

Attachment I

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RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

County of Monterey
Resource Management Agency
1441 Schilling Place, 2nd Floor
Salinas, California 93901
Attn: Juan Hernandez

SUBDIVISION IMPROVEMENT AGREEMENT
ONE CARMEL SUBDIVISION (SEPTEMBER RANCH)

PLN110173

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ONE CARMEL SUBDIVISION (SEPTEMBER RANCH)

THIS SUBDIVISION IMPROVEMENT AGREEMENT (“Agreement”) is made and effective as of the last date opposite the respective signatures below by and between the County of Monterey, a political subdivision of the State of California, hereafter “**COUNTY**”, and **Carmel Reserve, LLC, a Delaware limited liability company**, (hereafter, “**OWNER/SUBDIVIDER**”).

RECITALS

This Agreement is made with respect to the following facts which each party acknowledges as true and correct:

PROPERTY OWNERS OF RECORD: **Carmel Reserve, LLC, a Delaware limited liability company**, collectively referred to as “**OWNER**” or “**OWNER(S)**” are the property owners of record of the real property more particularly described in **Exhibit “A – legal description of the property”** attached hereto and made a part hereof, situated in Monterey County, California (hereinafter “the property”). **OWNER(S)** hereby consent to recordation of this Agreement with the **COUNTY** Recorder’s Office.

Title of Improvement Plans: 1) September Ranch Phase 1 Subdivision Improvement Plans, 2) September Ranch Carmel Valley Road Widening Improvement Plans, 3) Carmel Area Wastewater District Sanitary Sewer Force Main, Gravity Main & Lift Station for September Ranch Phase 1 Subdivision Improvements

Permit No. PLN110173: A Combined Development Permit, PLN050001, was originally granted on November 9, 2010 by **COUNTY** in accordance with Board of Supervisors Findings, Evidence, Conditions of Approval and mitigation measures contained in Resolution No. 10-312, and extended (PLN110173) on March 27, 2013 by **COUNTY** in accordance with Planning Commission Resolution No. 13-010, both resolutions on file with the Clerk of the Board of Supervisors and/or the Resource Management Agency (RMA) and hereby incorporated by this reference.

Tentative Map Resolution of Approval No. 10-312 (hereafter, “Resolution of Approval” or “Resolution No. 10-312”): **Monterey County Board of Supervisors Resolution No. 10-312** (Planning File/Permit No. PLN050001 and PLN110173) on file with the Clerk of the Board of Supervisors and incorporated by this reference.

Final Map: SEPTEMBER RANCH PHASE 1 (“SUBDIVISION”)

Name of Surety or Financial or Other Institution Providing Security Instrument

A second deed of trust in favor of the County of Monterey, in the form attached hereto as Exhibit 1 and incorporated herein by reference, shall be recorded concurrently with the recordation of the final map of SEPTEMBER RANCH PHASE 1 and recordation of this AGREEMENT (hereafter referred to as "Surety").

Company Name Chicago Title Company
Street Address 26609 Carmel Center Pl.
Carmel, CA 93923

Contact Person: Rebecca Smith

Estimated Cost of Improvements:

Grading:	\$547,706
Streets – Public:	1,062,040
Storm Drain – Public	125,320
Streets – Private:	2,279,381
Storm Drain – Private:	792,721
Sewer – Off-site:	1,020,169
Sewer – On-site:	1,418,806
Water:	3,789,645
Park and Recreation ¹ :	160,692
Other Infrastructure:	
Estimated Total Cost of Improvements:	\$11,196,480
10% Contingency	1,119,648
Estimated Total Cost of Improvements including Contingency:	\$12,316,128
Form of Security, if other than bond - Cash Deposit:	\$6,500,000
Form of Security, if other than bond:	Deed of Trust¹

¹ The landscaping improvements are included as part of this Agreement for Phase 1 in compliance with condition of approval #103 in the Resolution of Approval, but are not Phase 1 improvements. They will be constructed as part of a subsequent phase of the project.

Warranty Security (20% of Est. Total Cost)²	
Estimated Total Cost of Monumentation:	\$13,730
Form of Security, if other than bond:	Deed of Trust ¹
¹ COUNTY shall be the holder of second Deed of Trust recorded against the subject Property	
² This Bond or Surety shall be provided to COUNTY upon acceptance of the completed subdivision improvements by COUNTY	

A. SUBDIVIDER has presented to COUNTY for approval and recordation a final map of a proposed subdivision pursuant to the Subdivision Map Act (California Government Code Section 66410 et. seq.) and COUNTY ordinances and regulations relating to the filing, approval and recordation of subdivision maps. The Subdivision Map Act at California Government Code Section 66410 et. seq. and COUNTY ordinances and regulations relating to the filing, approval and recordation of subdivision maps are collectively referred to in this Agreement as the “Subdivision Laws.”

B. A vesting tentative map of the SUBDIVISION has been approved subject to the Subdivision Laws and to the requirements and project conditions of approval (“Conditions of Approval”) and the Mitigation Monitoring and Reporting Plan (“MMRP”) contained in Board of Supervisors Resolution No. 10-312 on file with the Clerk of the Board of Supervisors and/or RMA – Planning.

C. In consideration of approval of a final map for the SUBDIVISION by the COUNTY Board of Supervisors, SUBDIVIDER desires to enter into this Agreement, whereby SUBDIVIDER promises to install and complete, at SUBDIVIDER'S own expense, all the improvement work required by COUNTY (hereinafter “Improvements”) in connection with the proposed subdivision. SUBDIVIDER has secured this Agreement by improvement security required by the Subdivision Laws, including but not limited to California Government Code Section 66499.1 and Section 66499.2, and approved by the Resource Management Agency - Public Works Department and by the Office of the County Counsel.

