

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
SUBJECT: RELEASE OF COVENANT RUNNING WITH THE LAND  
WITH SONOMA COUNTY MUSEUM UPON OFFICIAL  
OPENING OF THE MUSEUM EXPANSION LOCATED AT  
THE "EAST PROPERTY"  
STAFF PRESENTER: CAROLINE FOWLER, CITY ATTORNEY  
CITY ATTORNEY'S OFFICE  
AGENDA ACTION: RESOLUTION

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ISSUE(S)

Should the Council fully release the Covenant Running with the Land recorded in the Official Records of Sonoma County on April 5, 2000, as Instrument No. 20000032488, upon the official opening of Sonoma County Museum's expansion onto the East Property located at 505 B Street formerly known as the Conklin Site?

COUNCIL GOALS/STRATEGIES

This item relates to Council Goal 1: "Create a Strong, Sustainable Economic Base – Promote and Support Efforts to Retain and Expand Local Businesses;" Council Goal 4: "Maintain and Enhance our City's Cultural, Historical, and Recreational Assets – Expand and Maintain Youth and Family Programs;" and Council Goal 6: "Commit to Making Santa Rosa a Healthy Community Where People Feel Safe to Live, Work, and Play - Evaluate Opportunities to Participate in Community-wide Education and Health Initiatives." The expansion of the Sonoma County Museum onto the East Property by opening an art museum and educational programming at the Conklin Site will fulfill the Museums agreement with the City pursuant to the terms of the Donation Agreement and subsequent amendments.

BACKGROUND

The Sonoma County Museum has leased the Old Post Office Building property, located at 425 Seventh Street, from the City since 1983 to operate an art and history museum.

In 1999 the Museum developed a cultural/educational strategic plan calling for an expansion of the museum and requested the City's financial help in purchasing the two parcels of land adjacent to the museum on the north side of Seventh Street. The City, acting in support of the proposed expansion plans, donated \$550,000 in March 2000, to assist the Museum in purchasing the property west of the museum ("West Lot"). The



## Release Of Covenant Running With The Land With Sonoma County Museum

August 27, 2013

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Council's action, by resolution, executed a Donation Agreement of funds in an amount up to \$600,000 and established a covenant requiring that the funds only be used for purchase of the property, that the expansion be completed within 10 years from the recording date of the Covenant and that the donation be refunded to the City if either or both of the conditions were not met. The City also promised to release the Museum from these commitments following completion of the expansion construction.

On March 27, 2001, an Amendment to the Donation Agreement was executed in which the remaining \$50,000 was donated to the Museum to assist in purchasing the East Property and outlined a period of 15 years from the recording of the Covenant to complete the expansion at the East Property located at 505 B Street and formerly known as the Conklin site.

In 2010, the Museum asked the City Council to extend the deadline for completing its expansion of the Museum on Seventh Street until December 31, 2011. The requested expansion would enable the museum to complete work on an outdoor sculpture garden and exhibit space on the West Lot. The Museum also requested the City recognize that extending the Museum facility out to A Street by completing the outdoor sculpture garden and exhibit space will satisfy the requirements of the covenant for the West Lot property. On December 7, 2010, Council adopted Resolution 27780 approving the expansion on the West Lot and executing a Second Amendment to the Donation Agreement which was recorded in the Official Records of Sonoma County on December 22, 2010 as Instrument No. 2010116797.

On February 3, 2012 a Release of Covenant Running with the Land was recorded in the Official Records of Sonoma County as Instrument No. 201201349, following the Museum's satisfaction of its obligations as to the West Lot property. The Covenant still remained in effect as to the East Property (Conklin Site) as described in Amendment #2 to the Donation Agreement and Amendment to Covenant Running with the Land, recorded on December 22, 2010.

The Museum has considered a variety of expansion plans involving the Seventh Street block. Financial constraints have made the Museum's original full-block plan unrealistic and the expansion project as envisioned in 2000 has been revised significantly. Ultimately, the plans evolved into opening an art museum as the defining element in the "Museum on the Square" mixed use development, located at 520 Third Street, and utilizing the Old Post Office Building as a history museum. Due to the commitments to the "Museum on the Square," Sonoma County Museum had put their expansion efforts at East Property on hold for the past three years. The Museum has now elected to move forward with expansion onto the East lot instead of opening a site in the "Museum on the Square" project.

In July 2013, the City received correspondence dated June 26, 2013, from Sonoma County Museum requesting that the City fully release the Covenant for the final \$50,000 on the Museum-owned property at 505 B Street upon the completion and official

opening of the expansion located at 505 B Street, the East Property, as satisfaction of the Museum's remaining obligations under the Donation Agreement.

### ANALYSIS

The Donation Agreement and amendments thereto expressed the City's support for the expansion of the Museum for the benefit of the citizens of Santa Rosa. The proposed expansion has evolved over time since the original Donation Agreement was entered due to changing conditions, the economy and the needs of the museum.

The opening of the East Property as additional museum and education facilities will benefit the community and fulfill the spirit and intent of the Donation Agreement.

### RECOMMENDATION

It is recommended that the Council, by resolution, fully release the Sonoma County Museum from their obligations pursuant to the Donation Agreement and amendments thereto and authorize the Mayor to execute and record a Release Of Covenant Running With The Land upon completion of the East Property expansion, which will fully satisfy the terms of the Covenant and the Donation Agreement.

Author: Caroline Fowler

Attachments:

- Agreement for the Establishment and Operation of the Historical Museum of Sonoma County
- Agreement To Extend Term Of Lease
- Donation Agreement
- Recorded Covenant Running with the Land
- Amendment to Donation Agreement
- Amendment #2 to Donation Agreement
- Recorded Release of Covenant Running with the Land
- Proposed Full Release of Covenant Running with the Land

AGREEMENT FOR THE ESTABLISHMENT AND OPERATION  
OF THE HISTORICAL MUSEUM OF SONOMA COUNTY

This Agreement is made and entered into this 13th day of September, 1983 by and between the Historical Museum Foundation of Sonoma County, a California non-profit corporation ("FOUNDATION"), and the City of Santa Rosa, a municipal corporation of the State of California ("CITY").

WHEREAS, CITY desires to have established and operated within its boundaries a museum within which artifacts, documents, materials, and other items and objects would be preserved and exhibited and educational programs concerning the natural setting and the cultural and historical development of this area and region could be given for the benefit and education of its residents, persons residing in the region, and the general public; and

WHEREAS, CITY owns the old U.S. Post Office Building which is being rehabilitated for a museum (hereafter "Building"), located at 425 Seventh Street, Santa Rosa (the building and grounds being hereafter collectively referred to as the "Real Property"); and

WHEREAS, FOUNDATION represents that it has expertise and experience in the establishment and operation of museums and the collection, preservation, and display of such artifacts, documents, items, and objects and the creation, design, and institution of the described educational programs, and wishes to establish and operate such a museum as described above on the Real Property.

NOW, THEREFORE, based on the foregoing, the parties agree as follows:

1. Lease of Real Property. CITY leases to FOUNDATION for the sum of one dollar (\$1.00) per annum and FOUNDATION hereby leases from CITY all the Real Property (at the above agreed sum) described in Exhibit "A", which is attached hereto and made a part hereof by this reference, upon the terms and conditions

and for the purposes herein set forth.

