

DRAFT

MEMORANDUM OF UNDERSTANDING

BETWEEN

COUNTY OF MARIN

AND

SAN RAFAEL AIRPORT, LLC

This Memorandum of Understanding (MOU) made and entered into this _____ day of _____, 2017, by and between the County of Marin, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and San Rafael Airport LLC (hereinafter referred to as "AIRPORT"), collectively the "PARTIES."

WHEREAS, the State of California, per Chapter 898 of the Statutes of 1975, granted the County of Marin right, title, and interest of the State of California, in and to the salt marsh and tide and submerged lands, filled or unfilled, of Las Gallinas Creek in San Rafael, California, undeveloped except for levees, known as "Gallinas Canal"; and

WHEREAS, AIRPORT owns property in San Rafael, California, developed with levees and airport facilities, known as APNS 155-230-10, 155-230-11, 155-230-12 and 155-230-13 in the City of San Rafael, and 155-230-14, 155-230-15, and 155-230-16 in unincorporated Marin County; and

WHEREAS, the COUNTY AND AIRPORT levees are subject to erosion and settlement, and therefore require periodic repair and topping to maintain their height and structural integrity; and

WHEREAS, COUNTY was granted State Tidelands which have about 4700 lineal feet of levee constructed upon them (See Exhibit A: COUNTY Levee Map); and

WHEREAS, the AIRPORT's deed boundary of APN 155-230-14 extends into the existing bed of Gallinas Creek between 101 – 407 Vendola Drive; and

WHEREAS, it is in the PARTIES mutual best interest to provide for maintenance of levees on COUNTY and AIRPORT property, and to provide for navigational operations and maintenance along Las Gallinas Creek.

THEREFORE, the PARTIES are entering into this mutually beneficial MEMORANDUM OF UNDERSTANDING.

It is mutually agreed and understood that:

1. AIRPORT shall prepare plans and conduct repair and maintenance work on existing levees in the unincorporated area, and COUNTY shall review plans and process an excavation permit for work in the unincorporated area, including conducting environmental review required by CEQA.
2. AIRPORT will apply to the COUNTY Department of Public Works Land Development Division for the excavation permit for the repair and maintenance work described above in accordance with Marin County Code 23.08; this permit if approved, will be issued to AIRPORT. The COUNTY, as a property owner, will co-sign the applications. The work can be divided into more than one construction phase under the grading permit.
3. COUNTY will waive all COUNTY fees for permits in the unincorporated area, including COUNTY Department of Public Works permit fees established in Marin County Code Chapter 3.48. (Excavation permit application fee, MCC3.48.020 (4), Plan review fee, MCC3.48.020 (14), and Field Inspection fee, MCC 3.48.020(15).)
4. AIRPORT will pay the costs to repair and maintain existing levees on COUNTY property, as well as on AIRPORT property.
5. The PARTIES will cooperate with the State Lands Commission to exchange COUNTY lands within the levees surrounding the airport (including the levees themselves), down to the point of mean lower low water on the creekside of the levees with AIRPORT lands in the bed and bank of the existing Gallinas Creek channel (South Fork) located below the line of mean lower low water and all those lands to the south and east of the creek centerline, including those above mean lower low water (see Exhibit B: Cross Lease Areas).
6. The State Lands Commission land exchange documents referenced above will also provide
an easement for navigational related operations and maintenance activities to the County for the area above mean lower low water on the creekside of the levees.
7. The State Land Commission exchange parcel boundary for the most easterly land at the end of the runway will be based on a revised levee location, west of the existing levee (subject to state and federal aviation and transportation requirements) to permit removal of the existing levee and restoration of the area. The land will be leased to the airport under Item 9 below. The levee and land to the west will not be granted to AIRPORT until after the new levee is built. The revised levee location will establish the boundary the State Lands Commission exchange.
8. COUNTY will pay for in-kind staff costs of COUNTY and State Lands

Commission staff as well as required contract costs associated with the land exchange. COUNTY will not reimburse the AIRPORT for any costs incurred during this process.