D. Complete Improvement Plans for the construction, installation and completion of the Improvements have been prepared by SUBDIVIDER for this Phase of the SUBDIVISION and approved by the COUNTY Engineer (hereinafter “Improvement Plans”). The Improvement Plans for this subdivision are on file in the office of the COUNTY Engineer and are incorporated into this Agreement by reference. All references in this Agreement to the Improvement Plans shall include reference to any specifications for the Improvements as

approved by the COUNTY Engineer. The term "COUNTY Engineer" as used in this Agreement refers to the COUNTY RMA Director or the Director's designee licensed to practice civil engineering in the State of California. Project Conditions of Approval and the MMRP contained in Resolution No. 10-312 are a part of and hereby incorporated into the Improvement Plans.

E. Within thirty (30) days after completion of the required Improvements and their acceptance or approval by COUNTY, it is necessary that certain monuments and stakes as specified on the final map for the SUBDIVISION be installed.

F. The requirements of all Project Conditions of Approval and the MMRP shall run with the land and be binding upon OWNER/SUBDIVIDER and upon the successors and assigns of OWNER/SUBDIVIDER. Certain Conditions of Approval and/or MMRP mitigation measures may not be restricted to Phase 1; be applicable to Phase 1; or be required to be completed prior to the filing of the final map for Phase 1. Conditions and MMRP mitigation measures which apply to later Phases of the SUBDIVISION, including but not limited to development on individual lots of the SUBDIVISION, include but are not limited to, Conditions Nos. 1, 4, 6, 8, 10, 11, 12, 21, 22, 23, 24, 26, 27, 29, 35, 36, 37, 40, 44, 45, 46, 47, 50-70, 72-77, 80-92, 96, 97, 99, 105, 108-113, 115-121, 185, 191, 192 and Condition Nos. 128-162, 164-171, 173-178, 186, 187, 189 and 190, the latter being Mitigation Measures 4.2-1, 4.2-2, 4.2-3, 4.2-4, 4.2-5, 4.2-6, 4.2-7, 4.2-8, 4.2-9, 4.2-10, 4.2-11, 4.2-12, 4.2-13, 4.2-14, 4.2-15, 4.2-16, 4.2-17, 4.2-18, 4.3-1, 4.4-1, 4.4-2, 4.4-3, 4.6-1, 4.6-2, 4.6-3, 4.6-4, 4.6-5, 4.6-6, 4.6-7, 4.6-8, 4.7-1, 4.8-1, 4.8-2, 4.9-1, 4.9-3, 4.9-4, 4.9-5, 4.9-6, 4.9-7, 4.9-8, 4.9-9, 4.9-10, 4.9-12, 4.9-13, 4.9-14, 4.10-1, 4.11-1, 4.11-2, and 5-1.

NOW, THEREFORE, in consideration of the approval and recordation by the COUNTY of the final map of the SUBDIVISION, and the mutual covenants and agreements contained herein, SUBDIVIDER and COUNTY agree as follows:

1. SUBDIVIDER'S Obligations to Construct Improvements.

SUBDIVIDER shall:

- a. Comply with all the requirements of Resolution No. 10-312, including the MMRP and the Conditions of Approval for the vesting tentative map for the subdivision.
- b. Construct and install at SUBDIVIDER'S own expense all the Improvements in conformance with the Improvement Plans and applicable COUNTY and State standards.

- c. All required off-site Improvements included in the Improvement Plans shall be completed prior to or concurrently with on-site work and shall be substantially completed to the satisfaction of the COUNTY Engineer prior to the granting of occupancy for any new unit.
- d. Complete the construction and installation of the Improvements within FOUR (4) years from the COUNTY'S approval of said final map. Any extension shall be in accordance with the provisions of Title 19 of the Monterey County Code. Any such extension may be granted without notice to SUBDIVIDER'S Surety and shall not affect the validity of this Agreement or release the Surety or Sureties on any security given under this Agreement. Strikes, boycotts, or similar actions by employees or labor organizations which prevent the conducting of work and which were not caused by or contributed to by SUBDIVIDER, shall constitute good cause for an extension of the time for completion. As a condition of such extension, the COUNTY Engineer may require SUBDIVIDER to furnish new security guaranteeing performance of this Agreement as extended in an increased amount as necessary to compensate for any increase in construction costs as determined by the COUNTY Engineer.
- e. Acquire and dedicate, or pay the cost of acquisition by COUNTY, of all rights-of-way, easements and other interests in real property for construction or installation of the Improvements, free and clear of all liens and encumbrances that compromise or interfere with the intended purposes of the rights-of-way, easements, or other interests. SUBDIVIDER'S obligations with regard to acquisition by COUNTY of off-site rights-of-way, easements and other interests in real property may be subject to a separate agreement between SUBDIVIDER and COUNTY. SUBDIVIDER shall also be responsible for obtaining any public or private drainage easements or authorizations to accommodate the SUBDIVISION.
- f. **Erosion Control.** SUBDIVIDER will take all necessary actions during the course of construction to prevent erosion damage to adjacent properties during inclement weather. It is understood and agreed that in the event of failure on the part of SUBDIVIDER to prevent erosion, COUNTY may do the work on an emergency basis and back-charge the SUBDIVIDER for the actual expenses incurred, and, if necessary, after providing notice to SUBDIVIDER, proceed against the Faithful Performance Security to cover COUNTY'S expenses.

2. **Underground Utilities.** The following new utilities provided for in this subdivision shall be placed underground: electric power lines, gas lines, water lines, telephone lines, and television cables, if applicable. Underground utility services, including laterals to all the lots, shall be installed by the SUBDIVIDER prior to placement of road base, concrete curb and gutter and/or gutter and/or A.C. Dike and pavement.

3. **Capital Account for Mutual Water Company.** SUBDIVIDER agrees that, upon completion of the Phase 1 improvements and the release of the securities per Paragraph 10 of this Agreement, SUBDIVIDER shall place 15% of the project water treatment and distribution system costs into a capital reserve account in the name of the mutual water company for the Subdivision (“One Carmel Mutual Water Company”) if the water system is owned and/or operated by One Carmel Mutual Water Company at the time the securities are so released. The deposit of such funds is intended to cover costs of future equipment repair, and maintenance and/or replacement once the water system is actually in operation following SUBDIVIDER’s completion of construction of the water system improvements as required under this Agreement. If the water system and improvements are owned by a public utility or government entity at the time securities are released, the deposit contemplated by this Section shall not be required. In the event that a deposit is made under this Section and the water system is subsequently owned and/or operated by a public utility or government entity, the funds so deposited may be returned to SUBDIVIDER from the capital reserve account.