2. Term. The term of the lease shall be for five (5) years, which term shall commence on October 1, 1983.

The parties may agree to extend the term of this lease under the same terms for additional periods of five years, said agreement to be reduced to writing not later than one year prior to the expiration of each term, as long as the FOUNDATION continues to provide an adequate museum program as described in paragraphs 3, 4, and 5.

The FOUNDATION shall complete its initial exhibits and displays and shall open the museum to the public on or before January 31, 1985.

3. Purpose and Use of Real Property. The FOUNDATION, during the term of this Agreement, shall use, manage, and operate the Real Property herein leased to it as and for a public museum to be called The Historical Museum of Sonoma County for the presentation and display of natural, cultural, and historical items, materials, artifacts, documents, exhibits, pictures, and other objects and the presentation of programs for the purpose of acquainting and educating the public generally, and the residents of the City of Santa Rosa and the surrounding region in particular, with the natural setting and formation of the area and the historical and cultural development of this region. While the FOUNDATION shall place primary emphasis on the historical and cultural development of this region, it may also display and exhibit from time to time materials and objects of a wider scope, including but not limited to the fields encompassing the natural and social sciences and the arts and humanities.

4. Professional Staff. The FOUNDATION in the establishment, management and operation of the museum shall hire and retain a competent professional staff to

manage and operate the museum and its facilities, including the design, preparation, and implementation of the museum's exhibits and educational programs.

5. Operational Costs - Performance Standards - Hours Open to the Public.

Except as provided in paragraphs 6 and 8, the FOUNDATION, in the establishment, management, and operation of the museum, shall provide at its own cost, all materials and supplies required to carry out all the museum's operations and activities, including the preparation and exhibition of displays and institution of educational programs.

The City Council, after consulting with FOUNDATION, may establish reasonable performance standards, for FOUNDATION's operation of the museum. FOUNDATION shall meet said standards, if and when established.

The FOUNDATION shall recommend to the City Council and, if approved by the City Council, the FOUNDATION shall then establish a schedule of the days and hours on which the museum shall be open to the public.

6. Utility Costs. CITY will pay the costs of providing natural gas, electricity, water, sewer and garbage collection services, and an automated water sprinkler fire protection system. FOUNDATION shall pay the cost of installing a security system. CITY shall not pay or be liable for telephone services or charges or other utility costs incurred by the FOUNDATION. CITY shall approve type of fire protection and security system prior to installation. FOUNDATION shall use all reasonable methods to reduce utility costs and shall comply with all CITY directives designed to reduce said costs.

7. Maintenance of Real Property. CITY at its cost shall maintain the Real Property. FOUNDATION shall promptly notify CITY of any deficiencies in the Real Property that may occur from time to time.

8. Routine Maintenance. FOUNDATION at its cost shall maintain its displays

and exhibits in a good and safe condition. FOUNDATION shall maintain the floor areas, stairs, and restrooms of the Building in a good and safe condition. CITY shall furnish janitorial services for the Building, public walkways, grounds and landscaping.

9. Fire Insurance; Destruction of Building. CITY shall take out and maintain a policy of fire insurance for the Building with the CITY named as the beneficiary thereof. In the event the Building is destroyed or substantially damaged by fire or other cause, CITY or the FOUNDATION shall have the option to terminate this Agreement.

10. Public Liability Insurance. FOUNDATION at its cost shall maintain public liability and property damage insurance with a single combined liability limit of \$1,000,000 and property damage limits of not less than \$200,000, insuring against all liability of FOUNDATION and its authorized representatives arising out of and in connection with FOUNDATION's use or occupancy of, and the condition of the premises. The CITY, its employees, officers and agents shall be named as an additional insured on all such policies and as to the CITY, its employees, officers and agents, the insurance shall be the primary insurance. The policy shall contain a cross liability endorsement. FOUNDATION shall provide CITY with a certificate signed by the insurers which shall evidence that the insurance required hereby is in effect and that the CITY, its employees, officers and agents are additional insureds thereunder and that as to them the insurance evidenced thereby is primary. The certificate endorsement shall also provide that the insurance evidenced thereby cannot be terminated, reduced in amount, or the coverages changed without thirty (30) days prior written notice thereof having been actually received by the City Manager of the City of Santa Rosa. FOUNDATION may increase insurance coverage without notice if changing needs

make such changes desirable.

11. Indemnity. FOUNDATION shall defend and indemnify and save harmless the CITY, its officers, agents and employees from all claims, loss, damage, injury, and liability of every kind, nature, and description, directly or indirectly arising from FOUNDATION's occupation of and activities in the premises, regardless of responsibility for negligence, but excluding liabilities due to the sole negligence or willful misconduct of CITY, or its employees.

CITY shall not be liable to FOUNDATION for any damage to FOUNDATION or FOUNDATION's property from any cause, but excluding damage due to the sole negligence or willful misconduct of CITY, or its employees. FOUNDATION waives all claims against CITY for damage to persons or property arising for any reason, but excluding claims due to the sole negligence or willful misconduct of CITY, or its employees.

12. Condemnation. If any portion of the premises is taken by a public entity through condemnation or sale under threat of condemnation, CITY may terminate this Agreement. FOUNDATION shall make no claim for compensation and shall receive no part of any award or payment resulting from said taking or sale.

13. Display of City-Owned Items. The CITY may, from time to time, with mutual consent, place in the temporary custody and control of the FOUNDATION documents, objects or other items, which are owned by the CITY, for the purpose of their preservation or display and exhibition at the museum. All such property, unless contrary instructions attend its delivery to the FOUNDATION by the CITY, shall be returned to the CITY's custody and control upon the termination of this Agreement or upon the written request of the CITY, whichever occurs first.

14. Items Acquired by Foundation. The parties anticipate that the FOUNDATION will acquire, through donation, gift, grant or purchase, or other means, title to



various artifacts, documents, materials, and other objects and items for preservation and display at the museum. During the period of this Agreement is in effect FOUNDATION holds and retains the custody, control and right and power to sell, exchange, or trade all such items for the purpose of acquiring other or better items.

If the FOUNDATION at some time ceases operations, or has no building available in which to carry on its work, and if CITY wishes to maintain the museum, the CITY will have the first opportunity to take over the artifacts, documents, materials, and other objects and items owned by the FOUNDATION that the CITY will use in the museum, at no cost to CITY.

15. Operations. The FOUNDATION shall operate and maintain the museum in accordance with all applicable laws of the CITY, the State of California, and the federal government.

16. Damage to Real Property. FOUNDATION shall not do anything within the building or on the exterior grounds of the Real Property that will cause damage to the Building or grounds, ordinary wear and tear excepted.

17. Alterations. FOUNDATION shall not make structural alterations to the Real Property without the CITY's prior written consent. Any alterations made by FOUNDATION, after CITY has given its consent, shall become part of and remain with the Real Property upon termination of this Agreement.

18. Signs. Any signs desired to be erected by FOUNDATION on the exterior portions of the Building or on the grounds of the Real Property shall first be approved by the CITY, and comply with all applicable laws.