9. In the interim until the above land exchange is completed, subsequent to execution of this MOU, COUNTY will issue a short-term lease to AIRPORT for COUNTY lands within the levees surrounding the airport (including the levees themselves), down to the point of mean lower low water on the creekside of the levees that will provide for repair and maintenance on the existing levees by the AIRPORT. The short-term lease will be issued prior to commencement of any levee construction work on County property.
10. In the interim until the above land exchange is completed, AIRPORT will issue a short-term lease to COUNTY for 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. The short-term lease will provide for navigational related operations and maintenance (including encroachment of private docks) along Gallinas Creek. The lease will allow COUNTY to provide authorization under Marin County Code Chapter 11.24 – Gallinas Creek Encroachments for creekside property owners to extend their private docks to access the deep parts of the creek. The lease will require that the existing docks and future dock extensions be maintained in accordance with Marin County Code Section 11.24.050 - Maintenance and repair. This lease will be granted concurrent with the above referenced lease to be issued by COUNTY. This lease shall not impact or dilute the County's assertion that the entire creek is subject to a public trust easement for purposes of commerce, navigation, and fisheries.
11. AIRPORT is willing to work with the COUNTY on permitting and conducting future navigational projects (separate from the project described in 1. above). The COUNTY is evaluating multiple sites, including the McInnis Marsh for disposal of dredge sediments. The AIRPORT will accept Gallinas Creek dredge sediments onto AIRPORT property if that is the site selected by COUNTY, in locations to be mutually approved by AIRPORT AND COUNTY. Dredge sediments shall become the property of the AIRPORT and may be used for any legal purpose. COUNTY shall pay all design, permitting, and construction costs related to this work, including typical environmental evaluation including review of existing creekbed soil for hazardous materials, and evaluation of existing levees for potential substantial adverse effects.

DURATION AND TERM

The terms of this MOU shall remain in full force and effect for ten years from the date adopted and signed. This MOU may be renewed by the mutual consent of all PARTIES. Any party may terminate this MOU by notifying the other PARTIES in writing a minimum of 30 days in advance.