4. **Maintenance and Operation of Private Roads and Drives, Fire Hydrants, Storm Drainage Systems, Waste Water Systems, and Water Systems.** SUBDIVIDER shall pay for all maintenance and operation of private roads and private drives, fire hydrants, storm drainage systems, waste water systems, and private water systems, including any treatment improvements that may be required, from the time of installation until acceptance or approval of the Improvements by the Monterey County Board of Supervisors and the Carmel Area Waste Water District Board of Directors and until a Homeowners’ Association duly incorporated and certified by the Secretary of the State of California and in good standing or other entity with legal authorization to collect fees sufficient to support the services is formed and assumes responsibility for the services, and until SUBDIVIDER records a Water System Agreement to provide for such maintenance and operation of the Water System, which shall be maintained and operated in accordance with a Monterey County Health Department - Environmental Health Bureau (EHB) approved operations plan and permit for said Water System. Fire hydrants shall be fully operational prior to occupancy of any dwelling within the SUBDIVISION unless otherwise approved by the fire protection agency with jurisdiction.

5. **Park Improvements.** The Subdivider shall comply with Section 19.12.010 - Recreation Requirements - of the County Subdivision Ordinance, Title 19, Monterey County Code, by dedicating land and recreation improvements to reasonably serve the residents of the inclusionary and workforce housing units, as required by Project Condition of Approval No. 103 and/or MMRP mitigation measures as applicable pursuant to Resolution No. 10-312. These improvements and dedications are planned as part of a subsequent phase of the subdivision and shall be installed prior to the first occupancy permit issued for the inclusionary and workforce housing units.. The Applicant shall also provide RMA-Parks Department with a recreation plan and cost estimate for the improvements to be made on the dedicated parcel(s).

SUBDIVIDER shall be required to provide park site improvements as required by Conditions of Approval No. 103. The park is intended to be a “public park” complete with the elements and amenities commonly found in a typical public park, to serve people of all ages. Park site improvements that are commonly developed in a public park shall also be provided: open turf area for free play, walking paths/trails, picnic area, sports court, group and individual sitting areas with benches, trash/recycling receptacles, bike rack, vehicle parking (off street), including required handicapped parking with path of travel to and from the park site. Park improvements to also include a children’s tot lot/playground (separate play structures for children ages 2-5 and 5-12), and shall conform to the requirements of the Consumer Product Safety Commission Handbook for Public Playgrounds, the American Society of Testing and Materials (ASTM); the provisions of the ADA, and all other applicable regulations. Landscaping shall also be provided and include a diversity of plants that are natural (native) to the local area, low maintenance, drought tolerant and appropriate for a public park setting. Plant types shall be a mix of low-growing species, shrubs, and over-head canopy tree(s) to provide shade. Plants shall be designed for full coverage, and any existing native plants may be retained and incorporated into the design. All bare areas shall be maintained with three inches (3”) of mulch material.

The Subdivider shall also provide the Parks Department with a Park and Recreation Plan and associated cost estimate for the improvements to be made on the dedicated parcel(s).

- a. The Park and Recreation Plan shall be prepared by the Subdivider for review and approval by the Director of RMA-Parks. The final approved Park and Recreation Plan shall be recorded as part of the first Final Map. The plan shall delineate park and recreation/play structures, tot lot location, park improvements and landscaping components with a cost estimate for each park site. The recreation plan shall also indicate the phasing and construction schedule for each park site. The park and recreation play structures, tot lot, park improvements, amenities and

landscaping shall be installed prior to the first occupancy permit issued for the inclusionary and workforce housing units.

- b. Prior to recordation of the first Final Map, the Applicant shall provide the County with adequate security in the form of a performance bond or other suitable security acceptable to the County of Monterey in the amount of one hundred percent (100%) of the costs for the park and recreation improvements shown on the Park and Recreation Plan.²

6. **Planting and Maintenance of Cut and Fill Area.** In addition to any landscaping requirements imposed by the Conditions of Approval and/or the MMRP, SUBDIVIDER shall seed and/or plant all cut and fill areas of the SUBDIVISION as approved by the COUNTY Engineer including private drives as shown on said final map. All erosion control work shall be done prior to the acceptance of the Improvements. The seeding and planting work shall be done between November and April or sufficient water provided to ensure germination and growth until established. SUBDIVIDER shall directly maintain, or guarantee through agreement or other means acceptable to the COUNTY Engineer, maintenance of the planted areas for one year from the time of completion of the work above described.

Six months prior to termination of the one-year maintenance period, the plantings shall exhibit a normal healthy growth sufficient in the opinion of the COUNTY Engineer to control erosion. If in the opinion of the COUNTY Engineer, this condition does not exist, replanting shall be done at the SUBDIVIDER's expense. If necessary, topsoil and commercial fertilizer shall be used by the SUBDIVIDER to promote the desired effect. The planted areas and streets shall be kept by SUBDIVIDER in a clean, neat and workmanlike condition, free of trash and other unsightly materials that might accumulate because of planting and landscaping activities. Any failure of the cut or fill slopes within the one-year maintenance period shall be rectified by SUBDIVIDER.

Should the SUBDIVIDER request the release of the security described in this Agreement, prior to the end of the maintenance period, SUBDIVIDER shall deliver to County a landscape and maintenance bond (or cash in lieu thereof) in the amount of (50% of Landscape Bond) **\$80,346**. The bond shall be for a period consisting of the remainder of the one-year

² The landscaping improvements are included as part of this Agreement for Phase 1 in compliance with condition of approval #103 in the Resolution of Approval, but are not Phase 1 improvements. They will be constructed as part of a subsequent phase of the project.

maintenance period and in a form approved by the COUNTY Engineer and County Counsel and shall be conditioned upon the performance of this Agreement.

