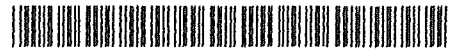


Handwritten initials/signature in the top left corner.



2019-0031088

Recorded
Official Records
County of
Marin
SHELLY SCOTT
Assessor-Recorder
County Clerk

REC FEE

0.00

02:15PM 28-Aug-2019

Page 1 of 9

RECORDING REQUESTED BY:

County of Marin

WHEN RECORDED MAIL TO:

County of Marin
Real Estate Division,
Department of Public Works
P.O. Box 4186, Civic Center Branch
San Rafael, CA 94913-4186
Attn: Alexi Dicker

Recording Fees exempt per G.C. §27383
Transfer Taxes exempt per R.T.C. § 11922

APNs: 155-230-10, 11, 12 and 13 and
155-230-14, 15 and 16

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT OF PERMISSION
AGREEMENT**

Permission is hereby granted pursuant to this Grant of Permission (this "Agreement") by **San Rafael Airport, LLC ("Airport")** to **County of Marin ("County")** and its authorized agents, contractors, and employees to enter onto lands identified as Assessor Parcel Nos. 155-230-10, 11, 12, and 13 in the City of San Rafael, and 155-230-14, 15, and 16 in unincorporated Marin County, known as Las Gallinas Creek, further known as "Gallinas Canal", for maintenance and dredging purposes; which permission County disputes is required.

WHEREAS, Airport owns Assessor Parcel Nos. 155-230-10, 11, 12, and 13 in the City of San Rafael, and 155-230-14, 15, and 16 in unincorporated Marin County, collectively referred to as the "San Rafael Airport", developed with airport, facilities, along with levees and other supporting infrastructure improvements; and

WHEREAS, Airport's deeded boundary of APN 155-230-14 (evidenced by Grant Deed recorded as 1998-97045 on December 30, 1998) extends into the existing bed of Gallinas Canal between 101-407 Vendola Drive; and

WHEREAS, County and Airport entered into a Memorandum of Understanding (MOU) on September 18, 2018, which provided, among other things, that County and Airport will cooperate with the State Lands Commission for a potential transfer of land and that in the interim County and Airport would enter into an interim lease for County lands within the levees surrounding the airport and Airport would waive certain rights related to public and private activities taking place on Airport parcels along the South Fork of Gallinas Creek; and

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

1. As set forth herein, Airport waives its rights, if any, to prohibit public or private activities taking place on Airport parcels along the South Fork of Gallinas Creek below the mean lower low water line and all those lands to the south and east of the creek centerline, including those above mean lower low water. Such activities include, but are not limited to, maintenance and/or upgrade of berms and pipe outfalls, dredging of the creek bed, and extension to reach the dredged channel or repair of private boat docks.
2. The waiver set forth in Paragraph 1, with regard to private boat docks, shall allow County to provide authorization under Marin County Code Chapter 11.24 – Gallinas Creek Encroachments for creek-side property owners, specifically County and adjacent parcel owners of addresses 101 to 407 Vendola Drive, to extend their private docks to access the deep parts of the creek. Authorizations issued by County shall require that the existing docks and future dock extensions be maintained in accordance with Marin County Code Section 11.24.050 – Maintenance and Repair.
3. The waiver set forth in Paragraph 1 shall not impact or dilute (a) County's assertion that the entire creek is subject to a public trust easement for purposes of commerce, navigation, and fisheries or (b) Airport's contesting of such assertion by County.
4. Any notices to be given to either party under this Agreement, shall be given in writing and will be served by registered or certified mail, return receipt requested at the following addresses:

To County:

Marin County Department Public Works
Real Estate Division
P.O. Box 4186
San Rafael, CA 94903
Attn: Eric Lueder

To Airport:

San Rafael Airport, LLC
c/o JHS Properties
2167 Francisco Blvd. E, Suite A
San Rafael, CA 94901
Attention: Robert Herbst

with a copy to:

SSL Law Firm LLP
575 Market Street, Suite 2700
San Francisco, CA 94903
Attention: Sally Shekou

or at such other address as either party may designate upon written notice to the other. Any such notice will be effective three days after the notice has been deposited in the United States mail, as provided above.

