

Monterey County

*Monterey County Government Center
Board of Supervisors Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901*



Meeting Agenda - Final

Tuesday, July 28, 2020

10:30 AM

**IMPORTANT COVID-19 NOTICE ON PAGE 2-4
AVISO IMPORTANTE SOBRE COVID-19 EN LA PAGINA 2-4**

Boronda County Sanitation District

*Chair Director Chris Lopez - District 3
Vice Chair Director Jane Parker - District 4
Director Luis A. Alejo - District 1
Director John M. Phillips - District 2
Director Mary L. Adams - District 5*

Important Notice Regarding COVID 19

Based on guidance from the California Department of Public Health and the California Governor's Office, in order to minimize the spread of the COVID 19 virus, please do the following:

1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at http://monterey.granicus.com/ViewPublisher.php?view_id=19, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV or <https://www.facebook.com/MontereyCoInfo/>

If you attend the Board of Supervisors meeting in person, you will be required to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.

2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in three ways:

a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at cob@co.monterey.ca.us. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.

b. if you are watching the live stream of the Board meeting, you may submit your comment, limited to 250 words or less, to the Clerk of the Board at publiccomment@co.monterey.ca.us. General public comment must be received during the General Public Comment item on the agenda, and comments on specific agenda items must be received as it is being heard. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations. Comments received after an agenda item will be made part of the record if received prior to the end of the meeting.

c. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>

OR to participate by phone call any of these numbers below:

+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 253 215 8782 US
+1 301 715 8592 US

Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push *9 on your keypad.

3. Additional seating with audio of the Board meeting will be available in the Monterey Room on the 2nd floor of the County Government Center.

Aviso importante sobre COVID 19

Basado en la guía del Departamento de Salud Pública de California y la Oficina del Gobernador de California, para minimizar la propagación del virus COVID 19, haga lo siguiente:

1. Mientras las cámaras de la Junta permanecen abiertas, le recomendamos que observe la transmisión en vivo de las reuniones de la Junta de Supervisores en http://monterey.granicus.com/ViewPublisher.php?view_id=19, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV o <https://www.facebook.com/MontereyCoInfo/>

Si asiste a la reunión de la Junta de Supervisores en persona, deberá mantener un distanciamiento social apropiado, es decir, mantener una distancia de 6 pies entre usted y otras personas.

2. Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer un comentario público general o comentar un tema específico de la agenda, puede hacerlo de tres maneras:

a. envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a cob@co.monterey.ca.us. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Su comentario se colocará en el registro en la reunión de la Junta.

b. Si está viendo la transmisión en vivo de la reunión de la Junta, puede enviar su comentario, limitado a 250 palabras o menos, al Secretario de la Junta en publiccomment@co.monterey.ca.us. Los comentarios del público en general deben recibirse durante el elemento de Comentarios del público en general en la agenda, y los comentarios sobre los elementos específicos de la agenda deben recibirse mientras se escuchan. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Se hará todo lo posible para leer su comentario en el registro, pero algunos comentarios pueden no leerse debido a limitaciones de tiempo. Los comentarios recibidos después de un ítem de la

agenda serán parte del registro si se reciben antes del final de la reunión.

c. Puedes participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: <https://montereycty.zoom.us/j/224397747>

O para participar por teléfono, llame a cualquiera de estos números a continuación:

+1 669 900 6833 EE. UU. (San José)
+1346248 7799 EE. UU. (Houston)
+1312626 6799 EE. UU. (Chicago)
+1929205 6099 EE. UU. (Nueva York)
+1 253 215 8782 EE. UU.
+1301715 8592 EE. UU.

Ingrese este número de ID de reunión: 224397747 cuando se le solicite. Tenga en cuenta que no hay un Código de participante, simplemente presionará # nuevamente después de que la grabación lo solicite.

Se lo colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se une al audio de la computadora, levante la mano; y por teléfono presione * 9 en su teclado.

3. Los asientos adicionales con audio de la reunión de la Junta estarán disponibles en la Sala de Monterey en el segundo piso del Centro de Gobierno del Condado.

NOTE: All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding Board Report.

PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.

Please refer to the separate agenda for the Board of Supervisors

Pursuant to Governor Newsom's Executive Order No. N-29-20, some or all Supervisors may participate in the meeting by telephone or video conference.

10:30 A.M. - Call to Order

Roll Call

Pledge of Allegiance

Additions and Corrections by Clerk

The Clerk of the Board will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.

General Public Comments

This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board of Supervisors. Board members may respond briefly to the statement made or questions posed. They may ask a question for clarification; make a referral to staff for factual information or request staff to report back to the Board at a future meeting.

Consent Calendar

Acting as the Board of Directors for the Boronda County Sanitation District approve a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127), where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;
- b. Approve a Maintenance of Developer Improvements Agreement by and between BCSD and Café Tori, included as Exhibit D to the Grant of Easement Deed,
- c. Find that the proposed Grant of Easement Deed is in the public interest and constitutes a public benefit that will not substantially conflict or interfere with the use of the property by BCSD;

- d. Approve a Grant of Easement Deed to grant Café Tori an easement over an established fee strip owned by the BCSD located on a portion of Assessor's Parcel No. (APN) 261-011-026-000;
- e. Authorize the Resource Management Agency (RMA) Director or designee to execute the Funding Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount;
- f. Authorize the Chair of the Board, acting as Chair of the Board of Directors of BCSD, to execute the Grant of Easement Deed and Maintenance of Developer Improvements Agreement;
- g. Authorize the RMA to separately record the Grant of Easement Deed and Maintenance of Developer Improvements Agreement; and
- h. Recommend the Monterey County Board of Supervisors authorize and direct the Auditor-Controller to amend the Fiscal Year 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, and increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement (4/5th vote required).