The parties agree that upon expiration of the one-year maintenance period, the SUBDIVIDER or SUBDIVIDER's successor shall assume maintenance of the planted areas within the SUBDIVISION with exception of private driveways, which shall be maintained by individual property owners.

7. **Acquisition and Dedication of Easements or Rights-of-Way.** If any of the Improvements and land development work contemplated by this Agreement is to be constructed or installed on land not owned by SUBDIVIDER, no construction or installation on such land shall be commenced before:

- a. The offer of dedication to COUNTY of appropriate rights-of-way, easements or other interest in real property, and appropriate authorization from the property owner to allow construction or installation of the improvements or work, or
- b. The dedication to, and acceptance by, COUNTY of appropriate rights-of-way, easements or other interests in real property, as determined by the COUNTY Engineer, or
- c. The issuance by a court of competent jurisdiction pursuant to the State Eminent Domain Law of an order of possession. SUBDIVIDER shall comply in all respects with the order of possession.

Nothing in this Section shall be construed as authorizing or granting an extension of time to SUBDIVIDER.

8. **Security.** SUBDIVIDER shall at all times guarantee SUBDIVIDER'S performance of this Agreement by furnishing to COUNTY good and sufficient security acceptable to the County and in conformity with the Subdivision Laws on forms approved by COUNTY and by maintaining said security for the purposes and in the amounts as follows:

- a. A cash deposit in the amount of \$6,500,000.00 has been deposited with a bank doing business in California. The County of Monterey is identified as the beneficiary of such cash deposit to secure payment to any contractor, subcontractor, persons renting equipment, or furnishing labor and materials for the Improvements required to be constructed or installed pursuant to this Agreement. Any withdrawal or payment from this cash deposit shall be in accordance with the bank account instructions, which are incorporated into this Agreement by reference; and

- b. A promissory note in favor of the County of Monterey in the amount of \$6,000,000.00 secured by a second deed of trust on the Property, naming the County of Monterey as beneficiary thereunder; and
- c. A deed restriction recorded against the Property prohibiting the sale of the entire property, any individual lot or lot(s) created by the recordation of the final map for the Subdivision so long as the second deed of trust so described in Section 8(b) above is in place; and
- d. A Warranty Bond or security acceptable to County in the amount of 20% of the estimated cost of the Improvements to guarantee or warranty the work done pursuant to this Agreement for a period of one (1) year following the completion and acceptance or approval thereof by COUNTY against any defective work or labor done or defective materials furnished. This bond or Security shall be provided to COUNTY upon acceptance of the dedicated Improvements by COUNTY; and
- e. SUBDIVIDER shall also furnish to COUNTY good and sufficient security acceptable to County in the amount of 100% of the estimated cost of setting subdivision monuments; and
- f. The securities required by this Agreement shall be kept on file with the COUNTY Resource Management Agency. The amount of the security shall be as described herein above and in the recitals to this Agreement. The cash deposit and bond described above shall be deposited with a bank duly authorized to do business in the State of California. SUBDIVIDER agrees to notify all contractors, subcontractors, persons renting equipment, or furnishing labor and materials for the Improvements required to be constructed or installed pursuant to this Agreement of the source of the security as described in this Section 8. If any security is replaced by another approved security, the replacement shall be filed with the Resource Management Agency and, upon filing, shall be deemed to be part of and incorporated into this Agreement. Upon filing of a replacement security with the Resource Management Agency, the former security may be released. Any such replacement of security and release of former security must be acceptable to the COUNTY and approved by the COUNTY in advance of any such replacement.

9. **Inspection.** SUBDIVIDER shall retain a qualified and independent consulting Civil Engineer(s) to inspect construction of the Improvements and to certify that the

Improvements are constructed in conformance with the Improvement Plans and any approved addenda thereto and applicable ordinances and regulations. An encroachment permit shall be required for work in the County right-of-way. SUBDIVIDER shall at all times maintain proper facilities and safe access for periodic inspection of the Improvements by COUNTY. Upon completion of the work, the SUBDIVIDER's Engineer shall file original sealed "as-built" plans in electronic PDF file format, with COUNTY Engineer and shall submit a sealed letter to COUNTY Engineer certifying that SUBDIVIDER's Engineer has inspected the Improvements throughout construction and that said Improvements are completed in conformance with the Improvement Plans and in accordance with this Agreement. Thereafter, the COUNTY Engineer shall file the notice of completion of the Improvements with the COUNTY Board of Supervisors. No Improvements shall be finally accepted or approved by COUNTY unless all aspects of the work have been inspected and certified as completed in accordance with the Improvement Plans and COUNTY standards. SUBDIVIDER shall bear all costs of plan check, inspection and certification.

10. **Release of Securities.** Consistent with the terms of this agreement, the securities required by this Agreement shall be released as follows:

- a. Release of improvement securities shall be in conformance with the Subdivision Map Act and the Monterey County Code. Pursuant to Government Code Section 66499.7, the security may be released either in whole or in part.
- b. COUNTY may retain from any security released an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorneys' fees incurred by COUNTY in successfully enforcing the obligation secured.
- c. If the SUBDIVIDER replaces the second deed of trust described in Section 8(b) of this Agreement with either a cash deposit or a bond, COUNTY agrees to reconvey the second deed of trust to SUBDIVIDER and to remove the deed restriction described in Section 8(c) above from the Property.

11. **Injury to Improvements, Public Property or Public Utilities Facilities.** SUBDIVIDER shall replace or have replaced, or repair or have repaired, as the case may be, all Improvements, public utilities facilities and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this Agreement. SUBDIVIDER shall bear the entire cost of replacement or repairs of any and all public or public utility property damaged or destroyed by reason of any work done under this Agreement, whether such property is owned by the United States or any agency thereof, or the State of California, or any agency or political subdivision thereof, or by COUNTY or any public or private utility corporation or by any

combination of such owners. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the COUNTY Engineer.

12. Permits. SUBDIVIDER shall, at SUBDIVIDER's expense, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices and pay all fees and taxes required by law. An encroachment permit shall be required for all work in the County right-of-way.

