its approval and authorization of the execution of this Agreement, finds and declares, upon recordation of this Agreement, that:

   a. The Subject Parcel has been improved, filled, and reclaimed, and has thereby been excluded from any public channels, is not available or useful or susceptible of being used for navigation and fisheries, is not in fact tidelands and submerged land, and is free from
the public trust for commerce, navigation, fisheries, water-dependent recreation, and preservation in its natural state;

b. This Agreement is in the best interests of the State for:

(1) The improvement of navigation;

(2) The enhancement of the configuration of the shoreline for the improvement of the water and the upland; and

(3) The protection, preservation, and enhancement of the tidelands and submerged lands and public access thereto pursuant to the public trust;

c. This Agreement will not substantially interfere with the rights of fishing and navigation in San Francisco Bay or its tributary channels;

d. The value of sovereign interests in the Subject Parcel is less than or equal to $10,000; and

e. This Agreement is in settlement of a title dispute and is therefore exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.11.

5. Acquisition of Exchange Lands in City.

City shall in good faith make its best efforts to identify lands within the City which may be acquired for purposes consistent with the public trust and the intent of the Kapiloff Land Bank Act, Public Resources Code Sections 8600 et seq., and State shall in good faith make its best efforts consistent with that Act, to acquire such lands acceptable to the City and the State with $10,000 contributed to the Land Bank Fund pursuant to this Agreement, and shall not oppose legislation to amend the Granting Statute to grant to City any exchange lands in the City acquired pursuant to this Agreement; provided, that should a parcel suitable for such acquisition not be purchased within three years of the effective date of this Agreement, the State shall not be bound to use its best efforts to expend the $10,000 for
acquisition within the City.

6. **Acceptance of Conveyances and Consent to Recording.**

By their execution of this Agreement, the parties hereto agree to accept the herein described conveyances of interests in land and money, and hereby consent to the recording of this Agreement, and other documents executed pursuant to this Agreement, pursuant to Paragraph 20, below.

7. **Optional Judicial Confirmation of Validity of Settlement.**

At such time as this Agreement, all conveyances necessary to accomplish this Agreement, a cashier's check or immediately available funds in the amount of $10,000, and written approval by Private Party of the condition of title to Subject Parcel as shown in a pro forma title commitment, have been deposited into escrow as provided in Paragraph 19, below, or thereafter, Private Party, at its option, may submit the settlement embodied in this Agreement to a court of competent jurisdiction to confirm the validity of said settlement by Court Judgment. City and State shall cooperate with Private Party in obtaining such a confirmatory Court Judgment.

8. **Appeal of Optional Judgment.**

Upon entry of a Judgment confirming the validity of the settlement embodied in this Agreement, as provided in Paragraph 7, above, each party shall be deemed to have waived any right to appeal from said Judgment.

9. **Further Assurances.**

So long as authorized by applicable laws to do so, the parties hereto will perform such other acts, and execute, acknowledge and deliver all further conveyances and other instruments, that may be necessary to fully assure to the other parties all of the respective properties, rights, titles, interests, estates, remedies, powers and privileges to be conveyed or provided for by this Agreement.
10. **Execution Before a Notary Public.**

All signatures of the parties to this Agreement and all documents executed pursuant to this Agreement shall be acknowledged before a Notary Public and a certificate of acknowledgment shall be attached to the executed Agreement and other documents to allow them to be recorded in the Office of the Recorder of the County of San Mateo, California.

11. **Counterparts.**

This Agreement may be executed in any number of counterparts and each executed counterpart shall have the same force and effect as an original and as if all of the parties to the aggregate counterparts had signed the same instrument. Any signature page of this Agreement may be detached by the Escrow Agent established pursuant to Paragraph 19, below, from any counterpart of this Agreement without impairing any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages, for the purpose of creating an integrated document for recording.

12. **Agreement for Compromise and Settlement.**

It is expressly understood by the parties hereto that the provisions set forth in this Agreement have been agreed upon for purposes of compromising and settling the respective disputed interests of the parties in the Subject Parcel.

13. **No Admission or Effect if Agreement Not Made Effective.**

In the event this Agreement does not become effective, nothing herein shall constitute, or be construed as, an admission by any party hereto or evidence concerning the boundaries, physical character, or character of title to or interest in the Subject Parcel.

14. **No Effect on Other Lands.**

The provisions of this Agreement do not constitute, nor are they to be construed as, an
admission by any party or evidence concerning the boundaries, physical character, or character of
title to or interest in any lands outside the Subject Parcel.