Attachments: [Board Report](#)

[Attachment A-Draft Resolution](#)

[Attachment B-Grant of Easement Deed](#)

[Attachment C-Funding Agreement](#)

[Attachment D-July 17 2020 RMA Memo to Board](#)

[Attachment E-July 20 2020 Letter from Developer](#)

[Attachment F-Detailed Background and Discussion](#)

Adjournment



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: BCSD RES 20-003

July 28, 2020

Introduced: 7/20/2020

Current Status: Consent Agenda

Version: 1

Matter Type: BCSD Resolution

Acting as the Board of Directors for the Boronda County Sanitation District approve a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127), where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;
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- c. Find that the proposed Grant of Easement Deed is in the public interest and constitutes a public benefit that will not substantially conflict or interfere with the use of the property by BCSD;
- d. Approve a Grant of Easement Deed to grant Café Tori an easement over an established fee strip owned by the BCSD located on a portion of Assessor's Parcel No. (APN) 261-011-026-000;
- e. Authorize the Resource Management Agency (RMA) Director or designee to execute the Funding Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount;
- f. Authorize the Chair of the Board, acting as Chair of the Board of Directors of BCSD, to execute the Grant of Easement Deed and Maintenance of Developer Improvements Agreement;
- g. Authorize the RMA to separately record the Grant of Easement Deed and Maintenance of Developer Improvements Agreement; and
- h. Recommend the Monterey County Board of Supervisors authorize and direct the Auditor-Controller to amend the Fiscal Year 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, and increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement (4/5th vote required).

RECOMMENDATION:

It is recommended that the Board of Supervisors, acting as the Board of Directors of the Boronda County Sanitation District, approve a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127), where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;

- b. Approve a Maintenance of Developer Improvements Agreement by and between BCSD and Café Tori, included as Exhibit D to the Grant of Easement Deed,
- c. Find that the proposed Grant of Easement Deed is in the public interest and constitutes a public benefit that will not substantially conflict or interfere with the use of the property by BCSD;
- d. Approve a Grant of Easement Deed to grant Café Tori an easement over an established fee strip owned by the BCSD located on a portion of Assessor's Parcel No. (APN) 261-011-026-000;
- e. Authorize the Resource Management Agency (RMA) Director or designee to execute the Funding Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount;
- f. Authorize the Chair of the Board, acting as Chair of the Board of Directors of BCSD, to execute the Grant of Easement Deed and Maintenance of Developer Improvements Agreement;
- g. Authorize the RMA to separately record the Grant of Easement Deed and Maintenance of Developer Improvements Agreement; and
- h. Recommend the Monterey County Board of Supervisors authorize and direct the Auditor-Controller to amend the Fiscal Year 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, and increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement (4/5th vote required).

SUMMARY:

Café Tori Investments, LLC (Project Applicant) received County approval for entitlements (PLN190127) to develop the Harvest Moon Agricultural Employee Housing Project (Housing Project) on June 24, 2020 (Planning Commission Resolution No. 20-019). The Housing Project is located within the unincorporated area of the County of Monterey, off the northwest intersection of West Rossi Street and Davis Road. The Housing Project will provide housing for up to 1,200 seasonal agricultural employees during the April to November harvest season. RMA determined that this is a high priority project because it provides critically needed housing for agricultural employees.

The Boronda County Sanitation District (BCSD) owns a fee strip with a sewer pipeline buried underneath, located on Assessor's Parcel Number (APN) 261-011-024-000, which runs through what will be the main entrance to the Housing Project site. To enable the Housing Project to move forward while protecting the BCSD property and facilities, BCSD required that the Project Applicant adhere to Conditions of Approval (COA) Nos. 39 and 40, which require the Maintenance of Developer Improvements Agreement (Maintenance Agreement) (Exhibit D to Attachment B) and Grant of Easement Deed (Easement) (Attachment B), respectively. Staff time to process these agreements will be fully reimbursed by the Project Applicant through the associated Funding Agreement, included as part of the recommended actions (Attachment C).

The Applicant is trying to get the housing built in time to occupy for the 2021 growing season (occupancy by April 2021). In an effort to keep this high priority project on track, the Resource Management Agency (RMA) issued the permits for this Housing Project while the Funding Agreement, Maintenance Agreement and Easement are being processed for Board approval, allowing the Developer to begin work as planned on Monday July 20, 2020. The background and justification for this decision was communicated to the Board on July 17, 2020 (Attachment D). In return, the Developer provided a letter stating that they accept responsibility for any new damage to the district facilities (sewer line) and any damage that may be caused if they break the line (e.g., environmental

damage), while the Easement and Maintenance Agreement are processed for the July 28th Board meeting (Attachment E).

It is recommended that the Board, acting as the Board of Directors for the BCSD, approve the Funding Agreement and the Maintenance Agreement and recommend the County Board of Supervisors authorize and direct the Auditor-Controller amend the Fiscal Year 2020-21 Adopted Budget for BCSD to increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement. It is also recommended that the Board find that granting the Easement is in the public interest and approve the Easement.

For a detailed background and discussion, see Attachment F.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Auditor-Controller 's Office have reviewed and approved the Funding Agreement as to form and fiscal provisions, respectively. The Office of the County Counsel has also approved the Grant of Easement Deed and the Maintenance of Developer Improvements Agreement as to form. On July 22, 2020, Budget Committee Chair Supervisor Parker approved this item to go directly to the Board of Supervisors, thereby bypassing the Budget Committee.

FINANCING:

RMA staff time to process and review the Easement and Maintenance Agreement is funded as part of the Fiscal Year (FY) 2020-21 Adopted Budget for the RMA, Fund 001, Appropriation Unit RMA013. The funding for staff time will be paid by the Project Applicant through the Funding Agreement in an amount not to exceed \$7,452 (\$6,480 Base Budget and \$972 Contingency Budget). Correspondingly, if approved, staff's recommendation would increase the FY 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, revenue by \$7,452 to reimburse RMA for staff time and materials. There is no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The action supports the Board of Supervisors' Strategic Initiatives for Economic Development and Infrastructure by continuing to robustly support and develop needed safe housing availability for essential farmworkers while protecting critical County sewer infrastructure.