13. Default of SUBDIVIDER.

- a. Default of SUBDIVIDER shall include, but not be limited to, SUBDIVIDER's failure to timely commence or complete construction of the Improvements; SUBDIVIDER's failure to timely cure any defect in the Improvements; or SUBDIVIDER'S failure to perform any other obligation under this Agreement.
- b. Default of SUBDIVIDER shall also include SUBDIVIDER's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which SUBDIVIDER fails to discharge within thirty (30) days; or the commencement of a foreclosure action against the SUBDIVISION or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure. Notwithstanding the foregoing, the COUNTY may find SUBDIVIDER is not in default under this subsection if COUNTY finds that SUBDIVIDER, in the opinion of the COUNTY Engineer, continues to prosecute construction of the Improvements to completion and the securities provided pursuant to this Agreement remain in full force and effect.
- c. COUNTY reserves to itself all remedies available to it at law or in equity for breach of SUBDIVIDER'S obligations under this Agreement. COUNTY shall have the right, subject to this section, to draw upon or utilize the appropriate security to mitigate COUNTY damages in event of default by SUBDIVIDER. The right of COUNTY to draw upon or utilize the security is additional to and not in lieu of any other remedy available to COUNTY. The sums provided by the improvement security may be used by COUNTY for the completion of the Improvements in accordance with the approved Improvement Plans.
- d. In the event of SUBDIVIDER'S default under this Agreement, SUBDIVIDER authorizes COUNTY to perform such obligation twenty (20) days after mailing written notice of default to SUBDIVIDER and to SUBDIVIDER'S Surety, and SUBDIVIDER agrees to pay the entire cost of such performance by COUNTY.

- e. COUNTY may take over the work and prosecute the same to completion, by contract or by any other method COUNTY may deem advisable, for the account and at the expense of SUBDIVIDER, and SUBDIVIDER'S Surety shall be liable to COUNTY for any excess cost or damages occasioned COUNTY thereby; and, in such event, COUNTY, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to SUBDIVIDER as may be on the site of the work and necessary for performance of the work.
- f. In the event that SUBDIVIDER fails to perform any obligation under this Agreement, SUBDIVIDER agrees to pay all costs and expenses incurred by COUNTY in securing performance of such obligations, including costs of suit and reasonable attorneys' fees.
- g. The failure of COUNTY to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or subsequent default or breach of SUBDIVIDER.
- h. SUBDIVIDER recognizes that by approval of the final map for SUBDIVISION, COUNTY has conferred substantial rights upon SUBDIVIDER, including the right to sell, lease, or finance lots within the SUBDIVISION, and has taken the final act necessary for SUBDIVIDER to subdivide the property within the SUBDIVISION. As a result, SUBDIVIDER recognizes that COUNTY will be damaged by SUBDIVIDER'S failure to perform its obligations under this Agreement, including, but not limited to, failure to complete construction of the Improvements by the time established in this Agreement. COUNTY shall be entitled to all remedies available to it pursuant to this Agreement and the Subdivision Laws in the event of a default by SUBDIVIDER.

14. **Warranty.** SUBDIVIDER shall guarantee and warranty the work done pursuant to this Agreement for a period of one (1) year following the completion of the work and Improvements and acceptance or approval thereof by the COUNTY Board of Supervisors' against any defective work or labor done or defective materials furnished. If within the warranty period any work or improvement or part of any work or improvement done, furnished, installed, constructed or caused to be done, furnished, installed or constructed by SUBDIVIDER fails to fulfill any of the requirements of this Agreement or conform to the Improvement Plans and specifications referred to herein, SUBDIVIDER shall without delay and without any cost to COUNTY, repair or replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. Should SUBDIVIDER fail to act promptly or in accordance with

this requirement, SUBDIVIDER hereby authorizes COUNTY, at COUNTY's option, to perform the work twenty (20) days after mailing written notice of default to SUBDIVIDER and to SUBDIVIDER'S Surety, and SUBDIVIDER agrees to pay the cost of such work by COUNTY. Should COUNTY determine that an emergency requires repairs or replacements to be made before SUBDIVIDER can be notified, COUNTY may, in its sole discretion, make the necessary repairs or replacements to the Improvements or perform the necessary work, and SUBDIVIDER shall pay to COUNTY the cost of such emergency repairs, not to exceed the maximum amount of the warranty security under this Agreement.

15. **SUBDIVIDER Not Agent of COUNTY.** Neither SUBDIVIDER nor any of SUBDIVIDER'S agents or contractors are or shall be considered to be agents of COUNTY in connection with the performance of SUBDIVIDER'S obligations under this Agreement.

16. **Injury to Work.** Until such time as the Improvements are accepted or approved by COUNTY, SUBDIVIDER shall be responsible for and bear the risk of loss to any of the Improvements constructed or installed. Until such time as all Improvements required by this Agreement are fully completed and accepted or approved by COUNTY, SUBDIVIDER will be responsible for the care, maintenance of, and any damage to such Improvements. COUNTY shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage, regardless of cause, happening or occurring to the work or Improvements specified in this Agreement prior to the completion and acceptance of the work or Improvements. All such risks shall be the responsibility of and are hereby assumed by SUBDIVIDER.

17. **Other Agreements.** Nothing contained in this Agreement shall preclude COUNTY from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other subdividers for the apportionment of costs of water and sewer mains, or other improvements, pursuant to the provisions of COUNTY ordinances providing therefor, nor shall anything in this Agreement commit COUNTY to any such apportionment.

18. **SUBDIVIDER'S Obligation to Comply with Good Construction Practices.** Until final acceptance of the Improvements, SUBDIVIDER shall take all reasonable actions consistent with prevailing safety standards and generally accepted good construction practices to protect the public.

19. **Vesting of Ownership.** Upon acceptance or approval of the work on behalf of COUNTY and recordation of the Notice of Completion, ownership of the Improvements constructed pursuant to this Agreement shall vest as shown on the Final Map and in accordance with the provisions set forth in the Conditions of Approval.

