

Attachment M
Agricultural Buffer Easement Deed

Cathrein Estates
PLN990330

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Recording requested by and
when recorded, mail to:

RESOURCE MANGEMENT AGENCY
PLANNING DEPARTMENT
168 W. ALISAL STREET, 2nd FLOOR
SALINAS, CA 93901
(831) 755-5025

THIS SPACE FOR RECORDER'S USE ONLY

Owner(s): CATHEREIN LAND LLC, a California Limited Liability Company,
William M. Kelley, as Owner of Open Space Parcel "C", and
Nicole F. Kelley, as Owner of Open Space Parcel "C"
Permit No.: PLN 990330
Applicant Name: DONALD D. CHAPIN, JR. AND BARBARA A. CHAPIN
Resolution No.: Board of Supervisors Resolution No. 04-151

**AGRICULTURAL BUFFER EASEMENT AGREEMENT AND
DEED OF AGRICULTURAL BUFFER EASEMENT**

THIS AGRICULTURAL BUFFER EASEMENT AGREEMENT AND DEED OF AGRICULTURAL BUFFER EASEMENT (hereafter referred to as "agricultural buffer easement" or "instrument") is made as of the last date opposite the respective signatures, by and between **CATHEREIN LAND LLC, a California Limited Liability Company, and William M. Kelley, as Owner of Open Space Parcel "C", and Nicole F. Kelley, as Owner of Open Space Parcel "C"**, collectively referred to as **Grantor**, and the **COUNTY OF MONTEREY**, a political subdivision of the State of California, as **Grantee**,

WITNESSETH:

WHEREAS, said Grantor is the owner in fee of the real property more particularly described in Exhibit "A" attached hereto and made a part hereof, situated in Monterey County, California (hereinafter "the property"); and

WHEREAS, the said land of said Grantor has certain adjacent to agricultural land; and

WHEREAS, the Grantor and the Grantee desire as set forth hereinafter to preserve and conserve for public benefit the agricultural capability and suitability of the adjacent agricultural land; and

WHEREAS, a discretionary Combined Development Permit (Permit No. PLN 990330) was granted on May 4, 2004, by the County in accordance with Board of Supervisors Findings, Evidence, conditions and mitigation measures contained in Resolution No. 04-151 on file with the Clerk of the Board of Supervisors and hereby incorporated by this reference, subject to Mitigation Measure No. 39 which provides as follows,

In order to mitigate potential conflict with Land Use and Planning Policies of the County of Monterey: A 200 foot wide agricultural buffer easement shall be delineated along

south property line, either to the north (on subdivision property) or south (on the adjoining property). This easement will affect the area of proposed lots 9, 10, 27 and 28. No development, except permanent roads, shall be allowed within the buffer. Land within the easement shall not be used for recreational areas. Minor storage structures or sheds associated with the residential use may be permitted within the easement area.

WHEREAS, the County, acting on behalf of the People of the State of California and in accordance with the findings, evidence, conditions and mitigation measures contained in Resolution No. 04-151 on file with the Clerk of the Board of Supervisors and incorporated by this reference, granted the discretionary development permit to the Grantor subject to Mitigation Measure No. 39 requiring inter alia, that the Grantor record a 200 foot wide agricultural buffer easement over the property as shown as Exhibit "B" attached hereto and hereby incorporated by reference, and agree to restrict development on and use of said property so as to preserve the agricultural values present on the adjacent agricultural land and so as to prevent the adverse direct and cumulative effects on said values which could occur if said property were not restricted in accordance with this agricultural buffer easement; and

WHEREAS, Grantor has elected to comply with the Mitigation Measure No. 39 and execute this agricultural buffer easement so as to enable Grantor to undertake the development authorized by Permit No. PLN 990330; and

WHEREAS, it is intended that this agricultural buffer easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII , Section 8, of California Constitution and that said easement shall thereby qualify as an enforceable restriction under the provisions of the California Revenue and Taxation Code, Section 402.1; and

WHEREAS, the said Grantor is willing to grant to the County of Monterey the restrictions as herein expressed of the said land, and thereby protect the agricultural values of the adjacent agricultural land by the Grantor through the imposition of the conditions and restrictions expressed below;

NOW, THEREFORE, for and in consideration of the premises the Grantor does hereby grant and convey unto the County of Monterey an estate, interest, and agricultural buffer easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which estate, interest, and easement will result from the restrictions hereby imposed upon the use of said property by said Grantor, and to that end and for the purposes of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors, and assigns, with the said Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon the Grantor's said property the various acts hereinafter mentioned.