- ☒ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☐ Public Safety

Prepared by: Melanie Beretti, Property Administration/Special Programs Manager (831) 755-5285

Reviewed by: Shawne Ellerbee, Assistant RMA Director

Approved by: Carl P. Holm, AICP, RMA Director

Attachments:

Attachment A-Draft Resolution

Attachment B-Grant of Easement Deed

Attachment C-Funding Agreement

Attachment D-July 17, 2020 RMA Memo to the Board

Attachment E-July 20, 2020 Letter from the Developer

Attachment F-Detailed Background and Discussion

(Attachments are on file with the Clerk of the Board)



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: BCSD RES 20-003

July 28, 2020

Introduced: 7/20/2020

Current Status: Agenda Ready

Version: 1

Matter Type: BCSD Resolution

Acting as the Board of Directors for the Boronda County Sanitation District approve a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127), where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;
- b. Approve a Maintenance of Developer Improvements Agreement by and between BCSD and Café Tori, included as Exhibit D to the Grant of Easement Deed,
- c. Find that the proposed Grant of Easement Deed is in the public interest and constitutes a public benefit that will not substantially conflict or interfere with the use of the property by BCSD;
- d. Approve a Grant of Easement Deed to grant Café Tori an easement over an established fee strip owned by the BCSD located on a portion of Assessor's Parcel No. (APN) 261-011-026-000;
- e. Authorize the Resource Management Agency (RMA) Director or designee to execute the Funding Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount;
- f. Authorize the Chair of the Board, acting as Chair of the Board of Directors of BCSD, to execute the Grant of Easement Deed and Maintenance of Developer Improvements Agreement;
- g. Authorize the RMA to separately record the Grant of Easement Deed and Maintenance of Developer Improvements Agreement; and
- h. Recommend the Monterey County Board of Supervisors authorize and direct the Auditor-Controller to amend the Fiscal Year 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, and increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement (4/5th vote required).

RECOMMENDATION:

It is recommended that the Board of Supervisors, acting as the Board of Directors of the Boronda County Sanitation District, approve a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127), where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;

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SUMMARY:

Café Tori Investments, LLC (Project Applicant) received County approval for entitlements (PLN190127) to develop the Harvest Moon Agricultural Employee Housing Project (Housing Project) on June 24, 2020 (Planning Commission Resolution No. 20-019). The Housing Project is located within the unincorporated area of the County of Monterey, off the northwest intersection of West Rossi Street and Davis Road. The Housing Project will provide housing for up to 1,200 seasonal agricultural employees during the April to November harvest season. RMA determined that this is a high priority project because it provides critically needed housing for agricultural employees.

The Boronda County Sanitation District (BCSD) owns a fee strip with a sewer pipeline buried underneath, located on Assessor's Parcel Number (APN) 261-011-024-000, which runs through what will be the main entrance to the Housing Project site. To enable the Housing Project to move forward while protecting the BCSD property and facilities, BCSD required that the Project Applicant adhere to Conditions of Approval (COA) Nos. 39 and 40, which require the Maintenance of Developer Improvements Agreement (Maintenance Agreement) (Exhibit D to Attachment B) and Grant of Easement Deed (Easement) (Attachment B), respectively. Staff time to process these agreements will be fully reimbursed by the Project Applicant through the associated Funding Agreement, included as part of the recommended actions (Attachment C).

The Applicant is trying to get the housing built in time to occupy for the 2021 growing season (occupancy by April 2021). In an effort to keep this high priority project on track, the Resource Management Agency (RMA) issued the permits for this Housing Project while the Funding Agreement, Maintenance Agreement and Easement are being processed for Board approval, allowing the Developer to begin work as planned on Monday July 20, 2020. The background and justification for this decision was communicated to the Board on July 17, 2020 (Attachment D). In return, the Developer provided a letter stating that they accept responsibility for any new damage to the district facilities (sewer line) and any damage that may be caused if they break the line (e.g., environmental

damage), while the Easement and Maintenance Agreement are processed for the July 28th Board meeting (Attachment E).

It is recommended that the Board, acting as the Board of Directors for the BCSD, approve the Funding Agreement and the Maintenance Agreement and recommend the County Board of Supervisors authorize and direct the Auditor-Controller amend the Fiscal Year 2020-21 Adopted Budget for BCSD to increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement. It is also recommended that the Board find that granting the Easement is in the public interest and approve the Easement.

For a detailed background and discussion, see Attachment F.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Auditor-Controller's Office have reviewed and approved the Funding Agreement as to form and fiscal provisions, respectively. The Office of the County Counsel has also approved the Grant of Easement Deed and the Maintenance of Developer Improvements Agreement as to form. On July 22, 2020, Budget Committee Chair Supervisor Parker approved this item to go directly to the Board of Supervisors, thereby bypassing the Budget Committee.

FINANCING:

RMA staff time to process and review the Easement and Maintenance Agreement is funded as part of the Fiscal Year (FY) 2020-21 Adopted Budget for the RMA, Fund 001, Appropriation Unit RMA013. The funding for staff time will be paid by the Project Applicant through the Funding Agreement in an amount not to exceed \$7,452 (\$6,480 Base Budget and \$972 Contingency Budget). Correspondingly, if approved, staff's recommendation would increase the FY 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, revenue by \$7,452 to reimburse RMA for staff time and materials. There is no impact to the General Fund.


BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The action supports the Board of Supervisors' Strategic Initiatives for Economic Development and Infrastructure by continuing to robustly support and develop needed safe housing availability for essential farmworkers while protecting critical County sewer infrastructure.