20. **Indemnity/Hold Harmless.**

- a. COUNTY or any officer, agent, or employee thereof shall not be liable for any injury to persons or property occasioned by reason of the acts or omissions of SUBDIVIDER, its agents or employees in the performance of this Agreement. SUBDIVIDER further agrees to protect, defend, indemnify, and hold harmless COUNTY, its officials, agents, and employees from any and all claims, demands, causes of action, liability or loss of any sort, including, but not limited to, attorney fees and litigation expenses, arising out of, acts or omissions of SUBDIVIDER, its agents or employees in the performance of this Agreement, including, but not limited to, all claims, demands, causes of action, liability, or loss of any kind whatsoever, arising out of, in whole or in part, the design or construction of the Improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons (including death or bodily injury) and damages or taking of property resulting from the design or construction of said SUBDIVISION, and the Improvements as provided herein.
- b. Acceptance or approval by COUNTY of the Improvements shall not constitute an assumption by COUNTY of any responsibility whatsoever for any damage or taking covered by this paragraph. COUNTY shall not be responsible for the design or construction of the SUBDIVISION or the Improvements pursuant to the approved Improvement Plans or map. COUNTY shall not be liable for approving, reviewing, checking, or correcting any plans or specifications or for approving, reviewing or inspecting any work or construction. Nothing contained in this paragraph is intended to or shall be deemed to limit or waive any protections or immunities afforded by law to COUNTY, its officials, agents and employees, by virtue of COUNTY'S approval of the plan or design of the Improvements, including without limitation the protections and immunities afforded by Government Code Section 830.6. After acceptance or approval of the Improvements, SUBDIVIDER shall remain obligated to eliminate any defect in design or dangerous condition caused by the design or construction defect. It is the intent of this paragraph that SUBDIVIDER shall be responsible for all liability for design and construction of the Improvements installed or work done pursuant to this Agreement, to the fullest extent of the law, and that COUNTY shall not be liable for approving, reviewing, checking, or correcting any plans or specifications or for approving, reviewing or inspecting any work or construction. The improvement security shall not be required to cover the provisions of this paragraph.

- c. This Section is to be construed as broadly as permissible under the law in favor of the COUNTY.

21. **Insurance.** Without limiting SUBDIVIDER's duty to indemnify the COUNTY, SUBDIVIDER shall maintain in effect throughout this Agreement a policy or policies of insurance with the limits of liability specified herein. COUNTY does not and shall not waive any rights against SUBDIVIDER which it may have by reason of the aforesaid hold harmless agreement, because of the acceptance by COUNTY of any deposit with COUNTY by SUBDIVIDER or any of the insurance policies described herein. The aforesaid hold harmless agreement by SUBDIVIDER shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid activities or operations referred to herein, regardless of whether or not COUNTY has prepared, supplied or approved plans and/or specifications for the subdivision, or regardless of whether or not such insurance policies have been determined to be applicable to any such damages or claims for damages. Further, SUBDIVIDER shall not commence work under this Agreement until SUBDIVIDER shall have obtained all insurance required herein. Prior to COUNTY issuance of any COUNTY permit for construction of Improvements, SUBDIVIDER shall furnish written proof to COUNTY that SUBDIVIDER has in effect all of the insurance required by this Agreement. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

- a. **Workers' Compensation Insurance.** SUBDIVIDER shall maintain, during the life of this Agreement, Workers' Compensation insurance for all SUBDIVIDER's employees employed at the site of improvement in accordance with California Labor Code Section 3700 and with a minimum of \$1,000,000 per occurrence for employer's liability. SUBDIVIDER shall require any contractor or subcontractor similarly to provide workers' compensation insurance for all contractors' and/or subcontractors' employees, unless such employees are covered by this protection afforded by SUBDIVIDER. In any case, if any class of employees engaged in work under this Agreement at the site of the project is not protected under any workers' compensation law, SUBDIVIDER shall provide insurance acceptable to COUNTY for the protection of employees not otherwise protected. SUBDIVIDER hereby indemnifies COUNTY for any damage resulting to it from failure of either SUBDIVIDER or any contractor or subcontractor to take out or maintain such insurance.
- b. **Commercial General Liability Insurance.** SUBDIVIDER shall take out and maintain during the life of this Agreement such commercial general liability

insurance as shall protect the COUNTY, its officers, agents and employees, SUBDIVIDER and any contractor or subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death, as well as from claims for property damage which may arise from SUBDIVIDER's or any contractor's or subcontractor's operations hereunder, whether such operations be by SUBDIVIDER or any contractor or subcontractor, or by anyone directly or indirectly employed by either SUBDIVIDER or any contractor or subcontractor performing work covered by this Agreement. The amount of such insurance shall be not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for contractual liability, independent contractors, personal injury, broadform property damage, explosion, collapse and underground (XCU) products and completed operations.

- c. **Business automobile liability insurance:** SUBDIVIDER shall maintain during the life of this Agreement, business automobile liability insurance covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence combined single limit for Bodily Injury and Property Damage.
- d. **Endorsements/Certificates of Insurance.** All insurance required by this Agreement shall be with a company acceptable to the County and authorized by law to transact insurance business in the State of California. The general liability insurance policies shall contain a standard form of endorsement, with coverage equal to that provided by ISO Form 20 10 (11-85 edition) insuring and naming the COUNTY OF MONTEREY, its officers, agents and employees as additional insureds and providing that such insurance is primary insurance to any insurance or self-insurance maintained by the COUNTY and that the insurance or self-insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the SUBDIVIDER's insurance. Prior to or concurrently with the execution of this Agreement, SUBDIVIDER shall furnish COUNTY with a certificate of insurance, showing that the SUBDIVIDER has in effect the insurance required by this Agreement and showing that each carrier is required to give COUNTY at least thirty (30) days written prior notice of any cancellation or reduction in coverage of any policy during the effective period of this Agreement. SUBDIVIDER shall file with the COUNTY a new or amended certificate of insurance promptly after any change is made in any insurance policy which would alter the information of the certificate then on file. Acceptance or approval of

28. **Project Modification.** Significant changes to any of the improvements shown on the Improvement Plans for this subdivision requested/initiated by the SUBDIVIDER shall require the SUBDIVIDER and COUNTY to enter into a new subdivision improvement agreement. .