15. **Agreement Binding on Heirs, Assigns, Et Cetera.**

   All the terms, provisions, and conditions of this Agreement shall be binding upon and inure to
   the benefit of the respective heirs, administrators, executors, successors, and assigns of the parties.

16. **Modification.**

   No modification, amendment, or alteration of this Agreement shall be valid unless in writing
   and signed by all of the parties to this Agreement.

17. **No Effect on Other Government Jurisdiction.**

   This Agreement has no effect whatsoever on the regulatory, environmental or other
   jurisdiction of any federal, state, local, or other government entity not a party to this Agreement.

18. **Headings.**

   The title headings of the sections of this Agreement are inserted for convenience only and
   shall not be considered in construing this Agreement.

19. **Escrow.**

   a. The parties have agreed to open an escrow with Chicago Title Company or other
      title company as they may together choose ("Escrow Agent").

   b. Deposits by parties:

      (1) City shall deposit the following documents into escrow:

         (a) A certified copy of a duly enacted resolution of its City Council showing
         the City's approval of this Agreement and the City's authorization that it and
         the Quitclaim as set forth in Paragraph 1, above, be executed on the City's
         behalf;
(b) This Agreement, duly and properly executed by the City.

(2) State shall deposit the following documents into escrow:

(a) A certified copy of a minute item of a State Lands Commission public hearing showing the Commission's approval of this Agreement and the Commission's authorization that it and the quitclaim be executed on its behalf or a letter bearing the seal of the State Lands Commission stating Commission approval of the agreement and authorizing the quitclaim which is a part of it; and

(b) This Agreement, duly and properly executed by the State.

(3) Private Party shall deposit the following documents into escrow:

(a) A certified copy of a Resolution of the Board of Directors of Private Party, approving this Agreement and authorizing that it be executed on Private Party's behalf, and authorizing the contribution of $10,000 to the Land Bank Fund as set forth in Paragraph 3, above; and

(b) This Agreement, duly and properly executed by Private Party; and

(c) The sum of $10,000 payable to the State Lands Commission - Kapiloff Land Bank Fund.


Upon receipt of all documents and funds described in Paragraph 19 above, and a pro forma title commitment acceptable to the Private Party regarding title in the Subject Parcel, Escrow Agent shall notify the parties of its intention to close escrow, to record this Agreement and any related documents, and to disburse the amount of $10,000, and shall set a date certain for such recordation and closing within 30 days of receipt of such documents. At 8:00 a.m., or as early as possible on the date chosen for the
close of escrow, Escrow Agent shall record this Agreement in the Office of the County Recorder for the County of San Mateo, California. Escrow Agent shall then pay $10,000 to the State Lands Commission/Kapiloff Land Bank Fund.

21. Extension or Termination of Escrow.

The instructions to the Escrow Agent are to be in force from the time of their receipt by the Escrow Agent until July 1, 1998, at which time the escrow for this Agreement shall terminate unless the parties specifically instruct the Escrow Agent to extend the final date. In the event the escrow is terminated prior to recordation of documents as set forth herein, the Escrow Agent shall return all documents to the parties depositing the same, and any funds that shall have been deposited by Private Party.

22. Purpose to Perfect Title.

The Subject Parcel will be quitclaimed by the City to the State, and by State to the Private Party, pursuant to this Agreement solely for the purpose of perfecting title to said disputed land and, accordingly, for tax assessment purposes, said quitclaim does not involve a change in ownership pursuant to Section 62(b) of the California Revenue and Taxation Code.


The expenses and fees of escrow incurred by Escrow Agent, including those associated with recordation of this Agreement and other documents necessary to effectuate this Agreement, shall be borne by Private Party. All other fees, costs and expenses of any attorney, engineer or other person employed or retained by a party hereto in connection with the transaction underlying this Agreement shall be borne by that party.

24. Effective Date.

This Agreement shall become effective only upon execution and recordation of this Agreement

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and the documents executed pursuant to this Agreement. To become effective, this Agreement must be recorded by July 1, 1998, unless escrow is extended pursuant to Paragraph 21, above.

To witness this Agreement, a duly authorized officer of each party has executed it below on the date opposite each signature.