- ☒ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☐ Public Safety

Prepared by: Melanie Beretti, Property Administration/Special Programs Manager (831) 755-5285

Reviewed by: Shawne Ellerbee, Assistant Director of Resource Management Agency

Approved by: Carl P. Holm, AICP, RMA Director 

Attachments:

Attachment A-Draft Resolution

Attachment B-Grant of Easement Deed

Attachment C-Funding Agreement

Attachment D-July 17, 2020 RMA Memo to the Board

Attachment E-July 20, 2020 Letter from the Developer

Attachment F-Detailed Background and Discussion

(Attachments are on file with the Clerk of the Board)

Attachment A

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**Before the Board of Supervisors of the County of Monterey
Acting as the Board of Directors of the Boronda County Sanitation District
State of California**

Resolution No. _____

- Adopt a Resolution to:)
a. Approve a Funding Agreement with Café Tori)
Investments, LLC (Café Tori) to provide funding to the)
County of Monterey, acting as the Board of Directors of)
the Boronda County Sanitation District (BCSD), for staff)
time and materials to process a Grant of Easement Deed)
and a Maintenance of Developer Improvements)
Agreement for the Harvest Moon Agricultural Employee)
Housing Development Project (PLN190127), where the)
Base Budget is \$6,480 and Contingency Budget is \$972,)
for a total amount not to exceed \$7,452, and for a term)
retroactive to July 13, 2020 to June 30, 2021;)
b. Approve a Maintenance of Developer Improvements)
Agreement by and between BCSD and Café Tori,)
included as Exhibit D to the Grant of Easement Deed;)
c. Find that the proposed Grant of Easement Deed is in)
the public interest and constitutes a public benefit that)
will not substantially conflict or interfere with the use of)
the property by BCSD;)
d. Approve a Grant of Easement Deed to grant Café Tori)
an easement over an established fee strip owned by the)
BCSD located on a portion of Assessor's Parcel No.)
(APN) 261-011-026-000;)
e. Authorize the Resource Management Agency (RMA))
Director or designee to execute the Funding Agreement)
and future amendments to the Agreement where the)
amendments do not significantly alter the scope of work)
or increase the approved Agreement amount;)
f. Authorize the Chair of the Board, acting as Chair of)
the Board of Directors of BCSD, to execute the Grant of)
Easement Deed and Maintenance of Developer)
Improvements Agreement;)
g. Authorize the RMA to separately record the Grant of)
Easement Deed and Maintenance of Developer)
Improvements Agreement; and)
h. Recommend the Monterey County Board of)
Supervisors authorize and direct the Auditor-Controller)
to amend the Fiscal Year 2020-21 Adopted Budget for)
BCSD, Fund 156, Appropriation Unit RMA045, and)
increase revenue by \$7,452, financed by Café Tori)
pursuant to the Funding Agreement (4/5th vote required).)

Having considered all the written and documentary evidence, the administrative record, the staff report, and other evidence presented, the Monterey County Board of Supervisors, acting as the Board of Directors of the Boronda County Sanitation District, hereby finds and decides as follows:

RECITALS

WHEREAS, Café Tori Investments, LLC (“Project Applicant”) is the owner and developer of certain real property located in unincorporated County of Monterey, California, commonly known as Assessor’s Parcel Number (APN) 261-011-026-000;

WHEREAS, the Boronda County Sanitation District (BCSD) is the owner of a strip of real property that crosses the Project Applicant’s property APN 261-011-026-000;

WHEREAS, on June 24, 2020, the Monterey County Planning Commission approved a Lot Line Adjustment, Use Permit, Variance, and General Development Plan that allow the Project Applicant to construct and operate a 150-unit farmworker housing project, the Harvest Moon Agricultural Housing Project Planning File No. PLN190127 (Housing Project), subject to certain conditions, including Condition Nos. 39 and 40, to provide for a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement, respectively;

WHEREAS, the Resource Management Agency (RMA) determined this is a high priority project because it provides critically needed housing for agricultural employees;

WHEREAS, approval of this Funding Agreement will allow the Project Applicant to provide funding to BCSD for staff time and materials to process a Grant of Easement Deed and Maintenance of Developer Improvements Agreement;

WHEREAS, approval of this Maintenance of Developer Improvements Agreement will hold harmless BCSD; establish responsibility for repair and maintenance of improvements located above, underneath, and surrounding the fee strip; and grant BCSD the right of access through and under the Developer’s improvements if and when necessary maintenance or repairs to sanitary sewer facilities located within the fee strip are required;

WHEREAS, Project Applicant, serves Monterey County by developing housing opportunities for low-income agricultural workers and their families, among other opportunities;

WHEREAS, approval of this Grant of Easement Deed will provide Project Applicant and their representatives, access to the Harvest Moon Agricultural Employee Housing Project, during the construction and future use phase of the project. The use of the BCSD-owned fee strip within the Project will serve a valuable public purpose benefitting constituents of the County of Monterey, provide needed housing opportunities for essential farmworkers, and directly align with the Board’s Strategic Initiatives for Economic Development and Infrastructure; and

WHEREAS, Government Code Section 25526.6 provides that the Board of Directors may authorize a County officer to convey an interest in real property to a corporation upon a finding that the conveyance of said interest is in the public interest and will not substantially conflict or interfere with the use of the property by BCSD.

Government Code Section 25526.6 states,

Notwithstanding any other provision of law, the board may grant or otherwise convey, or by ordinance, may authorize such county officer or officers as are deemed appropriate, to grant or otherwise convey an easement, license, or permit for use of any real property of the county to the state, or to any county, city, district, or public agency or corporation, or to any public utility corporation in the manner and upon the terms and conditions as the board or authorized county officer determines or prescribes, upon a finding by the board or authorized county officer that the conveyance is in the public interest and that the interest in land conveyed will not substantially conflict or interfere with the use of the property by the county.