The new agreement shall supersede this Agreement. Prior to entering into the new agreement, SUBDIVIDER shall provide COUNTY with the following:

- a. Revised Improvement Plans, subject to the review and approval of the County Engineer, showing all changes or modifications to onsite or offsite improvements for this subdivision.
- b. A revised improvement construction estimate prepared by a California professional engineer that reflect current improvement costs for the proposed modified improvements.
- c. Adjusted improvement security in accordance with the revised construction estimates.

All improvement modifications are subject to the review and approval of responsible COUNTY departments, and must be granted final approval by the COUNTY Board of Supervisors.

29. **Negotiated Agreement.** It is agreed and understood by the parties hereto, that this Agreement has been arrived at through negotiations and that neither party is deemed to be the party which prepared the Agreement within the meaning of Civil Code Section 1654.

30. **Warranty of Authority.** Any individual executing this Agreement warrants that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind said party to the terms and conditions of this Agreement.

31. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement.

32. **Recordation.** Upon execution of this Agreement, SUBDIVIDER shall cause recordation thereof with the COUNTY Recorder's Office and shall be responsible for payment of all fees for said recordation.

33. **Effective Date.** This Agreement shall take effect upon the execution of this Agreement by all the parties.

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

OWNER/SUBDIVIDER:

Carmel Reserve, LLC, a Delaware limited liability company

By Wei, AND
(Signature)

Date: Nov. 18th, 2020

Print/Type Name: WEI HUANG

Title: Authorized Signatory

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.

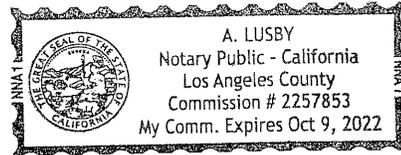
STATE OF CALIFORNIA
COUNTY OF ~~MONTEREY~~ Los Angeles

On November 18, 2020 before me, A. Lusby, Notary Public, personally appeared Wei Huang, 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]



(SEAL)

OWNER/SUBDIVIDER:

Carmel Reserve, LLC, a Delaware limited liability company

By _____
(Signature)

Date: _____

Print/Type Name: _____

Title: _____

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 MONTEREY

On _____ before me, _____, Notary Public, 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 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)

COUNTY OF MONTEREY

Date: _____

Chris Lopez, Chair, Board of Supervisors

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.

CLERK'S ACKNOWLEDGEMENT

On _____ 20____, before me, Valerie Ralph, Clerk of the Board of Supervisors, personally appeared Chris Lopez, 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.

Valerie Ralph
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



Carl P. Holm, AICP
RMA Director

Date: 24 NOVEMBER 2020

APPROVED AS TO FORM & LEGALITY:
OFFICE OF THE COUNTY COUNSEL-RISK MANAGEMENT
LESLIE J. GIRARD, COUNTY COUNSEL-RISK MANAGER

Robert I. Brayer, Deputy County Counsel

Date: _____

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

The land referred to herein below is situated in the unincorporated area of Monterey County, State of California and is described as follows:

A portion of Lot 8, as said Lot is shown and designated on the "Partition Map of Hatton Property in Rancho Canada De La Segunda, Monterey County, California, surveyed by H.F. Cozzens and WM. Davies, Salinas, California 1926", which is annexed to the order of the Superior Court in and for the County of Monterey, made on the 17th day of March 1927 in the matter of the guardianship of the persons and Estate of (Various Mcaulays) in proceedings No. 3911, a certified copy of which is recorded in Volume 109 of Official Records at Page 1", more particularly described as follows:

Beginning at a 4" by 4" wood post scribed "AR CS 26" and marking the northwest corner of said Lot 8 as shown on said Partition Map, scribing now only partially legible; thence along the northerly boundary of Lot 8

1. South 72°28'01" East, 5974.76 feet to a 50-inch diameter oak stump, shown as a 50-inch oak tree on that certain map entitled "Tract No. 1398 Tehama Phase 1" filed September 9, 2003 in Volume 22 of Cities and Towns, at Page 35, Records of Monterey County, California; and marking the northwest corner of said Tract; thence continuing along the westerly boundary of said Map and Tract the following five courses as shown on said Map of Tract No.1398
2. South 19°38'36" West, 380.85 feet to a 2-inch diameter iron pipe; thence
3. South 37°15'21" West, 388.66 feet to a 30-inch oak tree as shown on said Map of Tract No.1398; thence
4. South 26°56'01" West, 2,855.85 feet to a 60-inch oak tree; thence
5. South 21°20'46" West, 2,669.67 feet to a 38-inch oak tree; thence
6. South 07°03'25" West, 254.22 feet to the northeast corner of that certain 1.427-acre parcel shown on that map filed January 19, 1966 in Volume X-4 of Surveys at page 9 Records of Monterey County, California; thence along the northerly boundary of said 1.427-acre parcel and the northerly boundary of "Parcel B" as shown and designated on that map filed September 2, 1966 in Volume X-4 of Surveys at Page 49, Records of said County
7. North 79°24'49" West, 689.53 feet to a 3/4-inch diameter iron pipe with no tag marking the northwest corner of said "Parcel B"; thence along the westerly sideline of said "Parcel B"
8. South 13°27'36" West, 713.65 feet to a point on the northerly line of the right of way of Carmel Valley Road as shown on that map entitled "Right of Way Map Carmel Valley

Road" filed November 20, 1992 in Book A at Page 93 of the County Surveyor Maps, also being a point on the northerly line of that certain 5.94 acre parcel as described in deed from Irene M. Hatton to County of Monterey, dated August 1, 1950, and recorded November 10, 1950 in Book 1258 of Official Records at Page 395, Monterey County Records; thence along said northerly line of said right of way of Carmel Valley Road