19. Mechanics Liens. FOUNDATION shall pay all costs for construction done by it or caused to be done by it on the Real Property. FOUNDATION shall keep the Real Property free and clear of all mechanics liens resulting from construction

done by or for it.

20. Assignments or Subletting. FOUNDATION shall not assign, encumber, or sublease the whole or any portion of the Real Property without the prior written consent by the CITY. FOUNDATION shall not assign or transfer any of its obligations to operate a museum under this Agreement without the prior written consent of the CITY.

21. Entry by City. CITY through its employees or agents shall have the right to enter and inspect the Building and to effect repairs thereto as may be required at all reasonable times. Repairs shall be accomplished with as little dislocation of FOUNDATION's property and operations as the circumstances permit.

22. Surrender of the Real Property. On the expiration of the term of this Agreement or upon any earlier termination hereof, FOUNDATION shall surrender to CITY the Real Property and all FOUNDATION's improvements and alterations thereof in good condition, ordinary wear and tear excepted. FOUNDATION shall have sixty days from the date of such expiration or termination to remove its personal property, title to which does not vest in CITY by reason of such expiration or termination, from the Real Property. Unless such period is extended by the parties, title to any personal property left in the Building or on the exterior grounds after the sixty day period shall vest in CITY.

23. Employees. All persons hired and employed by the FOUNDATION to establish, manage, and operate the museum and its facilities and programs, shall be employees of the FOUNDATION and not of the CITY. FOUNDATION has no power, and has acquired no power under the terms of this Agreement, to hire or employ any person on behalf of, or as an employee of the CITY. In this regard, FOUNDATION shall be solely responsible for making all insurance, social security, and income tax withholding payments on behalf of its employees and all other payments which

may be required by law of employers. Employees and all other representatives of FOUNDATION shall at all times conduct themselves in a professional manner and show utmost courtesy to members of the public.

24. Notices. Any notice, consent, request, or approval required or permitted to be given by a party under the terms of this Agreement shall be in writing and shall, except as provided in paragraph 10, either be served personally or sent by prepaid first class mail to the following persons, at the addresses set forth below:

Communications to CITY:

City Manager

100 Santa Rosa Avenue

P.O. Box 1678

Santa Rosa, CA 95402

Telephone:

(707) 576-5361

Communications to FOUNDATION:

President

Historical Museum Foundation  
of Sonoma County

P.O. Box 3424

Santa Rosa, CA 95402

Telephone:

Either party may change the person named or the address, or both, from time to time by notifying the other party of such changes.

25. FOUNDATION's Board of Directors. The FOUNDATION maintains a Board of Directors; FOUNDATION hereby gives its consent to CITY at its option and discretion, to appoint one member to the FOUNDATION's Board of Directors.

26. Inventory. FOUNDATION shall furnish CITY with a complete inventory of objects in FOUNDATION's collection. Said inventory shall be updated by FOUNDATION annually.

27. Termination. If FOUNDATION fails to perform any provision of this Agreement and this failure to perform continues for thirty (30) days after written notice of said failure is given by CITY, CITY may terminate this Agreement by giving written notice to FOUNDATION. Said termination shall be effective on the date mailed or personally served on FOUNDATION.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY:

CITY OF SANTA ROSA, a  
Municipal Corporation

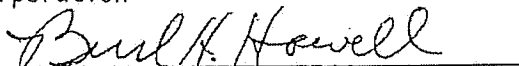
By

  
\_\_\_\_\_

FOUNDATION:

HISTORICAL MUSEUM FOUNDATION OF  
SONOMA COUNTY, a California Non-Profit  
Corporation

By

  
\_\_\_\_\_

By

\_\_\_\_\_

AGREEMENT TO EXTEND TERM OF LEASE

This agreement, made May 19, 1998, is between the Historical Museum Foundation of Sonoma County, a California nonprofit corporation (FOUNDATION) and the City of Santa Rosa, a municipal corporation of the State of California (CITY).

RECITALS

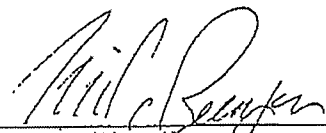
- A. On September 13, 1983, FOUNDATION and CITY entered into an Agreement of the Establishment and Operation of the Historical Museum of Sonoma County.
- B. The term of said Agreement may be extended by the parties as long as FOUNDATION continues to provide an adequate museum program as described in paragraphs 3, 4 and 5 thereof.
- C. FOUNDATION has provided an adequate museum program as required.
- D. The parties desire to extend the term of the lease for an additional twenty-five year period.

AGREEMENT

- 1. The term of the lease established in the Agreement of the Establishment and Operation of the Historical Museum of Sonoma County is extended for twenty-five years, to terminate October 1, 2023.
- 2. All other terms and conditions of said agreement shall remain in full force and effect.

CITY OF SANTA ROSA  
A Municipal Corporation

HISTORICAL MUSEUM FOUNDATION  
OF SONOMA COUNTY

By:   
Vice Mayor

By: \_\_\_\_\_

## DONATION AGREEMENT

This Agreement, dated MARCH 28, 2000, is between the City of Santa Rosa ("City") and the Sonoma County Museum ("Museum").

### RECITALS

- A. City owns the lands, museum buildings, and improvements located at 425 Seventh Street, Santa Rosa, California 95401 ("the Museum Property").
- B. Museum leases the Museum Property from the City and manages the museum operation.
- C. Museum has developed a cultural/educational concept for an expansion of the museum ("Expansion") by purchase and development of certain parcels of privately owned land adjacent to the Museum Property on the north side of Seventh Street between A and B Streets (the "Land").
- D. Museum is currently negotiating to purchase the Land for the Expansion.
- E. Museum has asked City for a donation to assist in funding the purchase of the Land.
- F. City desires to make a \$600,000 donation ("Donation") to assist in the funding of the purchase of the Land for the primary public purpose of encouraging the collection and display of historically significant artifacts and art for the cultural education and benefit of the residents of Santa Rosa and Sonoma County.
- G. City and Museum desire to set the terms and conditions of the Donation.

### AGREEMENT

City and Museum agree as follows:

1. **Donation:** The City shall donate up to \$600,000 to the Museum to be used by the Museum in the purchase of the Land.
2. **Relationship of Parties:** The City and the Museum are independent entities. The relationship between the City and the Museum is that of a donor/donee and not that of a joint venture. The Museum is acting on its own and not on behalf of the City in the purchase, ownership, use, operation, maintenance or development of the Land.