A. LAND SUBJECT TO EASEMENT. The land of the Grantor hereinabove referred to and to which the provision of this instrument apply is situated in the County of Monterey, State of California, and is particularly described in Exhibit "B", attached hereto, and made a part hereof.

B. RESTRICTIONS. The restrictions hereby imposed upon the use of said agricultural buffer easement area of the property by the Grantor and the acts which said Grantor shall refrain from doing upon said easement in connection herewith are, and shall be, as follows:

1. No development except for the construction, alteration, relocation and maintenance of permanent roads shall be allowed within the agricultural buffer easement area.

2. No advertising of any kind or nature shall be located on or within said agricultural buffer easement area.

3. Grantor shall not plant nor permit to be planted any vegetation upon said agricultural buffer easement area, except as provided in paragraph C below.

4. The general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made to the agricultural buffer easement area, except as provided in paragraph C below.

5. Land within the agricultural buffer easement shall not be used for recreational areas or uses.

6. No use of the agricultural buffer easement area which will or does materially alter the landscape of said easement other than those specified in paragraph C below shall be done or suffered.

7. No structures will be placed or erected upon said described agricultural buffer easement area except as provided in paragraph C below.

C. EXCEPTIONS AND RESERVATIONS. The following exceptions and reservations are reserved to the Grantor:

1. The right to maintain all existing private roads, bridges, and structures upon said land, and all improvements approved pursuant to Combined Development Permit No. PLN 990330 and the right to develop and use permanent roads, fences, and minor storage structures or sheds associated with residential use.

2. The use and occupancy of said land which is not inconsistent with the conditions and restrictions herein imposed by this agricultural buffer easement and Combined Development Permit No. PLN 990330.

D. SUBJECT TO ORDINANCES. Land uses permitted or reserved to the Grantor by this instrument shall be subject to the ordinances of Grantee regulating the use of land.

E. BENEFIT AND BURDEN. This grant of agricultural buffer easement shall run with and burden the property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be conditions, covenants and restrictions running with the land and shall be effective limitations on the use of the property from the date of recordation of this document and shall bind the Grantor and all of its successors and assigns. This grant of

agricultural buffer easement shall benefit the County of Monterey and its successors and assigns forever.

F. RIGHT OF ENTRY. The Grantee or its agent may enter onto the property to ascertain whether the use restrictions set forth above are being observed at times reasonably acceptable to the Grantor. No public access is authorized by this deed of agricultural buffer easement.

G. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by Grantor which uses or would cause to be used or would permit use of the property contrary to the terms of this instrument will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this grant of agricultural buffer easement, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this grant of easement shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

H. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the property or any interest or easement created by this grant of agricultural buffer easement. All costs and expenses for such maintenance, improvement use, or possession shall be borne by the Grantor.

I. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents, and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes whatsoever, except to the extent the claim or liability is attributable to the negligence of the Grantee, while in, upon, or in any way connected with the property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents, and employees from all liability, loss, cost, and obligations on account of or arising out of such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the property which would subject the Grantee to any liability occurring upon land by virtue of the fact that the right of the Grantee to enter the land is strictly limited to preventing uses inconsistent with the interest granted, the property is not "property of a public entity" or "public property," and Grantee's rights herein do not include the right to enter the land for purposes of correcting any "dangerous condition" as those terms are defined by California Government Code Section 830.

J. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligation, and reservations contained in this conveyance shall be binding upon and inure to the benefit of the successors and assigns of both Grantor and the Grantee, whether voluntary or involuntary.

K. CONSTRUCTION OF VALIDITY. If any provision of this agricultural buffer easement is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

L. INTERPRETATION. This grant of agricultural buffer easement has been arrived at through negotiations and neither party is to be deemed the party which prepared this instrument for the purposes of California Civil Code Section 1654.

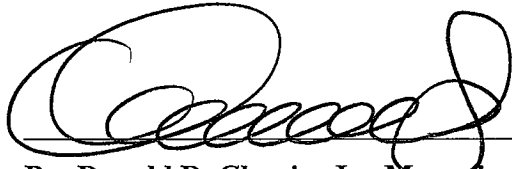
M. RECORDATION. Upon execution of this instrument, the parties shall cause recordation thereof with the Monterey County Recorder's Office.