COUNTY OF MARIN

Judy Arnold
President, Board of Supervisors

ATTEST

Approved as to Form

Deputy Clerk

Deputy County Counsel

SAN RAFAEL AIRPORT

EXHIBIT A: COUNTY LEVEE MAP

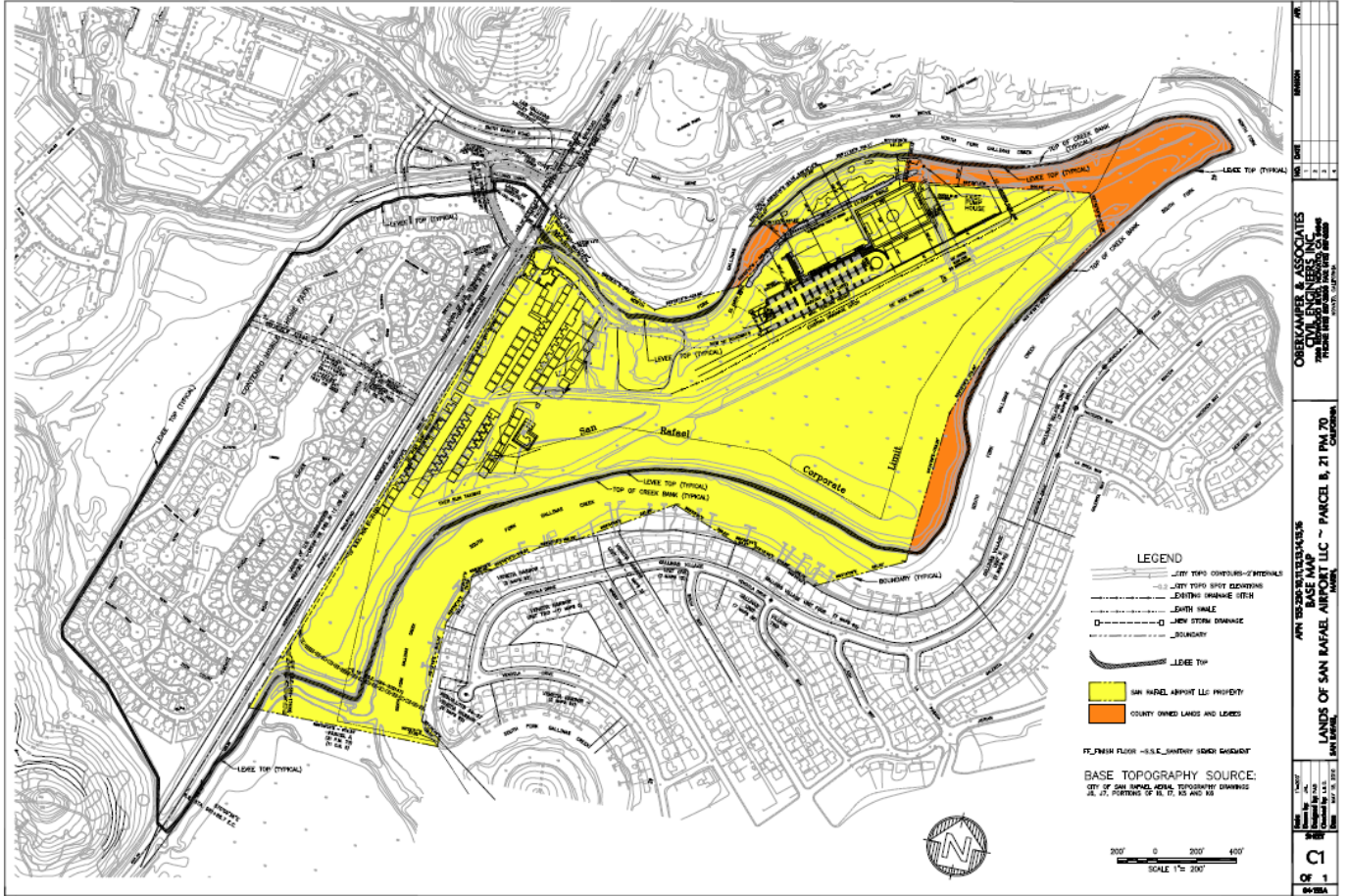
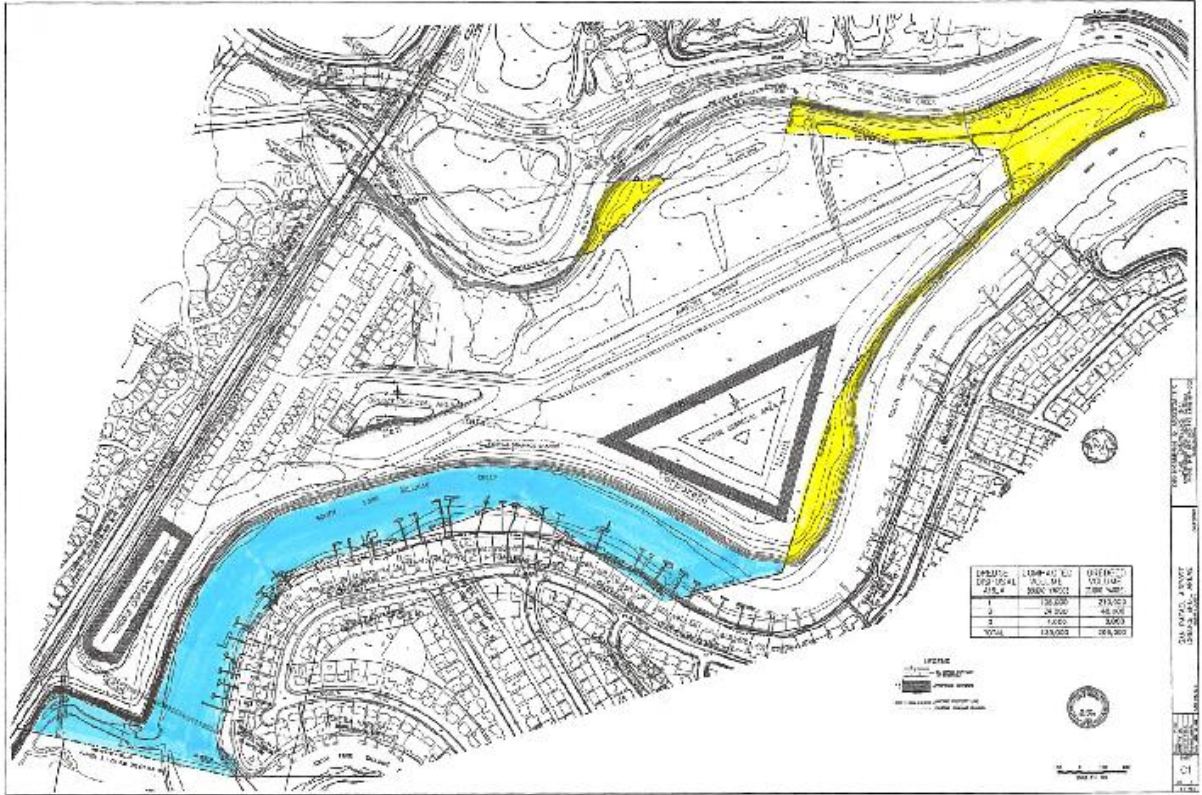


Exhibit B: Cross Lease Areas



Lands of San Rafael Airport LLC to be leased to County of Marin
 Includes all lands in the bed of existing Gallinas Creek channel (south fork) below mean lower low water line, along with all those lands to the south and east of the creek centerline, including those above mean lower low water.

Lands of County of Marin to be leased to San Rafael Airport LLC
 Includes all lands within the levees protecting San Rafael Airport property (including the levees themselves), down to the point of mean lower low water on the creek side of the levees.