DECISION

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors, acting as the Board of Directors of the Boronda County Sanitation District, does hereby adopt a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127) where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;
- b. Approve a Maintenance of Developer Improvements Agreement by and between BCSD and Café Tori, included as Exhibit D to the Grant of Easement Deed;
- c. Find that the proposed Grant of Easement Deed is in the public interest and constitutes a public benefit that will not substantially conflict or interfere with the use of the property by BCSD;
- d. Approve a Grant of Easement Deed to grant Café Tori an easement over an established fee strip owned by BCSD located on a portion of Assessor's Parcel No. (APN) 261-011-026-000;
- e. Authorize the Resource Management Agency (RMA) Director or designee to execute the Funding Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount;
- f. Authorize the Chair of the Board, acting as Chair of the Board of Directors of BCSD, to execute the Grant of Easement Deed and Maintenance of Developer Improvements Agreement;
- g. Authorize the RMA to separately record the Grant of Easement Deed and the Maintenance of Developer Improvements Agreement; and
- h. Recommend that the Monterey County Board of Supervisors authorize and direct the Auditor-Controller to amend the Fiscal Year 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, and increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement.

PASSED AND ADOPTED on this 28th day of July 2020, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original resolution of said Board of Supervisors duly made and entered in the minutes thereof Minute Book ____ for the meeting on July 28, 2020.

Dated: _____

File Number: _____

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

Attachment B

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WHEN RECORDED MAIL TO:

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

County of Monterey
Resource Management Agency
Administrative Services Division
1441 Schilling Place, 2nd Floor South
Salinas CA 93901-4527
Attention: R. Hickman

THIS SPACE FOR RECORDER'S USE ONLY

No fee for recording pursuant to
Government Code Section 27383

**GRANT OF EASEMENT DEED BY AND BETWEEN THE
BORONDA COUNTY SANITATION DISTRICT AND
CAFÉ TORI INVESTMENTS, LLC, ON ASSESSOR'S
PARCEL NUMBER 261-011-026-000 (PORTION OF)**

**GRANT OF EASEMENT DEED BY AND BETWEEN THE BORONDA COUNTY
SANITATION DISTRICT AND CAFÉ TORI INVESTMENTS, LLC, ON
ASSESSOR'S PARCEL NUMBER 261-011-026-000 (PORTION OF)**

THIS GRANT OF EASEMENT DEED is made this 28th day of July 2020, by and between BORONDA COUNTY SANITATION DISTRICT, a California public entity ("Grantor"), and CAFÉ TORI INVESTMENTS, LLC, a private entity ("Grantee").

A. Grantor is the owner of the real property, APN 261-011-026-000 (portion of), situated in unincorporated County of Monterey, California, and more particularly described in **Exhibit "A"** attached hereto and made a part hereof (hereinafter, the "Grantor Property").

B. Grantee is the owner of the real property situated in unincorporated County of Monterey, and more particularly described in **Exhibit "B"** attached hereto and made a part hereof (hereinafter the "Grantee Property"); and

C. Grantor wishes to grant to Grantee a non-exclusive easement over the Grantor Property to construct, operate and maintain certain improvements and private utilities that are required for Grantee's housing project on Grantee's real property situated in the County of Monterey, California .

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby grants to the Grantee a nonexclusive easement over the Grantor Property and more particularly described in **Exhibit "C"** and depicted in **Exhibit "C-1"** attached hereto and made a part hereof (hereinafter, the "Easement Area") for the express purpose of constructing, maintaining and repairing roads, driveways, parking areas, underground private utilities, fencing, gates, curbs, gutters, landscaping, or drainage improvement and facilities (including road surfaces, culverts, detention/retention ponds, sediment traps, catch basins, and other improvements, if any) for Grantee's housing development project (collectively "Grantee's Improvements"). Grantor further grants to Grantee a nonexclusive access easement on, over, and across the Easement Area to reasonably permit Grantee to access the Grantor Property to construct, maintain and repair Grantee's Improvements. Said easement includes ingress and egress by pedestrians and vehicular traffic (motorized or otherwise) and parking of vehicles through the Easement Area.

The Grant of Easement shall run with the land comprising the Easement Area and the Grantee Property and every portion thereof and shall apply to and bind Grantor and Grantee and their respective successors-in-interest.

This Grant of Easement is subject to the rights and obligations of the Grantor and Grantee set forth in the "Maintenance of Developer Improvements Agreement" attached hereto and incorporated by this reference as **Exhibit "D"** and separately recorded with the Monterey County Recorder as Document _____, on (*date_____, 2020).

IN WITNESS WHEREOF this Grant of Easement is executed on the date set forth below.

GRANTOR

BORONDA COUNTY SANITATION DISTRICT

By: _____

Chris Lopez, Chair

Boronda County Sanitation District Board of Directors

Dated: _____

Approved as to Form:

Office of the County Counsel

Leslie J. Girard, County Counsel

By: _____

Mary Grace Perry

Deputy County Counsel

Dated: _____

ACKNOWLEDGEMENT

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)
) SS.
COUNTY OF MONTEREY)

On _____ before me, _____,
a 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)

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the Grant of Easement Deed dated July 23, 2020 from the Boronda County Sanitation District, a political subdivision of the State of California and/or governmental agency, to Café Tori Investments, LLC, a California Limited Liability Company, is hereby accepted by the undersigned officers on behalf of Café Tori Investments, LLC, pursuant to authority conferred by the Operating Agreement for Café Tori Investments, LLC, dated November 27, 2019 and the grantee consents to recordation thereof by its duly authorized officer.

GRANTEE

ACCEPTED BY AND ON BEHALF CAFÉ
TORI INVESTMENTS, LLC

Dated: July 23, 2020

By: 

Name: RICKY NGUYEN

Its: HAWAIIAN

Dated: 7/28/20

By: 

Name: TONY FLORES

Its: PARTNER

ACKNOWLEDGMENT

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.