5. Airport shall be free from all liability or loss by reason of injury to any person or damage to any property connected with or arising out of the activities described in this Agreement, including any liability for injury to the person or real or personal property of County, Marin County Flood Control and Water Conservation District, County Service Area #6, and County Service Area #18, their lessees, contractors, successors, assigns, guests or invitees except to the extent caused by the negligence or willful misconduct of Airport. County, Marin County Flood Control and Water Conservation District, County Service Area #6, and County Service #18 shall be free from all liability, loss, costs, or obligations on account of, or arising out of, any such injury, damage or losses except to the extent arising or relating to the negligence or willful misconduct of County, its agents, employees or contractors.
6. Concurrent to execution and acceptance of this Agreement, the Parties have entered into that certain Tidelands Lease Agreement dated as of August 20, 2019 (the "**Lease Agreement**"), to allow for Airport levee maintenance and repair on a portion of County lands within the Gallinas Canal. The Lease Agreement provides for a ten-year term, subject to termination upon 30 days' prior notice by either party in accordance with the Lease Agreement.
7. If the County terminates the Lease Agreement without cause, then this Agreement shall automatically terminate at the same time as the Lease Agreement, or upon such date that the County provides a notice of termination in accordance with Section 6 of the Lease Agreement, whichever date is later.
8. If the County terminates the Lease Agreement for cause ("cause" shall mean any "default" identified in Paragraph 9 of the Lease Agreement beyond any applicable notice and cure period set forth therein) or if the Airport terminates the Lease Agreement, this Agreement will not automatically terminate and will only terminate by mutual written agreement of the Airport and County.
9. Notwithstanding any termination of this Agreement by County without cause as set forth in Paragraph 7 above, any activities County has authorized, permitted, approved or expended funds on, as contemplated in Paragraphs 1 and 2 of this Agreement, prior to the date of the notice of termination shall be permitted to proceed.
10. Upon such termination of this Agreement, parties shall execute, deliver and record an instrument acknowledging the termination of this Agreement.
11. At the end of the Lease Agreement's ten-year term, as long as the parties are working in good faith to complete the transfer of land as set forth in the MOU, this Agreement shall not terminate unless the County, at its sole discretion, fails to agree to renew the Lease Agreement. If the County agrees to renew the Lease Agreement but the Airport refuses, then this Agreement shall remain in full force and effect until such time that the County agrees to terminate this Agreement.

12. County shall carry the insurance required in this Paragraph and shall have the right to self insure with respect to any of the insurance requirements required under this Agreement. Concurrent with the execution of this Agreement, County shall submit a letter of self-insurance signed by a duly authorized representative, evidencing that the self-insurance program is in full force and effect and in compliance with and subject to all the terms, agreements, covenants, conditions and provisions of this Agreement. County further agrees that County and any contractor or subcontractor used in a County project will maintain (i) Commercial General Liability insurance in an amount not less than \$2,000,000 per occurrence with a \$4,000,000 aggregate, (ii) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability insurance with limits of not less than \$1,000,000 per accident for bodily injury or disease, and (iii) Contractor's Pollution Liability for contractors or subcontractors performing construction work written on a form reasonably acceptable to Airport providing coverage for liability arising out of sudden, accidental and gradual pollution with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate, and to name the "San Rafael Airport, LLC" as additional insured on their GL policy and Pollution Liability policy. Prior to commencement of construction by County, County shall provide Airport with certificates of insurance evidencing all such insurance carried by County and from its contractors' and subcontractors' insurance carriers.

Each of Airport and County, for itself and (to the extent legally possible for it to do so) on behalf of its insurer (or in the case of County, for purposes of any self-insurance), releases the other party from and hereby waives any liability for any loss or damage to its property which loss or damage is of the type covered by any property damage insurance carried by such party (or would be covered if such insurance had been carried), irrespective of any negligence on the part of the other party which may have contributed to or caused such loss. If the waiver of subrogation is not effective as to either party's insurer, such party covenants that it will obtain for the benefit of the other party an express waiver of any right of subrogation which such party's insurer may acquire against the other party by virtue of the payment of any such loss covered by such insurance.

All such insurance shall be effected by any contractor or subcontractor under valid and enforceable policies and shall be issued by insurers authorized to do business in the State of California and with general policy holder's rating of at least A- and financial rating of VII or better as rated by A.M. Best's Insurance reports and shall provide that each party shall endeavor to provide at least thirty (30) days written notice from the insurer prior to any cancellation of coverage, except ten (10) days' notice is sufficient if cancelled for non-payment of premium.