3. **Parcels:** City is aware that the Land consists of more than one parcel and is presently owned by more than one owner, which will require multiple transactions and escrows, each of which may require separate requests for funds from the Donation.
4. **Release of Donation Funds:** The City shall release the Donation or the requested portion thereof at the time that the Museum delivers to the City a written request therefor ("Request"). The Request shall include the following:
  - a. Notice that the Museum has completed negotiations and is ready to close escrow on any of the Land.
  - b. The dollar amount requested for the Land to be purchased.
  - c. The name and address of the escrow company selected by the Museum to process the purchase thereof.
  - d. A preliminary title report for the property to be purchased.
5. Within 15 days after City's receipt of the Museum's written request, City shall issue a check made payable to the escrow company in the amount requested by Museum for such purchase (the "Funds") (up to a cumulative amount of \$600,000) along with a letter of instruction to the escrow company stating that:
  - a. The Funds are to be applied solely to the purchase price amount for the real property identified in the preliminary title report (the "Property").
  - b. If escrow does not close on such purchase within 15 days after the deposit of the money into escrow, the escrow company shall immediately refund and return the Funds to the City.
  - c. The escrow company shall prepare and record a Covenant in the form attached hereto marked Exhibit "A" immediately after recording the deed in which the Museum acquires title to the Property.
6. **Covenant of Museum:** The Museum shall sign a Covenant for recording purposes at the time of escrow close in the form attached hereto marked Exhibit "A". In the Covenant the Museum shall and does covenant, promise and agree:
  - a. To use the Land only for the Expansion.
  - b. To complete the Expansion, a description of which is attached as Exhibit "B," within 10 years from the recording date of the Covenant.

7. **Breach of Contract:** In the event Museum breaches either or both of the covenants required in section 6 of this Agreement, Museum shall refund the then donated dollar amount to the City. Upon receipt of the refund, City shall record a release of its interest in the Property.
8. **Time Limit for Funds Request:** This Agreement shall terminate on the first anniversary date of this Agreement, and the City shall not honor Museum requests for funds from the Donation thereafter.
9. **Release, Hold Harmless, and Indemnity:** Museum shall assume the defense of, including settlement, and indemnify and save harmless City, its officers, agents, and employees, from all claims, loss, damage, injury, and liability of every kind, nature, and description, directly or indirectly arising from the performance of this Agreement or Museum's purchase, ownership, use, operation, maintenance or development of the Land, or in any way connected with the Land, regardless of responsibility for negligence (including costs and expenses of defense and attorney's fees, incurred in connection therewith). Museum's indemnity obligation hereunder expressly includes the obligation to indemnify the City from all liability associated with petroleum or toxic or hazardous materials which may currently exist on or in or hereafter be deposited on or in or affect the Land in any way and from all liability associated with relocation assistance and benefits described in California Government Code Section 7260 et seq.
10. **Notices:** Any notice or other communication under this Agreement shall be in writing and either served personally or sent by prepaid, first-class mail, addressed to the other party at the following addresses:

**City:** Right of Way Agent  
City of Santa Rosa  
69 Stony Circle  
Santa Rosa, CA 95401

**Museum:** Sonoma County Museum  
425 Seventh Street  
Santa Rosa, CA 95401

11. **General Conditions:**

- a. Time is of the essence for performance of each provision of this Agreement.
- b. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.



- c. This Agreement contains all the agreements of the parties hereto with respect to the subject matter of this Agreement, and may not be enlarged, modified, or changed in any respect except by written agreement executed by the parties.
- d. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.
- e. This Agreement is binding on the heirs, successors and assigns of the parties.
- f. The captions of this Agreement shall have no effect on interpretation of this Agreement or any part thereof.
- g. All exhibits to this Agreement are incorporated by reference into this Agreement as if fully set forth in the Agreement.

CITY:  
City of Santa Rosa, A Charter City

SONOMA COUNTY MUSEUM:

By: *Janet Condron*  
Mayor

By: *Marlene Ballaine*  
President

City Resolution Number 24339

Approved as to form:

*JAC*  
City Attorney

{JGK/SOCOMUSEUMLAGMT.WPD}

**EXHIBIT A**

**WHEN RECORDED, RETURN TO:**

Right of Way Agent  
City of Santa Rosa  
69 Stony Circle  
Santa Rosa, CA 95401

**COVENANT RUNNING WITH THE LAND**

**PREMISES**

The City of Santa Rosa donated \$\_\_\_\_\_ ("Donation") to assist the Sonoma County Museum in the purchase of the real property described in the attached legal description (the "Property"). The Sonoma County Museum purchased the Property to implement the expansion of the museum ("Expansion") by purchase of the Property on the north side of Seventh Street between A Street and B Street in the City of Santa Rosa.

**COVENANT**

In consideration of this Donation, Sonoma County Museum covenants, promises and agrees:

- a. To use the Property only for Expansion.
- b. To complete the Expansion within 10 years from the recording date of this Covenant.
- c. In the event either or both of these covenants is broken, to refund the Donation to the City.

This Covenant burdens the Property and runs with the said Property.

**SONOMA COUNTY MUSEUM**

By: \_\_\_\_\_  
President

The City agrees to subordinate this Covenant to a construction loan, bond, and/or permanent financing for the Property for the Expansion on the Property, and to release this Covenant upon receipt of a written notice from the Sonoma County Museum of completion of construction of the Expansion of the Property.

**CITY OF SANTA ROSA, a Charter City**

By: \_\_\_\_\_  
Director of Public Works



## Exhibit B

# SONOMA COUNTY MUSEUM

### MISSION STATEMENT

The mission of the Sonoma County Museum is to provide cultural experiences for the enrichment, enjoyment and education of Sonoma County residents and visitors through the preservation of collections and the presentation of exhibits and programs.

### MUSEUM EXPANSION PROJECT STATEMENT

The Sonoma County Museum is actively pursuing a vision to create a *Cultural Campus* in downtown Santa Rosa. In pursuit of this vision, the Museum Board of Trustees seeks to build the cultural anchor of a dynamic downtown by acquiring and developing property adjacent to the existing Museum facility to act as a magnet for our community and tourists alike, while seeking to serve as a catalyst for economic development in the vicinity.

The Sonoma County Museum, as expanded, will continue to fulfill the mission as originally adopted, and will be designed to ensure that the Museum remains a healthy, vibrant and responsive contributor to our community.

STG Escrow No. 99-100656

**WHEN RECORDED, RETURN TO:**

Right of Way Agent  
City of Santa Rosa  
69 Stony Circle  
Santa Rosa, CA 95401



SONOMA TITLE GUARANTY  
04/05/2000 07:39 COVA  
RECORDING FEE: 0.00

**2000032488**

OFFICIAL RECORDS OF  
SONOMA COUNTY  
BERNICE A. PETERSON

**4**



**COVENANT RUNNING WITH THE LAND**

**PREMISES**

The City of Santa Rosa donated \$550,000.00 ("Donation") to assist the Sonoma County Museum in the purchase of the real property described in the attached legal description (the "Property"). The Sonoma County Museum purchased the Property to implement the expansion of the museum ("Expansion") by purchase of the Property on the north side of Seventh Street between A Street and B Street in the City of Santa Rosa.

**COVENANT**

In consideration of this Donation, Sonoma County Museum covenants, promises and agrees:

- a. To use the Property only for Expansion.
- b. To complete the Expansion within 10 years from the recording date of this Covenant.
- c. In the event either or both of these covenants is broken, to refund the Donation to the City.

This Covenant burdens the Property and runs with the said Property.

**SONOMA COUNTY MUSEUM**

By: Marlene Ballou  
President of the Board

The City agrees to subordinate this Covenant to a construction loan, bond, and/or permanent financing for the Property for the Expansion on the Property, and to release this Covenant upon receipt of a written notice from the Sonoma County Museum of completion of construction of the Expansion of the Property.