9. South 89°58'03" West, 315.64 feet; thence
10. North 80°07'27" West, 190.93 feet; thence
11. North 70°29'38" West, 191.86 feet; thence
12. North 60°06'28" West, 290.14 feet to a 3/4-inch iron pipe as shown on said Right of Way map; thence
13. North 39°09'26" West, 203.03 feet; thence
14. North 48°47'52" West, 191.76 feet; thence
15. North 39°48'42" West, 948.48 feet; thence
16. Northwesterly 400.32 feet along the arc of a tangent curve to the left having a radius of 1,532.48 feet, through a central angle of 14°58'01"; thence from said curve but not tangent thereto
17. North 52°01'27" West, 208.06 feet; thence
18. North 60°29'29" West, 100.44 feet; thence
19. North 54°46'43" West, 657.19 feet; thence
20. Northwesterly 552.60 feet along the arc of a tangent curve to the left having a radius of 1,629.71 feet, through a central angle of 19°25'40"; thence from said curve but not tangent thereto
21. North 70°24'48" West, 100.69 feet; thence
22. North 82°20'21" West, 153.53 feet; thence
23. North 85°24'30" West, 256.17 feet; thence
24. South 80°59'17" West, 323.72 feet to a point on the westerly boundary of said Lot 8, said point also being on the easterly boundary of Lot 7 as shown on said Partition Map, and also being on the easterly boundary of "Tract No. 506 Del Mesa Carmel" as shown on that map filed January 26, 1966 in Volume 8 of Cities and Towns, at Page 75, Records of Monterey County, California; thence along said westerly boundary

25. North 15°09'43" West, 760.29 feet, at 87.12 feet a 3/4-inch iron pipe with illegible tag, at 253.15 a 3/4-inch iron pipe with illegible tag; thence
26. North 22°44'07" East, 1,554.55 feet; thence
27. North 21°28'52" East, 620.66 feet; thence
28. North 14°01'02" West, 508.16 feet; thence
29. North 05°10'32" East, 762.63 feet; thence
30. North 33°39'43" East, 521.09 feet; thence
31. North 57°03'11" East, 354.76 feet; thence
32. North 49°10'58" East, 371.83 feet; thence
33. North 29°47'35" East, 339.93 feet; thence
34. North 34°48'30" East, 579.75 feet; thence
35. North 13°12'47" East, 349.43 feet to the Point of Beginning.

EXCEPTING THEREFROM, all that certain piece or parcel of land granted to the County of Monterey, recorded December 23, 1991, in Reel 2734, Page 469, Official Records, more fully described as follows:

Beginning at the Northwesterly corner of that certain parcel described in that certain Grant Deed to September Ranch Partners, a partnership, recorded December 30, 1987 in Reel 2183, Page 788, Official Records of Monterey County, California, said corner also being a point on the Patent Survey boundaries of the Rancho Canada de la Segunda and the Rancho Aguajito; thence along said rancho boundary

1. South 72°28'01" East, 772.74 feet; thence leaving said boundary
2. South 17°31'59" West, 170.00 feet; thence
3. North 72°28'01" West, 422.74 feet; thence
4. South 58°16'10" West, 235.49 feet; thence
5. South 34°48'30" West, 260.00 feet; thence
6. North 72°28'01" West, 170.00 feet; thence
7. North 34°48'30" East, 260.00 feet; thence

8. North 13°12'47" East, 349.43 feet; thence to the POINT OF BEGINNING.

The preceding eight (8) courses reflect the rotational difference between the calls contained in Reel 2183, Page 788 and the lines as surveyed.

Containing an area of 890.4 acres, more or less.

As shown on the plat attached hereto and made a part hereof.

END OF DESCRIPTION

PREPARED BY:
WHITSON ENGINEERS

 November 17, 2020

RICHARD P. WEBER P.L.S.
L.S. NO. 8002
Job No.: 595.03



EXHIBIT 1

Form of Second Deed of Trust

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

Name

Street
Address

City &
State
Zip

Title Order No.

Escrow No.

Assessors Parcel Number:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST WITH ASSIGNMENT OF RENTS

This DEED OF TRUST, made

between

herein called TRUSTOR,

whose address is

(Number and Street)

(City)

(State)

(Zip Code)

CHICAGO TITLE COMPANY, a California Corporation, herein called TRUSTEE, and

, herein called BENEFICIARY,

Trustor irrevocably grants, transfers and assigns to Trustee in Trust, with Power of Sale that property in

County of

, State of California, described as:

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

For the Purpose of Securing (1) payment of the sum of \$ _____ with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of the Beneficiary, and extensions or renewals thereof; (2) the performance of each agreement of Trustor incorporated by reference or contained herein or reciting it is so secured; (3) Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his or her successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

A. To protect the security of this Deed of Trust, and with respect to the property above described, Trustor agrees:

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

(4) To pay: at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date, of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby, any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

(1) That any award of damages in connection with any condemnation for public use or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him or her in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance,

(2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his or her right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay,

(3) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(4) That upon written request of beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder, The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof, The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

(5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any Indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable, Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his or her own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(6) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale. After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term Beneficiary shall mean the owner and holder, including pledges, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

(9) The Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge thereof does not exceed the maximum allowed by laws. The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him or her at his or her address hereinbefore set forth.

Signature of Trustor(s)

Dated _____

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 _____

On _____ before me, _____ (here insert name and title of the officer)

,notary public, 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 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 _____

DO NOT RECORD

REQUEST FOR FULL RECONVEYANCE

TO CHICAGO TITLE COMPANY

The undersigned is the legal owner and holder of the note or notes, and of all other indebtedness secured by the foregoing Deed of Trust. Said note or notes, together with all other indebtedness secured by said Deed of Trust have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said note or notes above mentioned, and all other evidence of indebtedness secured by said Deed of Trust delivered to you herewith, together with the said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you under the same.

Dated _____

Please mail Deed of Trust,
Note and Reconveyance to _____

*Do not lose or destroy this Deed of Trust **OR THE NOTE** which it secures. Both must be delivered to the Trustee for cancellation before reconveyance will be made.*



Chicago Title