

Recording Requested by
and When Recorded Return To:

MONTEREY COUNTY WATER
RESOURCES AGENCY
1441 Schilling Place, North Building
Salinas, CA 93901

AGREEMENT RE: DRAINAGE AND FLOOD CONTROL SYSTEMS

THIS AGREEMENT is made and entered into by and between Pebble Beach Company, a California general partnership ("PBC"), and the Monterey County Water Resources Agency "Agency", a statutorily created California public agency.

WITNESSETH:

WHEREAS, PBC is the owner of certain real property located in unincorporated Monterey County, California, described in Exhibit "A" attached hereto and made a part hereof ("Spyglass 2");

WHEREAS, PBC filed application for a subdivision of the Spyglass 2 (the "Subdivision") with the County of Monterey;

WHEREAS, on June 19, 2012, the Board of Supervisors of the County of Monterey ("BOS") approved a Combined Development Permit ("CDP") which included a tentative subdivision map for the Subdivision, subject to certain conditions stated in BOS Resolution 12-148 dated June 19, 2012 (the "Resolution");

WHEREAS, Condition Number 98 of the Resolution provides, in part, as follows:

The applicant will be responsible for maintenance and reporting responsibilities for all drainage and flood control facilities associated with the proposed project, including the individual stormwater detention systems proposed for future development in the residential lot subdivision areas. The applicant will prepare a Drainage and Flood Control Systems Agreement that includes required annual maintenance activities and provisions for preparation of an annual drainage and flood control report. For future residential construction, the applicant will inform new property owners of the inspection, maintenance and reporting responsibilities at the time lots are purchased. Once sites have been developed, the applicant will hire a registered civil engineer to prepare an annual report that documents the effectiveness of the drainage facilities, the maintenance performed, and any required improvements or additional maintenance required. The MCWRA will notify the applicant if any action is required. If after notice the applicant fails to properly maintain, repair, or operate the drainage and flood control facilities, the MCWRA will be granted the right by property owners to enter property to perform repairs,

maintenance, or improvements necessary to properly operate the drainage and flood control facilities. The MCWRA will have the right to collect the cost for said repairs, maintenance, or improvements from the applicant as determined appropriate by the Board of Supervisors. The signed Drainage and Flood Control Systems Agreement will be recorded concurrently with the subdivision map. For future residential construction contracted by private property owners, the applicant will inform the new property owners of the requirements at the time lots are purchased, a modified Drainage and Flood Control Systems Agreement will be signed by applicant and property owner, and County will include the requirements in the conditions of approval applied to residential development.

Prior to filing the subdivision map, the applicant will provide a signed and notarized Drainage and Flood Control Systems Agreement to the MCWRA for review and approval. The applicant will inform the new property owners of the inspection, maintenance and reporting responsibilities at the time lots are purchased. Once sites have been developed, the applicant will hire a qualified engineer to prepare annual reports that addresses each development site and submit to MCWRA by August 15. The applicant will take actions required by MCWRA.

WHEREAS, PBC is the applicant for the proposed Subdivision, and is considered the “applicant” for purposes of this Agreement;

WHEREAS, PBC has agreed to the imposition of the foregoing condition and is ready, willing, and able to comply therewith;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. CC&R’s re Drainage and Flood Control Systems. Upon the filing of the final map for the Subdivision, PBC shall cause to be recorded, as part of the grant deed to each owner buying one of the lots in the Subdivision, covenants, conditions, and restrictions for the Subdivision that require the owner of each such lot to install the drainage and flood control systems required by the Agency pursuant to Condition Number 97 of the Resolution, and to properly maintain, repair, improve, and operate such drainage and flood control systems in perpetuity pursuant to Condition Number 98 of the Resolution.