**CITY OF SANTA ROSA, a Charter City**

By: [Signature]  
Director of Public Works

gk 3/22/00

[JGK\COV-SCM WPD]

TRACT ONE:

Lot No. 19 and part of Lot No. 18 in the form or shape of trapezoid in Kessings Addition to Santa Rosa, being more particularly described as follows:

Beginning at a stake 8 feet Westerly of the Northeast corner of Lot 18 in Kessings Addition; thence in an Easterly direction, 48 feet to the Northeasterly corner of Lot No. 19 in said Addition; thence Southerly along the Easterly line of Lot No. 19, 100 feet; thence at right angles along the North line of Seventh Street, Westerly 54 feet to the line of a lot belonging to George P. Noonan in the year 1875 and conveyed to him by Edward Kraft by Deed dated April 20, 1875; thence Northerly along the Easterly line of said last mentioned lot to the place of beginning.

Being the same property conveyed to Elijah Gaby by P. Edward Kraft, August 3, 1875 which Deed is recorded in Liber 50 of Deeds, page 246, Sonoma County Records.

TRACT TWO:

Commencing at the Northerly line of Seventh Street at the Southeasterly corner of Lot No. 17 of Kessing's Addition to the City of Santa Rosa; thence Southwesterly along the Northerly line of Seventh Street, 20 feet; thence Northerly, parallel with the Easterly line of Lot No. 17, 100 feet to the North line of Lot 17; thence Northeasterly along the North lines of Lots 17 and 18, 52 feet; thence Southerly to a point on the North line of Seventh Street, 26 feet from the Southeasterly corner of said Lot 17; thence Southwesterly along the North line of Seventh Street, 26 feet to the point of commencement.

Being the East half of Lot 17 and a portion of Lot 18 of Kessing's Addition to the City of Santa Rosa, according to a Map thereof on file in the Office of the County Recorder.

TRACT THREE:

Lot 16 and a portion of Lot 17 as shown upon the Map of Kessing's Addition to the Town of Santa Rosa, filed in the Office of the County Recorder on November 22, 1869 and recorded in Book 1 of Maps, page 3, Sonoma County Records, and described as follows:

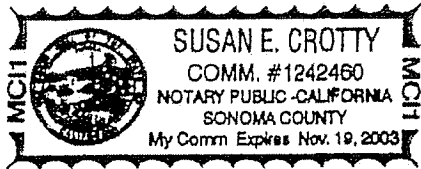
Commencing at the intersection of the Northerly line of Seventh Street with the Easterly line of A Street; thence along the Northerly line of Seventh Street in a Northeasterly direction, 60 feet; thence Northwesterly, parallel with the Easterly line of A Street, 100 feet to the Southerly line of Lot 14; thence along the dividing line between Lots 14, 15, 16 and 17, in a Southwesterly direction, 60 feet to the Easterly line of A Street; thence Southerly along the Easterly line of A Street, 100 feet to the point of beginning.

APNo's 010-033-015, -016 AND -017

State of California     }  
                                  }  
County of Sonoma        }

On March 24, 2000, before me, Susan E. Crotty, a Notary Public in and for said County and State, personally appeared Rosalind A. Daniels, Director of Public Works - City Engineer for the City of Santa Rosa, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the within instrument

WITNESS my hand and official seal.



NOTARY SEAL

*Susan E. Crotty*  
\_\_\_\_\_  
SUSAN E. CROTTY

STATE OF CALIFORNIA  
COUNTY OF SONOMA

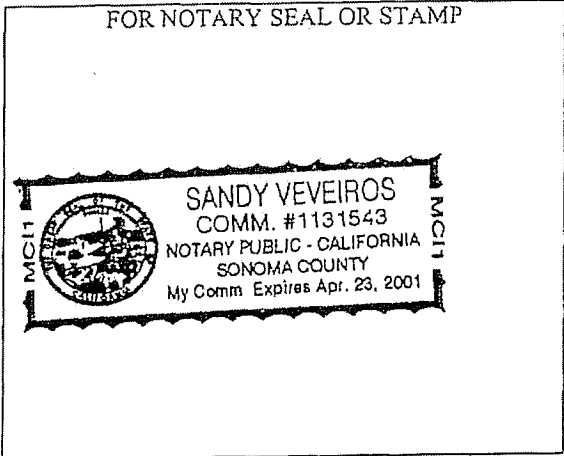
} SS:

On April 4, 2000, before me, Sandy Veveiros  
\_\_\_\_\_, a Notary Public in and for said County and State, personally  
appeared MARLENE BALLAINE

Personally known to me (or 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.

WITNESS my hand and official seal.

Signature *Sandy Veveiros*



STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

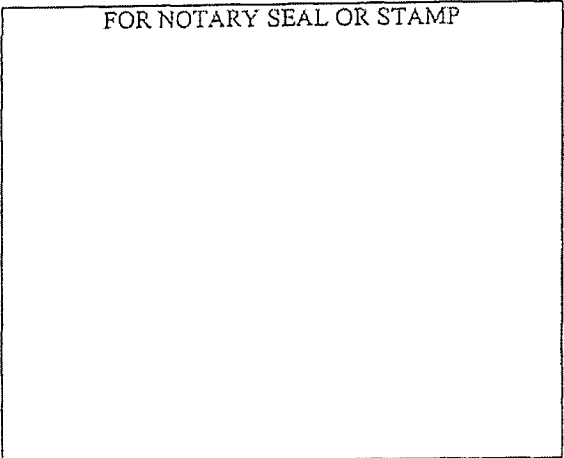
} SS:

On \_\_\_\_\_, before me, \_\_\_\_\_  
\_\_\_\_\_, a Notary Public in and for said County and State, personally  
appeared \_\_\_\_\_

