

## DONATION AGREEMENT

THIS AGREEMENT ("**Agreement**") is made this 26th day of \_\_\_\_\_, 201\_ by and between RIVERS & LANDS CONSERVANCY, a California nonprofit corporation ("**Donor**") and the CITY OF RIVERSIDE, a California charter city and municipal corporation ("**City**"). Donor and City are sometimes individually referred to as "Party" and collectively as "Parties."

## RECITALS

A. Richard Block, Jane Block, and the Block Family Living Trust are current owners of certain real property consisting of approximately 4.1 acres of undeveloped land in the City of Riverside and County of Riverside, California, Assessor's Parcel Number 258-130-002, and legally described on Exhibit "A" attached hereto and incorporated herein by reference, together with all rights, privileges and appurtenances thereto belonging ("**Property**"). Richard Block, Jane Block, and the Block Family Living Trust are hereafter referred to as "**Property Owners**."

B. The Property is located at the east end of Big Springs Road, adjacent to the City of Riverside's Islander Park. The Property is zoned R1-8500, and though privately-owned, is designated as public park land in the City's General Plan.

C. Donor is a nonprofit organization dedicated to conserving open space, habitats, and agricultural lands through acquisition, stewardship, and community engagement.

D. Donor desires to acquire the Property from Property Owners and to donate the Property to the City. City desires to accept the donation of the Property for use as open space and trails, expanding Islander Park, with the understanding that the acquisition of the Property shall not be used as replacement for any other parkland of which the City disposes.

NOW, THEREFORE, Parties agree as follows:

1. Dedication of Property. Donor shall offer to dedicate the Property to the City, and the City shall accept the offer of dedication of the Property, or interest therein, upon the terms and conditions set forth in this Agreement.

2. Donative Intent. Donor and the City agree and acknowledge that Donor is donating the Property to City and is not receiving compensation from the City for the transfer of the Property.

3. Fee Interest. Subject to the terms and conditions of this Agreement, Donor shall convey, assign and transfer its fee interest in the Property to the City, subject to all matters of record or which would be discovered by a survey or inspection of the Property. Notwithstanding the foregoing, City shall not be required to accept the Property until such time as City has determined that the Property is free and clear of all unacceptable liens, encumbrances, easements, leases (recorded or unrecorded), bonds, assessments, and taxes except for (i) liens for non-

delinquent property taxes and assessments, and (ii) those liens and encumbrances and easements which, in the sole discretion of the City, are acceptable pursuant to Section 8.

4. Representations and Warranties of Donor. Donor represents and warrants to the City that:

4.1 No Other Agreements, Undertakings or Tenancies. Donor shall not enter into any agreements or undertake any new obligations prior to Close of Escrow which will in any way burden, encumber or otherwise affect the Property without the prior written consent of the City, except as may be required to maintain the Property. City acknowledges that Donor does not currently own the Property.

4.2 Disclosure. Donor has disclosed to the City all information, records, and studies in Donor's possession in connection with the Property, including any reports or studies concerning Hazardous Substances. Donor does not make any representation or warranty regarding the contents or findings of such materials.

4.3 Notice of Changes. Donor shall promptly notify the City of any facts that would cause any of the representations contained in this Agreement to be untrue as of the Close of Escrow. If the City reasonably concluded that a fact materially and adversely affects the Property, City shall have the option, as its sole remedy, to terminate this Agreement by delivering written notice to Donor and Escrow Agent. If the City terminates this Agreement pursuant to this Section, Escrow Agent shall cancel the Escrow.

5. Escrow. By this Agreement, the City and Donor shall establish an escrow ("**Escrow**") with a reputable title company ( "**Escrow Agent**"), chosen by the City, subject to the provisions of the standard conditions for acceptance of escrow and the terms and conditions in this Agreement, with a signed counterpart of this document to be delivered as escrow instructions to Escrow Agent. In the event of any conflict between the terms of this Agreement and the standard conditions for acceptance of escrow, the terms of this Agreement shall control.