N. INCORPORATION OF RECITALS. The recitals to this grant of agricultural buffer easement are hereby incorporated into this instrument.

GRANTOR

**Catherein Land LLC
a California Limited Liability Company, AND**

Date: 8-8-13



By: Donald D. Chapin, Jr., Managing Member

STATE OF CALIFORNIA
COUNTY OF MONTEREY

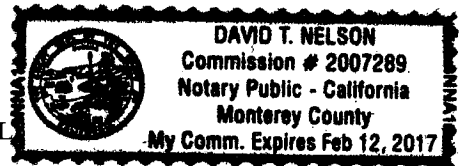
On 8/8/13 before me, David T. Nelson, Notary Public, personally appeared Donald D. Chapin Jr, who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ 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 David T. Nelson

(SEAL)



GRANTOR SIGNATURE CONTINUATION PAGE:

Date: 8/8/13

[Signature], AND,

William M. Kelley, as Owner of Open Space Parcel "C"

Date: 8/8/2013

[Signature]

Nicole F. Kelley, as Owner of Open Space Parcel "C"

STATE OF CALIFORNIA
COUNTY OF MONTEREY

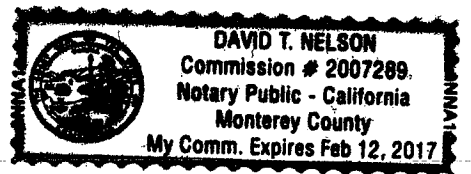
On 8/8/13 before me, David T. Nelson, Notary Public, personally appeared Nicole F. Kelley, who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized 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 David T. Nelson

(SEAL)



STATE OF CALIFORNIA
COUNTY OF MONTEREY

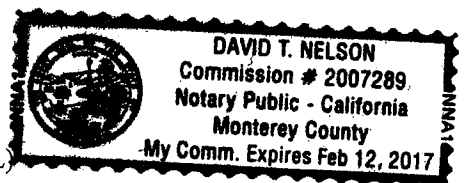
On 8/8/13 before me, David T. Nelson, Notary Public, personally appeared William M. Kelley, who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized 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 David T. Nelson

(SEAL)



GRANTEE

COUNTY OF MONTEREY

Date: _____

**Fernando Armenta, Chair
Board of Supervisors**

CERTIFICATION AND CONSENT TO RECORDATION

This is to certify that this AGRICULTURAL BUFFER EASEMENT AGREEMENT AND DEED OF AGRICULTURAL BUFFER EASEMENT set forth above is hereby acknowledged by the Chair of the Monterey County Board of Supervisors on behalf of the County of Monterey pursuant to the action of the Board of Supervisors when it granted Combined Development Permit No. PLN990330 on May 4, 2004 and the Monterey County Board of Supervisors consents to recordation thereof by its duly authorized officer.

Date: _____

**Fernando Armenta, Chair
Monterey County Board of Supervisors**

CLERK'S ACKNOWLEDGEMENT

On _____ 2013, before me, _____, Clerk of the Board of Supervisors, personally appeared Fernando Armenta, Chair, Monterey County Board of Supervisors, 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. Gail T. Borkowski,
Clerk of the Board of Supervisors

By: _____

Type/Print Name, Deputy Clerk

Legal Reference for Acknowledgement by County Official (SEAL)
California Civil Code Section 1181, 1184, 1188, 1189
Code of Civil Procedure Section 20

Document Form/Content Acceptable:

RESOURCE MANAGEMENT AGENCY

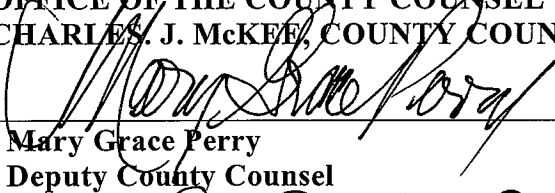


Mike Novo, Director
RMA - Planning Department

Date: 8/8/13

APPROVED AS TO FORM & LEGALITY:

OFFICE OF THE COUNTY COUNSEL
CHARLES J. McKEE, COUNTY COUNSEL



Mary Grace Perry
Deputy County Counsel

Date: 8-8-2013

EXHIBIT "A"

Real property situated in the County of Monterey, State of California, described as follows:

Beginning at a stake marked "Road" at the Northwest corner of a tract of 47.80 acres, (now or formerly) owned by George Grant, said stake being on the South side of a County Road, 40 feet in width, which runs along the South line of the Poole Purchase on the Bolsa Nueva y Moro Cojo Rancho, and is North 87° 20' West chains from the Westerly line of the Los Vergeles Rancho; thence (the magnetic variation being 16° 30' East) South 1° 15' West along the Westerly line of said George Grant's land 10 chains to a stake from which a live oak 4" in diameter marked B.T. bears S. 70¾° West distant 11½ links; thence South 17° 30' West, 15.12 chains to a stake in a fence on the North boundary of (now or formerly) Herbert's Land; thence along the fence South 74° 30' West, 38 chains to the corner of fences at the Southeast corner of Peterson's land; thence along a fence North 27° 40' West, 15.95 chains to a stake in fence North 16° 45' West, 13.67 chains to the Southerly side of a County Road; thence along said road North 59° 45' East, 17.84 chains to turn in road, 20 feet South of the South boundary of the Poole Purchase; thence South 87° 20' East, 37.28 chains to the place of beginning and being a portion of Lot 14 of Section "D" of the Rancho aforesaid.

A.P. No. 125-291-001

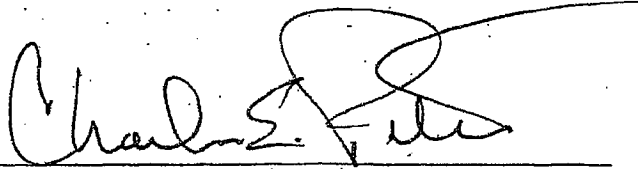
**OPEN SPACE PARCEL C
PORTION OF LOT 17
APN 125-621-017
HIDDEN CANYON RANCH**

Certain real property, situate in Monterey County, California, particularly described as follows:

Beginning at a 1" iron pipe, LS 3880, said iron pipe being the most southerly common corner of Lots 17 and 18, as said lots are shown on that certain map entitled "Tract No. 1316, Hidden Canyon Ranch Subdivision, etc.", recorded in Volume 20 of Cities and Towns at Page 16, records of Monterey County, California; thence running along the common boundary between said lots

- 1) N 01° 25' 34" W, 426.40 feet to a point on the southerly boundary of a 30 foot wide private road (P.R.E.) and public utilities (P.U.E.) easement shown as "Donnys Ridge Road"; thence leaving said common boundary and running along said southerly boundary
- 2) Easterly 302.80 feet along the arc of a circular curve, the center of which bears N 02° 37' 00" W, 365.00 feet distant, through a central angle of 47° 31' 56" to a point on the westerly boundary of a 30 foot wide private driveway (P.D.E.), public utilities (P.U.E.), and storm drain (S.D.E.) easement, as said easement is shown on said map; thence running along said westerly boundary
- 3) S 10° 05' 29" E, 143.79 feet; thence
- 4) Southerly 133.20 feet along the arc of a circular curve, the center of which bears S 79° 54' 31" W, 360.00 feet distant, through a central angle of 21° 11' 55"; thence
- 5) S 11° 06' 27" W, 145.82 feet to a point on the northerly line of a well lot easement, as said easement is shown on said map; thence leaving said westerly boundary and running along said well lot boundary
- 6) N 80° 32' 39" W, 5.57 feet; thence
- 7) S 09° 27' 21" W, 40.00 feet; thence
- 8) S 80° 32' 39" E, 5.50 feet; thence leaving said well lot boundary and running
- 9) S 01° 25' 34" E, 111.54 feet to a point on the southerly boundary of said Lot 17; thence running along said southerly boundary

10) N 87° 25' 14" W, 245.25 feet to the POINT OF BEGINNING and containing 2.940 acres, more or less.



Charles E. Potter
R.C.E. 25705
Exp. 12-31-05



EXHIBIT "B"

Certain real property, situate in Monterey County, California, particularly described as follows:

That 200 foot strip of land designated as Agricultural Buffer Easements (A.B.E.) on Lots 9, 10, 27, and 28 shown on that certain map entitled, "Tract No. _____, Cathrein Acres, a Private Road Subdivision, etc., recorded in Volume _____ of "Cities and Towns" at Page _____, records of Monterey County, California.

Exhibit B Page 1 of 1