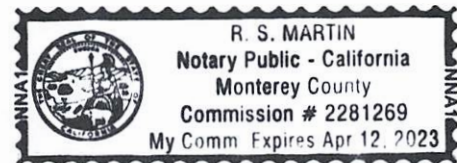
State of California
County of Monterey

On July 23, 2020 before me, R. S. Martin, Notary Public
(insert name and title of the officer)

personally appeared Ricky Nguyen,
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 RSmartin (Seal)

ACKNOWLEDGMENT

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 July 23, 2020 before me, R. S. Martin, Notary Public
(insert name and title of the officer)

personally appeared Antonio Flores,
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 R. S. Martin (Seal)

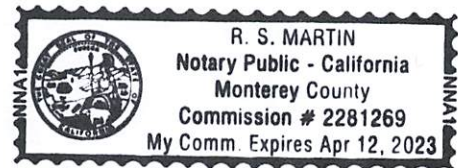


EXHIBIT A

GRANTOR PROPERTY

A strip of land 35 feet in width centered on the following described line in the real property situate in the County of Monterey, State of California, described as follows:

Beginning at the Westerly corner of that parcel of land conveyed to Salinas, a municipal corporation by deed dated October 19, 1979, and recorded in Reel 1377 page 55, Records of Monterey County; thence departing from the Northerly line of the reclamation ditch; thence

- 1) North 26° 04' 47" East 85.25 feet; thence
- 2) North 47° 51' 40" East 556.01 feet; thence
- 3) North 40° 49' 49" East 160.18 feet to the point of beginning of said easement centerline; thence
- 4) North 4° 10' 11" West 40 feet; thence
- 5) North 49° 10' 11" West 60 feet; thence
- 6) Along the arc of a circular curve to the left, the center of which bears South 40° 49' 49" West 1,590 feet distant through a central angle of 16° 29' 49" and an arc distance of 457.80 feet; thence
- 7) North 65° 39' West to the terminus point of said easement on the Easterly line of that certain "Parcel 3" as described by deed dated December 30, 1981, and recorded in Reel 1526 at Page 796, Official Records of Monterey County, California.

EXCEPTING THEREFROM a 30 foot by 30 foot portion of land conveyed by Stanley R. Russell to Reclamation District No. 1665 by deed dated February 28, 1933, and recorded in Liber 359 of Official Records at Page 49, Monterey County Records.

**EXHIBIT B
LEGAL DESCRIPTION
GRANTEE PROPERTY**

Certain real property situate in Ranch El Sausal in the County of Monterey, State of California, described as follows:

PARCEL 1

That certain 53.869 acre parcel of land shown on the map recorded July 29, 2014 in Volume 32 of Surveys at Page 109 in the office of the County Recorder of said County.

TOGETHER WITH

Fee title to those certain strips of land running across said 53.869 acre parcel as shown on said map, formerly held in fee title by the Reclamation District No. 1665, as described in the documents recorded in Volume 156, Page 203 (30' wide strip) and Volume 359, Page 49 (40' wide strip), Official Records of said County.

EXCEPTING THEREFROM

That certain 35 foot wide strip of land running across said 53.869 acre parcel as shown on said map, held in fee title by the Boronda Co. Sanitation District, and described as Parcel 1 in the Final Order of Condemnation recorded June 30, 1986 in Reel 1972, Page 169, Official Records of said County.

PARCEL 2

That certain 3.169 acre parcel of land granted from the City of Salinas to Café Tori Investments, LLC per the Grant Deed recorded June 10, 2020, as Document No. 2020027598, Official Records of said County.