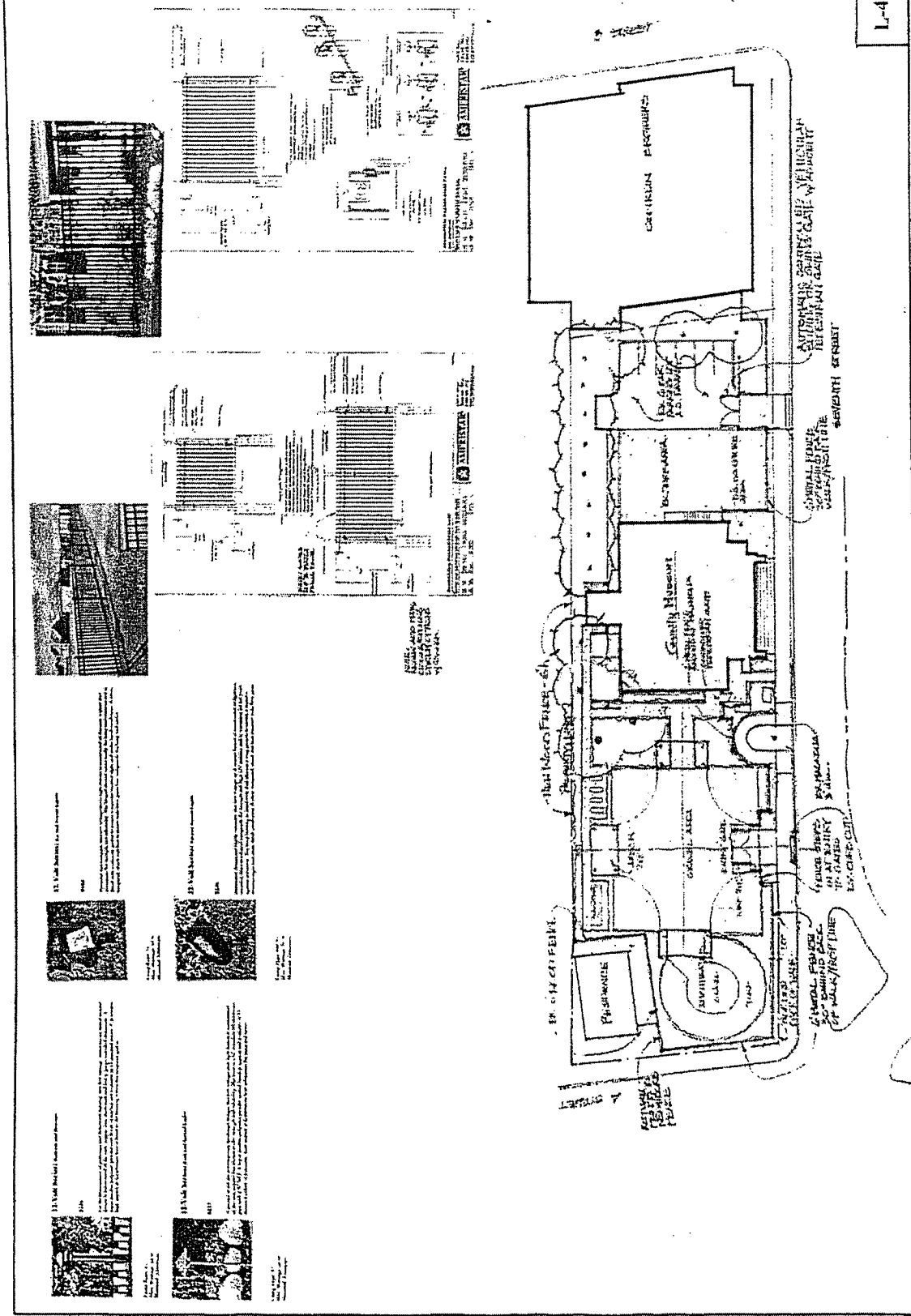
Personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the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

WITNESS my hand and official seal.

Signature \_\_\_\_\_



L-4



Schematic of "West Lot" Outdoor Sculpture Garden



## AMENDMENT TO DONATION AGREEMENT

This Amendment to Donation Agreement ("Amendment"), dated March 27, 2001, is between the City of Santa Rosa, a charter city ("City") and the Sonoma County Museum Foundation, a not for profit corporation ("Museum").

### RECITALS

- A. On March 28, 2000, City and Museum entered into a Donation Agreement ("Donation Agreement").
- B. Pursuant to the Donation Agreement, City has paid \$550,000 to Museum which Museum used to purchase the property west of the old post office property owned by City and leased to Museum.
- C. Museum now desires to obtain the remaining \$50,000 to be applied to the purchase of the property east of Museum ("Property"). The Property is encumbered by a 12-year lease. Museum has negotiated an agreement to purchase the Property and intends to close escrow on the Property within 90 days from the date of this Amendment.
- D. Museum and City desire to amend the Donation Agreement to allow Museum a reasonable time to close escrow on the Property and to develop the Property.

### AGREEMENT

City and Museum agree as follows:

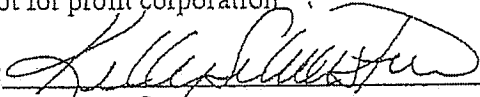
1. Time limits set forth in the Donation Agreement are extended as follows:
  - a. The time period set forth in section 8 of the Donation Agreement during which Museum may request the remaining \$50,000 to be used for the Purchase of the Property is extended to March 28, 2002. The Notice required under sections 4(a) and 4(b) of the Donation Agreement shall specify the Property.
  - b. If the escrow for purchase of the Property by Museum does not close within 120 days after deposit of City's \$50,000, the escrow company shall immediately refund and return the Funds to City (amends section 5(b) of the Donation Agreement).
  - c. The Covenant required by section 6 of the Donation Agreement shall require that Museum complete the portion of the Expansion on the Property within 15 years from the recording date of the Covenant.

2. Except as specifically modified by this Amendment, all terms of the Donation Agreement shall remain in effect. All time limits and other terms of the Donation Agreement shall continue to apply to the property previously purchased by Museum which is situated west of the old post office property.

CITY:  
City of Santa Rosa, a charter city

MUSEUM:  
Sonoma County Museum Foundation,  
a not for profit corporation

By: \_\_\_\_\_  
Mayor

By:  \_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

RECORDING REQUESTED BY  
CITY OF SANTA ROSA

WHEN RECORDED MAIL TO

NAME City of Santa Rosa  
Attention: Stephanie Williams  
MAILING ADDRESS 100 Santa Rosa Ave., Rm. 10  
CITY, STATE Santa Rosa, CA  
ZIP CODE 95404

2010116797

SANTA ROSA CITY  
12/22/2010 09:15 DEDA  
RECORDING FEE: \$0.00  
PAID

OFFICIAL RECORDS OF  
SONOMA COUNTY  
JANICE ATKINSON

8 PGS



CONFORMED COPY

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**TITLE(S)**

**AMENDMENT #2 TO DONATION AGREEMENT AND  
AMENDMENT TO COVENANT RUNNING WITH THE LAND**

RECORDING REQUESTED BY:  
Marc Richardson

AND WHEN RECORDED MAIL TO:

City of Santa Rosa

100 Santa Rosa Ave., Room 10

Santa Rosa, CA 95404

Attn: Stephanie Williams

**AMENDMENT #2 TO DONATION AGREEMENT AND  
AMENDMENT TO COVENANT RUNNING WITH THE LAND**

This amendment is entered into this <sup>TH</sup> day of December, 2010 by and between the City of Santa Rosa and the Sonoma County Museum, a California non-profit corporation

Recitals

Whereas, the City and Museum entered into a Donation Agreement dated March 28, 2000 pursuant to which the City agreed to donate up to \$600,000 to the museum and set forth the terms and conditions of the donation ;and

Whereas on March 28, 2000 the City made a donation to the Sonoma County Museum in the amount of \$550,000 to assist with the acquisition of land for expansion of the museum as referenced as part of Resolution 24339; and

Whereas on April 5, 2000, the City recorded a Covenant Running with the Land as part of said transaction which required the museum to complete the expansion of the museum within ten (10) years of recordation of the recording of the covenant or repay the sum of \$550,000 to the City; and

Whereas on March 27, 2001 an Amendment was prepared to the Donation Agreement to loan an additional \$50,000 to the museum to acquire an additional property to the East of the museum and extended the time for the expansion on this property until 15 years from the recording of the Covenant.