6. Feasibility Period.

6.1 During the period commencing on the date of this Agreement and terminating on a date which is sixty (60) days from the date of this Agreement ("**Feasibility Period**"), the City may undertake at the City's cost an inspection of the Property. Said inspection may include: (i) a review of the physical condition of the Property, including but not limited to, inspection and examination of soils, environmental factors, hazardous substances, if any, and archeological information relating to the Property; and (ii) a review and investigation of the effect of any zoning, maps, permits, reports, engineering data, regulations, ordinances, and laws affecting the Property. Within ten (10) days following the full execution of this Agreement by both parties, Donor shall deliver to the City copies of all architectural plans, surveys, specifications, and other documents pertaining to the physical, geological, or environmental condition of the Property that are owned by or in the possession of Donor, without any representation or warranty regarding the contents of such materials.

6.2 If the City's environmental consultant requires additional time to determine the existence and extent of any hazardous substances on the Property, the City shall have the right, exercisable by delivering written notice to Donor prior to the expiration of the Feasibility Period, to extend the Feasibility Period for up to an additional sixty (60) days to complete the testing.

6.3 If the City disapproves of the results of the inspection and review or the results of any Phase I Environmental Report, the City may elect, prior to the last day of the Feasibility Period (or any extension thereof), to terminate this Agreement by giving Donor written notification prior to the last day of the Feasibility Period (or any extension thereof).

## 7. Access.

7.1 Subject to Donor obtaining such rights from Property Owner, access to the Property during the Feasibility Period shall be given to the City, its agents, employees, or contractors during normal business hours upon at least one (1) business day's notice to Donor, at the City's own cost and risk, for any purposes, including, but not limited to, inspecting the Property, taking samples of the soil, and conducting an environmental audit (including an investigation of past and current uses of the Property). City expressly acknowledges that Donor does not currently own the Property and, accordingly, the City's right to enter onto the Property shall be subject to Donor obtaining such rights from Property Owner. City shall indemnify and defend Donor and Property Owner against, and hold Donor and Property Owner harmless from, all losses, costs, damages, liabilities, and expenses, including, without limitation, reasonable attorney fees arising out of the City's entry onto the Property or any activity thereon by the City or its agents, employees, or contractors prior to the Close of Escrow except to the extent any such losses, costs, damages, liabilities, and expenses arise out of the gross negligence or willful acts of Donor or Property Owner. Any entry onto the Property by the City or its agents, employees, or contractors shall be at reasonable times. The provisions of this Section shall survive the Close of Escrow.

7.2 In addition to the provisions of Section 7.1, the City and its agents, employees, or contractors shall have the right, from the date that Donor acquires the Property until the Closing Date, to contact any federal, state, or local governmental authority or agency to investigate any matters relating to the Property. Donor agrees to cooperate reasonably with the City and its agents, employees, or contractors in the inspection of the Property and agrees to deliver to the City all information in Donor's possession or control pertaining to the condition of the Property, including engineering and environmental reports, studies, tests, monitoring results, and related documentation.

## 8. Title.

8.1 Immediately following the execution of this Agreement by both Parties, the Donor shall, at the City's sole cost and expense, cause Escrow Agent to issue to the City (with a copy to Donor) a preliminary report for an ALTA Standard Policy of Title Insurance, setting forth all liens, encumbrances, easements, restrictions, conditions, pending litigation, judgments, administrative proceedings, and other matters affecting Donor's title to the Property

(“**Preliminary Report**”), together with copies of all documents relating to title exceptions referred to in the Preliminary Report.

8.2 Following the full execution of this Agreement by both Parties, the City may, at the City’s sole cost and expense, cause a survey and/or an ALTA Survey of the Property to be prepared by a registered surveyor or professional engineer (“**Survey**”). Donor agrees to deliver to the City, promptly following the full execution and delivery of this Agreement, copies of any survey of the Property in the possession of Donor.

8.3 City shall approve or disapprove, in writing to Donor with a copy to Escrow Agent, each exception shown on the Preliminary Report and each encroachment, overlap, or boundary line dispute, or any other matter that materially and adversely affects title to the Property or that violates any law, rule, or regulation reflected on the Survey (each an “**Exception**”) within twenty (20) business days following the receipt of the Preliminary Report or the Survey, whichever is later. City’s failure to object within the twenty (20) day period shall be deemed to be an approval of the Exceptions. The Exceptions approved by the City hereunder shall be referred to as the “**Approved Exceptions**”.