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

END OF DESCRIPTION

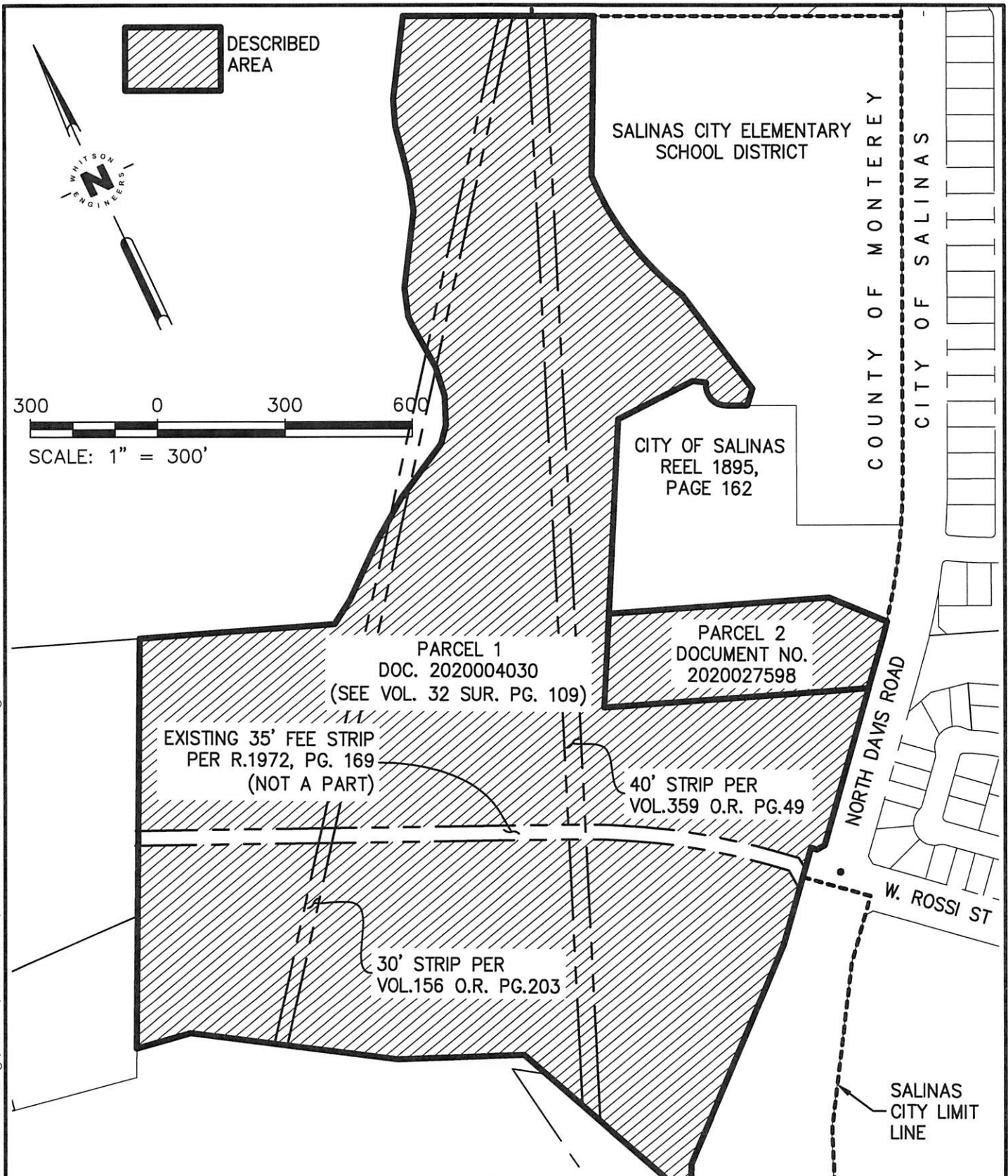
PREPARED BY:
WHITSON ENGINEERS


RICHARD P. WEBER, LS
L.S. No. 8002
Job No.: 3970

 **DATE**



T:\Monterey Projects\3970 - Rossi Housing\SURVEY\LEGAL DESC\3970 Plat - Flood Plain Notice.dwg



PLAT TO ACCOMPANY DESCRIPTION RESULTANT PARCELS

HARVEST MOON AGRICULTURAL HOUSING PROJECT

MONTEREY COUNTY, CALIFORNIA

7/13/2020



Civil Engineering +
Land Surveying
6 Harris Court
Monterey, CA 93940
831.649.5225
whitsonengineers.com

EXHIBIT C
LEGAL DESCRIPTION
EASEMENT AREA OVER A PORTION OF AN EXISTING 35' FOOT WIDE FEE STRIP

Certain real property situate in Ranch El Sausal in the County of Monterey, State of California, being a portion of That certain 35 foot wide strip of land granted in fee title to the Boronda Co. Sanitation District and described as Parcel 1 in the Final Order of Condemnation recorded June 20, 1986 in Reel 1972, Page 169, Official Records of said County, described as follows:

A strip of land 35 feet in width centered on the following described line:


Commencing at the Westerly corner of that parcel of land conveyed to Salinas, a municipal corporation by deed dated October 19, 1979, and recorded in Reel 1377 pages 55 to 56 inclusive, Records of Monterey County; thence departing the Northerly line of the reclamation ditch; thence

- a) North 26°04'47" East, 85.25 feet; thence
- b) North 47°51'40" East, 556.01 feet; thence
- c) North 40°49'49" East, 160.18 feet to the Point of Beginning of said centerline; thence
- 1) North 4°10'11" West, 40 feet; thence
- 2) North 49°10'11" West, 60 feet; thence
- 3) Along the arc of a circular curve to the left, the center of which bears South 40°49'49" West 1,590 feet distant, through a central angle of 16°29'49" and an arc distance of 457.80 feet; thence
- 4) North 65°40' West, 23.00 feet to the terminus point of said portion of said strip.

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

END OF DESCRIPTION

PREPARED BY:
WHITSON ENGINEERS



RICHARD P. WEBER, LS
L.S. No. 8002
Job No.: 3970



DATE



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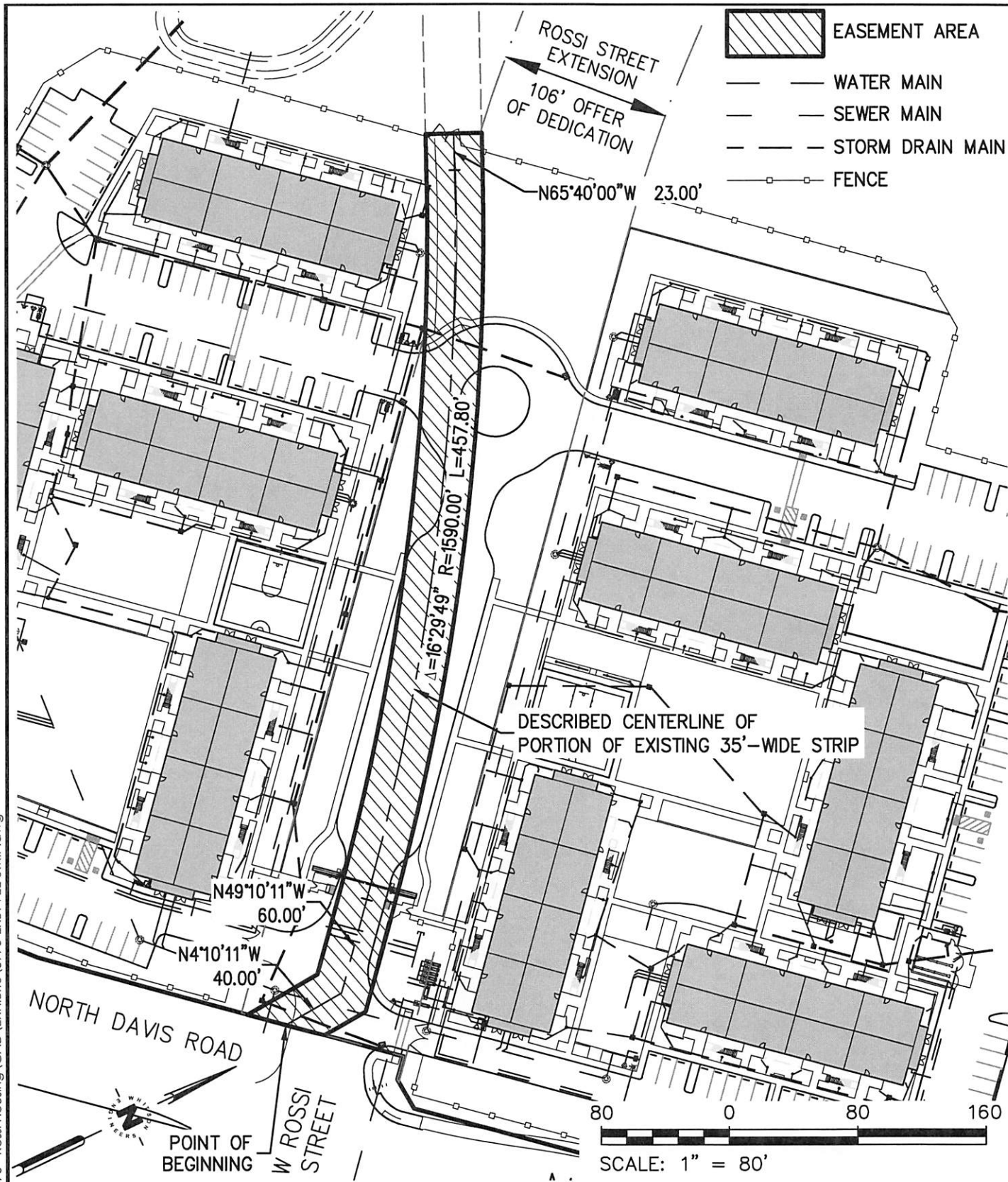