DATED: April 29, 1998

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By: __________________________
ROBERT C. HIGHT
EXECUTIVE OFFICER

Chief, Division of Land Management

Approved as to form:

DANIEL E. LUNGREN
Attorney General
State of California

By: __________________________
Joseph C. Rusconi
Deputy Attorney General

DATED: 5/27/98

CITY OF SAN MATEO

By: __________________________
MAYOR

SUE LEMPERT

Approved as to form:

Roy Abrams
City Attorney
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Sacramento

On April 29, 1998 before me, Name and Title of Officer (e.g., Jane Doe, Notary Public)
personally appeared Robert L. Lynch, Name(s) of Signer(s)

☐ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: [Insert description]

Document Date: 4/29/98

Number of Pages: 18

Signer(s) Other Than Named Above: Sue Lempert, John C. Jeslijian

Capacity(ies) Claimed by Signer(s)

Signer's Name: Robert L. Lynch

☐ Individual
☐ Corporate Officer
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: Chief. [Insert other capacity]

Signer Is Representing: State Land Commissin

☐ Individual
☐ Corporate Officer
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: [Insert other capacity]

Signer Is Representing:

LEFT THUMBPRINT OF SIGNER
Top of thumb here

RIGHT THUMBPRINT OF SIGNER
Top of thumb here
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Mateo

On May 27, 1998 before me, Marie A. Culpepper, Name and Title of Officer (e.g., Jane Doe, Notary Public)

personally appeared Sue Lempert Mayor Name(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person
acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Title Statement: Amt Affecting Appx

Document Date: 4.29.98 Number of Pages: 18

Signer(s) Other Than Named Above: Robert L. Lynch / John E. Tashjian

Capacity(ies) Claimed by Signer(s)

Signer’s Name: Sue Lempert

☐ Individual
☐ Corporate Officer
Title(s): Mayor
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: Mayor

Signer Is Representing:

City of San Mateo

Signer’s Name:

☐ Individual
☐ Corporate Officer
Title(s): Mayor
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other:

Signer Is Representing:

© 1996 National Notary Association • 8236 Remmet Ave., P.O. Box 7184 • Canoga Park, CA 91309-7184 Prod. No. 5907 Rec. Order: Call Toll-Free 1-800-876-6827
DATED: 4/8/98

PW Acquisitions IV, LLC, a Delaware Limited Liability Company

By: [Signature]

John C. Tasline

Approved as to form:

— I Book A

Norman I. Book, Jr.
Carr, McClellan, Ingersoll, Thompson & Horn
On 4/8/98, before me, the undersigned, a Notary Public, personally appeared John C. Tashijian, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature:_________________________ (Seal)

JAMIE P. CORALLO
Notary Public, State of New York
No. 01CO5082777
Qualified in Queens County
Commission Expires July 26, 1999
IN APPROVAL WHEREOF, I, PETE WILSON, Governor of the State of California, have set my hand and caused the seal of the State of California to be hereunto affixed pursuant to Section 6107 of the Public Resources Code of the State of California. Given under my hand at the City of Sacramento this 12th day of May, one thousand nine hundred and ninety-eight.

PETE WILSON
GOVERNOR

Attest:

BILL JONES
SECRETARY OF STATE
This exhibit is solely for the purpose of generally defining the settlement area and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.
EXHIBIT B
SETTLEMENT PARCEL

A parcel of land situated in the City of San Mateo, San Mateo County, California more particularly described as follows:

Parcel B, as designated on the map entitled "Parcel Map 266", said map filed in the office of the recorder of the county of San Mateo, State of California, on February 24, 1987, in Volume 58 of Parcel Maps, at Pages 63 and 64.

END OF DESCRIPTION

Prepared for the California State Lands Commission

By: \text{[Signature]}

Kelly M. Olin, P.L.S. #5166
ACCOUNTABLE FORM # 6279

DATE: JUN 04 1998

To: San Mateo County Recorder

Subject: REQUEST THAT DOCUMENTARY TRANSFER TAX DECLARATION BE MADE IN ACCORDANCE WITH SAN MATEO COUNTY ORDINANCE CODE SECTION 2920 & REVENUE CODE 11932

Reference: Instrument Title: Grant Deed & Agreement
Name of Party Conveying Title: City of San Mateo, State of CA

The Documentary Transfer Tax is declared to be in the amount of 11.00 for the referenced instrument and is:

☐ Computed on full value of property conveyed.
☐ Computed on full value less liens/encumbrances remaining thereon at time of sale.

This separate declaration is made in accordance with County Ordinance Code Section 2922. It is requested that the amount paid be indicated on the face of the document after the permanent copy has been made.

Sincerely,

[Signature]
Individual (or his agent) who made, signed or issued instrument

PART I

RECORDING REFERENCE DATA:
Serial #: 9808459/ Date Recorded: JUN 04 1998

SEPARATE PAPER AFFIXED TO INSTRUMENT:
"Tax paid" indicated on the face of instrument and the separate request (DRA 3-A) was affixed for Recorder by:

[Signature] Documentary Transfer Tax Collector
Date: 7/8/98

[Signature] Mail Clerk
Date: 7/8/98

Note: Prepare photo for Recorder file

Form #DRA 3 Recorder