2. Maintenance of Drainage and Flood Control Systems. PBC shall be responsible for properly maintaining, repairing, improving, and operating the drainage and flood control systems located within the Subdivision in the event the individual owners of the lot(s) in which the improvements are located fail to do so. In the event of a lot owner's failure to properly maintain, repair, improve, or operate the drainage and flood control system located on such owner’s lot, PBC shall perform or cause to be performed the necessary work, at that lot owner's cost. The process by which inspections, maintenance, repairs, and improvements are to be made is as follows:

a. An annual inspection of all drainage and flood control systems within the lots of the Subdivision shall be performed by a private engineer retained by PBC. A written report of the inspection shall be delivered to the Agency for review and approval no later than August 15 of each year.

b. The Agency, after reviewing the inspection report, may elect to conduct its own inspection of the drainage facilities within any of the lots in the Subdivision. Prior to any such inspection, the Agency shall give the lot owner(s) prior written notice of its desire for an on-site inspection.

c. If the on-site inspection reveals deficiencies in the drainage and flood control systems, the Agency shall give written notice to PBC and the lot owner setting forth the deficiencies found, the actions required to correct those deficiencies, and the date by which those corrective actions must be taken, which shall be no sooner than fifteen (15) days after the notice date.

d. If neither the lot owner nor PBC take the required corrective actions within the time allowed, the Agency shall give written notice to the lot owner and PBC informing the lot owner of its right to a hearing before the Board of Supervisors regarding the necessity of the work and stating the estimated costs of the work. The hearing shall be held not less than five (5) days before the Agency begins the repair, maintenance, or improvement work. The lot owner may participate in the hearing orally or in writing, by itself or through a representative.

e. If the Agency has complied in good faith with the provisions above set forth, and a determination has been made at the hearing that the corrective actions are required, then the Agency shall have the right to enter any and all portions of the Subdivision, including any lots, to perform the necessary maintenance, repair, or improvement work. Upon completion of that work, the Agency shall advise the lot owner, in writing, of the actual costs of that work. The lot owner shall have the right to contest the costs of work by a hearing before the Board of Supervisors.

f. The Agency shall have the right to collect from the owners of the lots in the Subdivision upon which lots the work was performed the costs for such work approved by the Board of Supervisors at the hearing. The costs shall be added to the property tax bills of the affected lot owners.

g. All notices shall be in writing and shall be given by any method reasonably calculated to give actual notice. If given by mail, the notice must be sent first-class, postage prepaid.

3. Recording. The parties or either of them shall cause this Agreement to be recorded concurrently with the filing of the final map for the Subdivision in the Official Records of the Monterey County Recorder, California.

4. Binding Effect. This Agreement inures to the benefit of, and is binding on, the parties and their respective successors and assigns. The covenants contained herein shall run with the Spyglass 1 Property which is the subject of this Agreement.

5. Entire Agreement. This Agreement contains the entire agreement among the parties respecting the matters set forth, and supersedes all prior agreements between the parties respecting these matters.

6. Severability. In the event that any provision of this Agreement is found to be invalid or unenforceable, such determination shall not affect the validity and enforceability of any other provision of this Agreement.

IN WITNESS OF THE FOREGOING, PBC and Agency have executed this Agreement on the day and year set opposite their respective signatures.

Dated: 2.7.2018

PEBBLE BEACH COMPANY



David L. Stivers
President

Dated: _____

MONTEREY COUNTY WATER RESOURCES AGENCY

By _____
Chairman, Board of Supervisors "Agency"

APPROVED AS TO FORM:
County Counsel

By _____

EXHIBIT "A"
Spyglass 2

That certain real property situate in the County of Monterey, State of California, described as all that real property shown on map of "Del Monte Forest Plan – Spyglass 2" filed for record on _____, 2018, in Volume _____ of Cities and Towns, at Page _____, in the Office of the Recorder of the County of Monterey, State of California.

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 the document.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California)
)
County of Monterey) ss

On February 7th, 2018, before me, Cheryl Burrell, a Notary Public, personally appeared **David L. Stivers** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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.

Cheryl Burrell
Cheryl Burrell
Notary Public, State of California
Commission #2103666
My Commission Expires April 15, 2019



Legal Reference for Acknowledgment by County Official:
Civil Code Sections 1181, 1184, 1185, 1188, 1189 Code of Civil Procedure Section 2012