Whereas the Museum has not completed the expansion of the museum at this time and desires to install an outdoor garden and program space to satisfy its expansion obligation; and

Whereas the Museum's current strategic plan proposes to expand the museum space on the Conklin building site to the east of the Post Office; and

Whereas the Museum plans to open a new space in the proposed Museum on the Square project approved by the council;

The parties hereby agree to amend the Donation Agreement dated March 28, 2008 and the Covenant Running with the Land as follows:

1. The City agrees to extend the period for completion of the expansion on the West Lot property until December 31, 2011.
2. The City agrees that completion of the outdoor garden and programming area in substantially the form set forth in the plans attached hereto as Exhibit A shall satisfy the expansion condition contained in the donation agreement with respect to the "West Lot" property. The property may not be used for any other purpose.
3. This amendment shall not amend or change any obligations with respect to the donation for the "East Property" (Conklin site).
4. Upon completion of the expansion project outlined herein, the Public Works Director is authorized to release the Covenant Running with the Land recorded against said property.

Except as specifically provided herein, all other terms and conditions of the Donation Agreement shall remain in effect.

City of Santa Rosa

Dated: 12/16/2010

By: Susan Greer  
Mayor

Dated: 12/20/2010

Sonoma County Museum

By: Diane Hans

Approved as to Form:

Carlene L. Jones  
City Attorney

Signatures must be notarized

# CERTIFICATE OF ACKNOWLEDGMENT

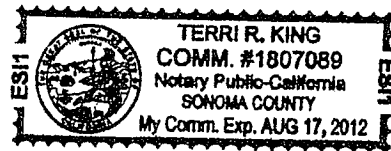
State of California )  
County of Sonoma )

On 12/16/10 before me, TERRI R. KING, Notary  
Date (here insert name and title of the officer)  
personally appeared Susan Horn  
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 [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

# CERTIFICATE OF ACKNOWLEDGMENT

State of California )  
County of SONOMA )

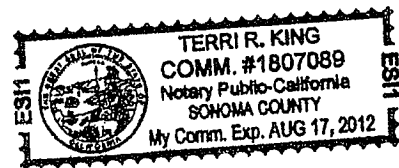
On 12/20/10 before me, TERRI R. King, Notary  
Date (here insert name and title of the officer)  
personally appeared Diane Marie Evans  
Name(s) of Signer(s)

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.

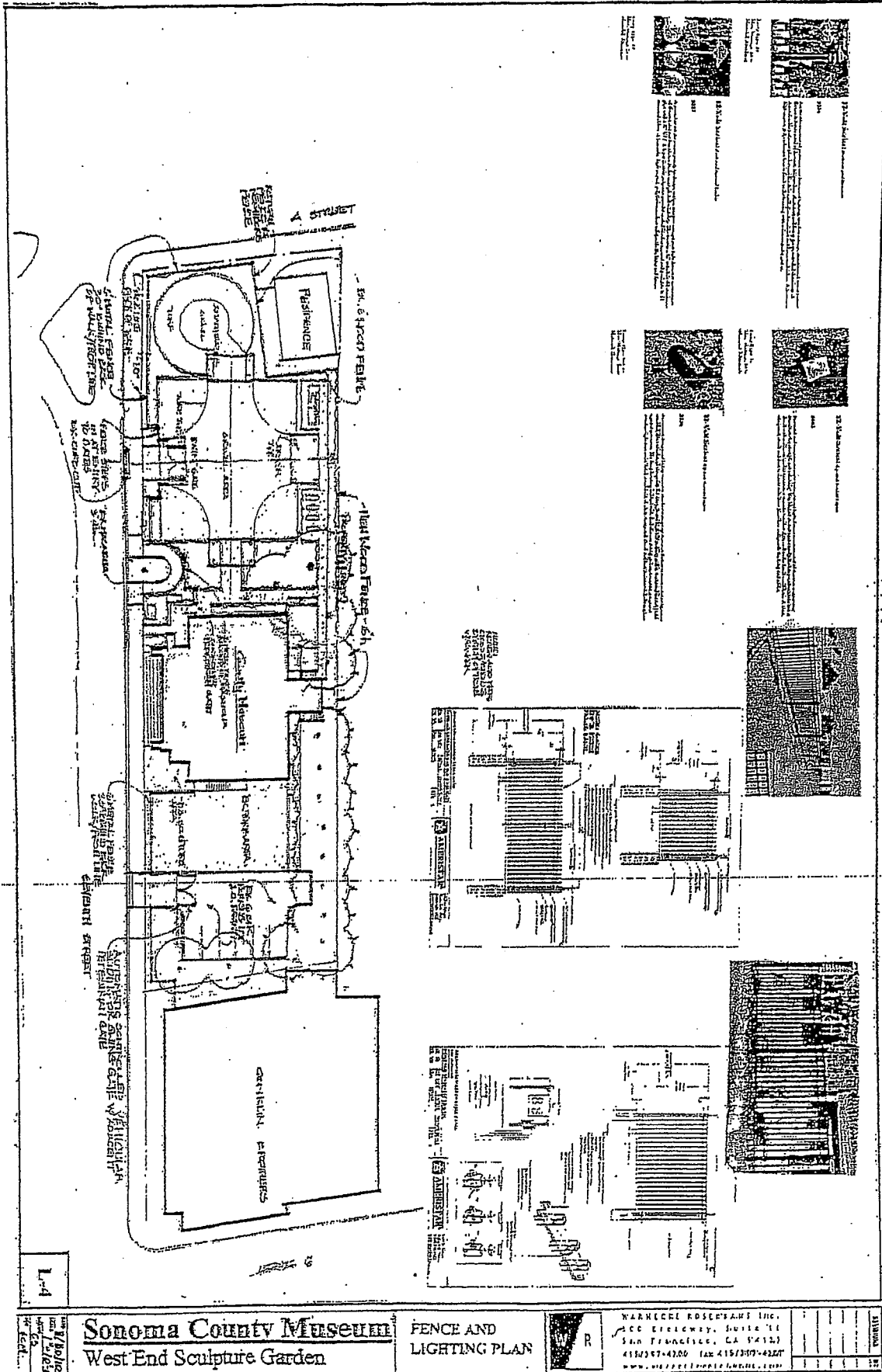
WITNESS my hand and official seal.