8.4 If any Exception is disapproved or deemed disapproved (each a “**Disapproved Exception**”), Donor shall have the right, but not the obligation, within thirty (30) days following expiration of the twenty (20) day period provided under Section 8.3 above, to cause each Disapproved Exception to be discharged, satisfied, released, or terminated, as the case may be, of record, and in a form that is reasonably satisfactory to the City and Escrow Agent. If Donor is unable or unwilling to obtain a discharge, satisfaction, release, or termination of any Disapproved Exception within the period specified above, then this Agreement shall automatically terminate ten (10) business days after expiration of the 30-day period for curing the Disapproved Exceptions or after Donor advises the City in writing that Donor is unable or unwilling to cause such discharge, satisfaction, release, or termination, whichever occurs first, unless within such 10-business-day period the City waives in writing such Disapproved Exception, in which event such Disapproved Exception shall be deemed an Approved Exception under this Agreement. If this Agreement terminates pursuant to this section, the Parties shall be relieved of all further obligations and liabilities to each other under this Agreement except as otherwise provided herein, and all funds and documents deposited with Escrow Agent shall be promptly refunded or returned, as the case may be, by Escrow Agent to the depositing Party. Anything above to the contrary notwithstanding, it is understood and agreed that the City’s indemnity obligations under Section 7 shall not terminate upon termination of this Agreement pursuant to this or any other provision hereof.

## 9. Close of Escrow.

9.1 Title. Simultaneously with the Close of Escrow, Escrow Agent shall issue an ALTA Standard Policy of Title Insurance (formerly referred to as a CLTA Title Policy) (“**Title Policy**”) in the amount of Two Hundred Thousand Dollars (\$200,000.00), subject only to (i) liens for real property taxes, bonds, and assessments not then due, and (ii) the Approved Exceptions.

9.2 Donor's Deposits into Escrow. Donor shall deposit with Escrow Agent on or prior to the Close of Escrow the following documents:

- (a) a grant deed in the form attached hereto as Exhibit "B" executed and acknowledged by Donor ("**Deed**");
- (b) Donor's affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended ("**FIRPTA Affidavit**");
- (c) all funds required to be placed in escrow by Donor; and
- (d) Donor's approval of the draft of Escrow Agent's closing statement.

9.3 City's Deposits into Escrow. City shall deposit with Escrow Agent on or prior to the Close of Escrow the following documents:

- (a) City's approval of the Survey;
- (b) City's certificate of acceptance of the Property;
- (c) all funds required to be placed in escrow by the City; and
- (d) City's approval of the draft of Escrow Agent's closing statement.

9.4 Closing Date. The conveyance of the Property to the City and the closing of this transaction ("**Close of Escrow**") shall take place within one hundred and twenty (120) days ("**Closing Date**") following the establishment of an Escrow pursuant to Section 3 of this Agreement.

9.5 Closing Statements. No more than two (2) days prior to the Closing Date, Escrow Agent shall deliver to the City and to Donor, for their respective approvals, drafts of Escrow Agent's closing statement.

9.6 Closing Instructions. On the Closing Date (or any extension thereof), Escrow Agent shall close Escrow as follows:

- (a) record the Deed (marked for return to the City) with the Riverside County Recorder;
- (b) issue the Title Policy;
- (c) prorate taxes, assessments, rents, and other charges, if any;
- (d) prepare and deliver to both the City and Donor one signed copy of Escrow Agent's closing statement;
- (e) deliver to the City the FIRPTA Affidavit, and the Withholding Affidavit; and

(f) If Escrow Agent is unable to simultaneously perform all of the instructions set forth above, Escrow Agent shall notify the City and Donor and retain all funds and documents pending receipt of further instructions jointly issued by the City and Donor.