13. This Agreement shall be construed and interpreted in accordance with, and shall be governed by, the laws of the State of California. The parties agree that the Superior Court of the State of California, County of Marin shall have jurisdiction of any litigation between the parties related to this Agreement.
14. If any court of competent jurisdiction holds that any provision of this Agreement is void, voidable, illegal or unenforceable, or that this Agreement would be void, voidable, illegal or unenforceable unless any provision of it were severed, that provision shall

be severable from and shall not affect the continued operation of the rest of this Agreement; provided that if the provision to be severed is a material part of this Agreement, the foregoing shall not apply, and the parties shall in good faith renegotiate such provision.

15. The indemnity obligations and waivers set forth in this Agreement shall survive the termination of this Agreement as to any matters arising prior to such termination.
16. No delay or failure on the part of any party in exercising any right hereunder shall impair any such right or any remedy of the party so delaying or failing. No waiver of any provision of this Agreement shall be binding unless executed in writing by the party making the waiver. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.
17. This Agreement and the Lease Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings of the parties concerning the subject matter hereof. To the extent that there is any conflict or inconsistency between this Agreement and the MOU, the terms and provisions of this Agreement, as amended from time to time, shall prevail and be given priority.
18. This Agreement can be modified only by written amendment executed by the parties hereto.
19. In case a lawsuit is brought because of the breach of any covenant herein contained, the parties will bear their own attorney's fees and costs.
20. The Real Estate Division of the Marin County Department of Public Works will forward to Airport an executed copy of this Agreement upon approval by the Marin County Board of Supervisors.

COUNTY OF MARIN

Kathrin Sears
Kathrin Sears, President
Board of Supervisors

Dated: 8/20/19

Attest: [Signature]
Deputy Clerk

Approved as to form:
[Signature]
Deputy County Counsel
for JERMA BRADY

SAN RAFAEL AIRPORT, LLC

By: [Signature]

Dated: 7/28/2019

Title: OWNER

CERTIFICATE OF ACCEPTANCE ATTACHED HERETO.

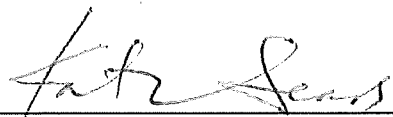
WHEN RECORDED RETURN TO:
County of Marin
Department of Public Works
Real Estate Division
P.O. Box 4186, Civic Center Branch
San Rafael, CA 94913-4186
Attention: Eric Lueder

AREA: Gallinas Canal, San Rafael Airport
APNs: 155-230-10, 11, 12 and 13 and
155-230-14, 15 and 16

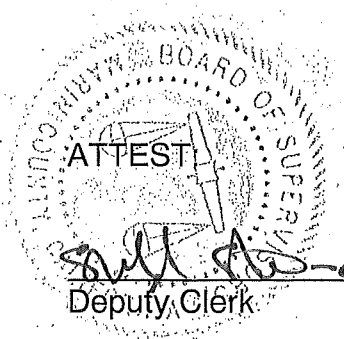

**CERTIFICATE OF ACCEPTANCE OF GRANT
OF INTEREST IN REAL PROPERTY**

THIS IS TO CERTIFY that the interest in the real property conveyed by the attached **GRANT OF PERMISSION** from **SAN RAFAEL AIRPORT, LLC.**, dated August 20, 2019 to the **COUNTY OF MARIN**, a political subdivision of the State of California, is hereby accepted by order of the Board of Supervisors of the County of Marin and the grantee consents to the recordation thereof by its duly authorized officer.

Dated: 8/20/19



Kathrin Sears, President
Board of Supervisors


ATTEST


Deputy Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Marin)

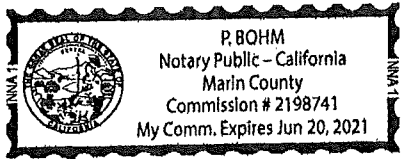
On July 29, 2019 before me, P. Bohm, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Joe Shekou
Name(s) of Signer(s)

who 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(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature P. Bohm
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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State of California)

County of MARIN)

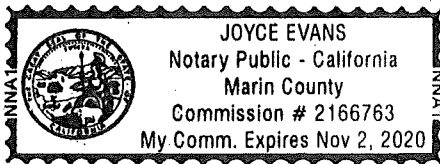
On August 20, 2019 before me, Joyce Evans, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared KATHRIN SEARS
Name(s) of Signer(s)

who 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(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Joyce Evans
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____