Signature [Handwritten Signature]  
Signature of Notary Public



Place Notary Seal Above

Schematic of "West Lot" Outdoor Sculpture Garden



L-4

**SONOMA COUNTY MUSEUM**  
West End Sculpture Garden

FENCE AND  
LIGHTING PLAN



WARHICK ROBERTSON INC.  
200 Broadway, Suite 111  
San Francisco, CA 94111  
415/397-4200 fax 415/397-4227  
www.warhickrobertson.com

DATE

SCALE



RECORDING REQUESTED BY  
City of Santa Rosa

2012011349

OFFICIAL RECORDS OF  
SONOMA COUNTY  
JANICE ATKINSON

SANTA ROSA CITY  
02/03/2012 03:04 GOVT REL 3 PGS  
RECORDING FEE: \$0.00  
PAID



WHEN RECORDED MAIL TO

CONFORMED COPY

NAME Transportation and Public Works  
Department of the City of Santa Rosa

MAILING ADDRESS 69 Stony Circle

CITY, STATE Santa Rosa, CA

ZIP CODE 95401

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

RELEASE OF COVENANT RUNNING WITH THE LAND

NO FEE

This Document is being recorded for the benefit of the City of Santa Rosa as per Gov't Code Section 6103

WHEN RECORDED MAIL TO:

TRANSPORTATION AND PUBLIC  
WORKS DEPARTMENT OF THE  
CITY OF SANTA ROSA  
69 Stony Circle  
Santa Rosa, CA 95401

Space Above This Line for Recorder's Use

### RELEASE OF COVENANT RUNNING WITH THE LAND

The City of Santa Rosa, a California charter city (the "City") and The Sonoma County Museum ("Museum"), entered into and made that certain COVENANT RUNNING WITH THE LAND recorded in the Official Records of Sonoma County on April 5, 2000 as Instrument No. 2000032488 (the "Covenant") for the purpose of documenting certain obligations of Museum in favor of the City regarding the "West Lot" Property, which Covenant was recorded against and burdens all the real property therein described, the legal description of which property is attached hereto at Exhibit A (the "Property").

The City having satisfied itself that the obligations of Museum regarding the "West Lot" Property as contained in the Covenant have been completed by Museum, does hereby release all right, title and interest as acquired by the execution and recordation of the Covenant and now executes this release for the purpose of extinguishing the Covenant from the title of the Property, except only as pertains to the obligations for the "East Property" (Conklin site) as described in that Amendment #2 To Donation Agreement and Amendment to Covenant Running with the Land, recorded on December 22, 2010 as Instrument No. 2010116797.

Dated: 2/1, 2012

THE CITY OF SANTA ROSA

By: \_\_\_\_\_

RICHARD A. MOSHIER

Director of Transportation and Public Works  
Pursuant to City Council Resolution No. 27780

State of California )  
County of Sonoma )

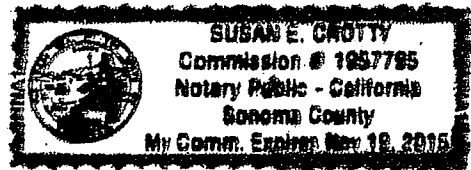
On February 1, 2012 before me, Susan E. Crotty, Notary Public,

personally appeared Richard A. Moshier, 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 signatures(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 Susan E. Crotty (Seal)



NO FEE: This Document is being recorded for the benefit of the City of Santa Rosa as per Gov't Code Section 6103

**WHEN RECORDED MAIL TO:**

**CAROLINE FOWLER, CITY ATTORNEY  
CITY ATTORNEY'S OFFICE  
CITY OF SANTA ROSA  
100 Santa Rosa Ave., Room 8  
Santa Rosa, CA 95404**

Space Above This Line for Recorder's Use

**RELEASE OF COVENANT RUNNING WITH THE LAND**

The City of Santa Rosa, a California charter city (the "City") and The Sonoma County Museum ("Museum"), entered into and made that certain COVENANT RUNNING WITH THE LAND recorded in the Official Records of Sonoma County on April 5, 2000 as Instrument No. 2000032488 (the "Covenant") for the purpose of documenting certain obligations of Museum in favor of the City, which Covenant was recorded against and burdens all the real property therein described, the legal description of which property is attached hereto at Exhibit A (the "Property").

The City having satisfied itself that the obligations of Museum regarding the "West Lot" Property as contained in the Covenant have been completed by Museum, entered into and made that certain RELEASE OF COVENANT RUNNING WITH THE LAND, recorded in the Official Records of Sonoma County on February 3, 2012 as Instrument NO. 2012011349 for the purpose of releasing all right, title and interest as acquired by the execution and recordation of the Covenant extinguishing the Covenant from the title of the Property, except only as pertains to the obligations for the "East Property" (Conklin site) as described in that Amendment #2 To Donation Agreement and Amendment to Covenant Running with the Land, recorded on December 22, 2010 as Instrument No. 2010116797.

The City having satisfied itself that the remaining obligations of Museum as contained in the Covenant have been fully completed by Museum does hereby release all right, title and interest as acquired by the execution and recordation of the Covenant and now executes this release for the purpose of extinguishing the Covenant from the title of the Property.

Dated: \_\_\_\_\_, 2013 THE CITY OF SANTA ROSA

By: \_\_\_\_\_  
Mayor

State of California )  
County of Sonoma )

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, 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 signatures(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 \_\_\_\_\_ (Seal)

## EXHIBIT A

### TRACT ONE:

Lot No. 19 and part of Lot No. 18 in the form or shape of trapezoid in Kessings Addition to Santa Rosa, being more particularly described as follows:

Beginning at a stake 8 feet Westerly of the Northeast corner of Lot 18 in Kessings Addition; thence in an Easterly direction, 48 feet to the Northeasterly corner of Lot No. 19 in said Addition; thence Southerly along the Easterly line of Lot No. 19, 100 feet; thence at right angles along the North line of Seventh Street, Westerly 54 feet to the line of a lot belonging to George P. Noonan in the year 1875 and conveyed to him by Edward Kraft by Deed dated April 20, 1875; thence Northerly along the Easterly line of said last mentioned lot to the place of beginning.

Being the same property conveyed to Elijah Gaby by P. Edward Kraft, August 3, 1875 which deed is recorded in Liber 50 of Deeds, page 246, Sonoma County Records.

### TRACT TWO:

Commencing at the Northerly line of Seventh Street at the Southeasterly corner of Lot No. 17 of Kessing's Addition to the City of Santa Rosa; thence Southwesterly along the Northerly line of Seventh Street, 20 feet; thence Northerly, parallel with the Easterly line of Lot No. 17, 100 feet to the North line of Lot 17; thence Northeasterly along the North lines of Lot 17 and 18, 52 feet; thence Southerly to a point on the North line of Seventh Street, 26 feet from the Southeasterly corner of said Lot 17; thence Southwesterly along the North line of the Seventh Street, 26 feet to the point of commencement.

Being the East half of Lot 17 and a portion of Lot 18 of Kessing's Addition to the City of Santa Rosa, according to a Map thereof on file in the Office of the County Recorder.

### TRACT THREE:

Lot 16 and a portion of Lot 17 as shown upon the Map of Kessing's Addition to the Town of Santa Rosa, filed in the Office of the County Recorder on November 22, 1869 and recorded in Book 1 of Maps, page 3, Sonoma County Records, and described as follows:

Commencing at the intersection of the Northerly line of Seventh Street with the Easterly line of A Street; thence along the Northerly line of Seventh Street in a Northeasterly direction, 60 feet; thence Northwesterly, parallel with the Easterly line of A Street, 100 feet to the Southerly line of Lot 14; thence along the dividing line between Lots 14, 15, 16 and 17, in a Southwesterly direction, 60 feet to the Easterly line of A Street; thence Southerly along the Easterly line of A Street, 100 feet to the point of beginning.

APNs: 010-033-015, 010-033-016 and 010-033-017