9.7 Closing Costs and Prorations. City shall pay the following closing costs and prorations through the Close of Escrow:

(a) All governmental conveyance fees and taxes due upon transfer of the Property, except that no documentary transfer tax will be payable with respect to this transaction, pursuant to Revenue and Taxation Code Section 11922;

(b) The recording charges in connection with recordation of the Deed, except that this Deed is entitled to be recorded without a fee pursuant to Government Code Section 27383 because the Deed is for the benefit of a public agency;

(c) All charges in connection with issuance of the Title Policy;

(d) All costs associated by environmental reports, including the Phase I Environmental Site Assessment Report, and any further testing and reports which may be reasonably necessary as a result of such report;

(e) All charges related to any survey undertaken in connection with an ALTA Extended Policy of Title Insurance; and

(f) All fees and charges levied by Escrow Agent.

9.8 Possession. Possession of the Property shall be delivered to the City at the Close of Escrow.

10. Acceptance. The acceptance of the Property by the City and the Closing of Escrow (as defined in Section 9) are subject to the satisfaction of the following no later than the Closing Date:

(a) City's approval of the condition of the Property as provided in Section 6 and title to the Property as provided in Section 8; and

(b) Escrow Agent being prepared to issue the Title Policy on the Close of Escrow, subject only to the Approved Exceptions.

11. Termination. This Agreement and Escrow may be terminated by either Party upon three (3) days written notice to the other Party and Escrow Holder prior to the Closing Date.

12. Notices. As used in this Agreement, notice includes but is not limited to, the communication of any notice, request, demand, approval, statement, report, acceptance, consent, waiver and appointment. All notices must be in writing. Notice is given either (i) when delivered in person to the person or company intended named below, (ii) when delivered via facsimile with confirmation from the receiving party via return fax; or (iii) when sent via



reputable overnight courier (such as Federal Express), addressed by name and addressed to the party or persons intended, as follows, until such time as a party gives notice of the change of address in accordance with the terms of this section:

To Donor: Rivers & Lands Conservancy  
Attn: Executive Director  
4075 Mission Inn Avenue  
Riverside, CA 92501

With Copy to: Gresham Savage  
Attn: Matt Wilcox  
550 East Hospitality Lane, Suite 300  
San Bernardino, CA 92408

To the City: City of Riverside  
3900 Main Street  
Riverside, CA 92522  
Phone: (951) 826-5771  
Fax: (951) 826-  
Attn: Parks, Recreation and Community Services Director

With copy to: City of Riverside  
3900 Main Street  
Riverside, CA 92522  
Phone: (951) 826-5567  
FAX: (951) 826-5540  
Attn: City Attorney

13. Amendments. This Agreement shall not be changed, modified or amended except upon the written consent of the Parties hereto.

14. Entire Agreement. This Agreement is the result of negotiations between the Parties and is intended by the Parties to be a final expression of their understanding with respect to the matters herein contained. This Agreement supersedes any and all other prior agreements and understandings, oral or written, in connection therewith. No provision contained herein shall be construed against the City solely because it prepared this Agreement in its executed form.

15. Binding. The Parties, their assigns and successors in interest, shall be bound by all the terms and conditions contained in this Agreement, and all the Parties thereto shall be jointly and severally liable thereunder.

16. Authority. Subject to the terms and conditions herein, each individual executing this Agreement on behalf of his or her respective party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said entity in accordance with the governing documents of such entity, and that upon full execution and delivery, this Agreement is binding upon said entity in accordance with its terms.

17. Acceptance. Notwithstanding any other provision of this Agreement or any other agreement between any of the Parties hereto, once the Property is conveyed to and accepted by the City, the City shall have no obligation to return the Property to the Donor under any circumstances, except in the sole and exclusive discretion of the City.

18. Donation. City agrees to cooperate with Donor to acknowledge receipt of the donation of the Property by signing Internal Revenue Form 8283 (Non-Cash Charitable Contributions) before the Close of Escrow and any other tax-related forms or documents reasonably requested by Donor and to return any such forms to Donor within thirty business (30) days after RCA's receipt of such forms from Donor.

19. Counterparts. This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

(Signatures on following page.)



IN THE WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly-authorized representatives on the date and year set forth below.

CITY OF RIVERSIDE

RIVERS & LANDS CONSERVANCY,  
a California nonprofit corporation

By: \_\_\_\_\_  
City Manager

By: Michele McKinney  
Printed Name: Michele McKinney  
Its: President

ATTEST:

By: \_\_\_\_\_  
City Clerk

Approved as to Form:

By: [Signature]  
Deputy City Attorney

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

That certain real property located in the unincorporated area of the County of Riverside, State of California, described as follows:

THE SOUTHERLY 30 ACRES OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT THEREFROM THAT PORTION INCLUDED WITHIN THE RIGHT OF WAY OF THE SOUTHERN CALIFORNIA RAILROAD COMPANY.

ALSO EXCEPT THEREFROM THAT PORTION LYING EASTERLY OF SAID RIGHT OF WAY OF THE SOUTHERN CALIFORNIA RAILROAD COMPANY.

APN: 258-130-002

**EXHIBIT "B"**

**GRANT DEED**

WHEN RECORDED MAIL TO:

City Clerk  
City of Riverside  
City Hall, 3900 Main Street  
Riverside, California 92522

**FREE RECORDING**

This instrument is for the benefit  
of the City of Riverside and is  
entitled to be recorded without  
fee (Government Code §6103)

Project: Islander Park Expansion  
APN: 258-130-002

(Space above this line reserved for Recorder's use)

**GRANT DEED**

Project: Islander Park Expansion  
APN: 258-130-002

The Undersigned Grantor(s) Declare(s)  
DOCUMENTARY TRANSFER TAX \$ \_\_\_\_\_

- ☐ computed on full value of property conveyed, OR  
☐ computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,  
☐ unincorporated area; ☐ City of \_\_\_\_\_

RIVERS & LANDS CONSERVANCY, a California nonprofit corporation ("**Grantor**"), hereby grants to  
CITY OF RIVERSIDE, a California charter city and municipal corporation ("**Grantee**"), the real  
property in the County of Riverside, State of California, described as:

See Exhibit "A" attached hereto and made a part hereof

SUCH CONVEYANCE IS MADE SUBJECT TO ALL MATTERS OF RECORD OR WHICH WOULD  
BE DISCOVERED BY A SURVEY OR INSPECTION OF THE PROPERTY, AND THE  
FOLLOWING RESTRICTIONS, WHICH SHALL BE BINDING ON GRANTEE AND ALL  
SUCCESSORS AND ASSIGNS OF GRANTEE:

The Property shall be kept in its undeveloped state in perpetuity; provided, that nothing contained herein  
shall restrict the construction of improvements that are consistent with the use of the Property for hiking  
and open spaces purposes (i.e. access roads, fire roads, public restrooms, etc.), all of which improvements  
shall expressly be permitted. The Property shall not be used as a replacement property or as mitigation  
property for another development in perpetuity.

(signatures on following page)

201\_.

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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 RIVERSIDE )

On \_\_\_\_\_ before me, \_\_\_\_\_ a Notary Public, in and for said County \_\_\_\_\_ and State, 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 signature(s) on the instrument the person(s), or 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: \_\_\_\_\_  
Signature of Notary Public

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the real property conveyed by RIVERS AND LANDS CONSERVANCY, a California nonprofit corporation, on the Grant Deed dated \_\_\_\_\_, 201\_, to the CITY OF RIVERSIDE, a California charter city and municipal corporation (Grantee), is hereby accepted by the undersigned officer on behalf of the Grantee. \_\_\_\_\_

GRANTEE:

Date: \_\_\_\_\_, 20\_\_

CITY OF RIVERSIDE, a California charter city  
and municipal corporation

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

That certain real property located in the unincorporated area of the County of Riverside, State of California, described as follows:

THE SOUTHERLY 30 ACRES OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT THEREFROM THAT PORTION INCLUDED WITHIN THE RIGHT OF WAY OF THE SOUTHERN CALIFORNIA RAILROAD COMPANY.

ALSO EXCEPT THEREFROM THAT PORTION LYING EASTERLY OF SAID RIGHT OF WAY OF THE SOUTHERN CALIFORNIA RAILROAD COMPANY.

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