EXHIBIT C-1

PLAT TO ACCOMPANY DESCRIPTION OF A PORTION OF
BORONDA COUNTY SANITATION DISTRICT FEE STRIP

SALINAS, CALIFORNIA

JULY 23, 2020



Civil Engineering +
Land Surveying
6 Harris Court
Monterey, CA 93940
831.649.5225
whitsonengineers.com

EXHIBIT D

WHEN RECORDED MAIL TO:

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

County of Monterey
Resource Management Agency
Administrative Services Division
1441 Schilling Place, 2nd Floor South
Salinas CA 93901-4527
Attention: R. Hickman

THIS SPACE FOR RECORDER'S USE ONLY

No fee for recording pursuant to
Government Code Section 27383

**MAINTENANCE OF DEVELOPER IMPROVEMENTS AGREEMENT
BY AND BETWEEN
THE BORONDA COUNTY SANITATION DISTRICT
AND CAFÉ TORI INVESTMENTS, LLC,
ON ASSESSOR'S PARCEL NUMBER 261-011-026-000 (PORTION OF)**

MAINTENANCE OF DEVELOPER IMPROVEMENTS AGREEMENT

THIS MAINTENANCE OF DEVELOPER IMPROVEMENTS AGREEMENT is made by and between the Boronda County Sanitation District (“District”) and Café Tori Investment, LLC (“Developer”), with respect to the following facts and circumstances:

- A. Developer is the owner and developer of certain real property located in unincorporated County of Monterey, California, commonly known as Assessor’s Parcel Number (“APN”) 261-011-026-000 and more particularly described in **Exhibit “A”** attached hereto and made a part hereof (“Developer Property”).
- B. District is the owner of a strip of real property that crosses Developer’s Property and is more particularly described in **Exhibit “B”** which is attached hereto and made a part hereof (“District Property”).
- C. On June 24, 2020 , the Monterey County Planning Commission approved a Lot Line Adjustment, Use Permit, Variance and General Development Plan that allows Developer to construct and operate a 150-unit farmworker housing project the Harvest Moon Agricultural Housing Project Planning File No. PLN190127 (“Housing Project”) subject to certain conditions, including the following Condition No. 39:

NON-STANDARD: IMPROVEMENTS TO FEE STRIP BORONDA SANITATION DISTRICT

The applicant shall provide a Maintenance Agreement that grants the District and successors in interest right of access through the developer’s improvements within the fee strip owned by the District, if and when the District or its successors performs necessary maintenance or repairs on its facility or plans future sanitation infrastructure improvements. The developer and successors in interest shall be responsible for any and all repairs to developed improvements, at their cost, that may be affected during repair, maintenance or expansion of the District facility within the fee strip performed by the District. Affected improvements include, but are not limited to, roads, driveways, fencing, gates, curbs, gutters, and landscaped areas. The developer and successors in interest shall be responsible for the ongoing maintenance, at their cost, of the developed improvements within the easement.

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

1. Responsibility for Repair and Maintenance of Developer Improvements.

Developer shall have sole responsibility for the care, maintenance, and repair of the roads, driveways, parking areas, fencing, gates, curbs, gutters, landscaping, underground private utilities, or drainage improvement and facilities (including road surfaces, culverts, detention/retention ponds, sediment traps, catch basins, and other improvements, if any) (collectively “Developer’s Improvements”) required to be installed on District Property in connection with the approval of the Housing Project as more particularly shown in **Exhibit “C”** attached hereto and made a part hereof.

2. District Right of Access Through Developer’s Improvements.

- a. Developer grants District and its successors-in-interest that right of access through and under the Developer’s Improvements if and when the District performs necessary maintenance or repairs to its sanitary sewer facilities on the District Property or installation of future sanitary sewer infrastructure improvements (collectively the “District Work”). Developer and its successors-in-interest shall be responsible for any and all repairs to Developer’s Improvements, at their cost, that may be affected as a result of the District Work within the fee strip performed by the District.
- b. In order to provide Developer with a sufficient amount of time to remove or relocate Developer’s Improvements, tenant vehicles or other equipment prior to District accessing the Developer’s Improvements to undertake the District Work, District shall provide Developer with seven (7) days written notice prior to undertaking the District Work. All District work shall be confined to daytime hours, Monday through Friday or on Saturday, unless the District reasonably requires the District Work to occur during nighttime hours when wastewater flows are at their lowest. Notwithstanding anything to the contrary in this subsection 2(b), the District may immediately undertake emergency District Work, including but not limited to sewer line breaks or obstructions, without providing written notice to Developer.

3. Specific Performance. Developer and District acknowledge that the obligations of Developer and the succeeding owners of the Developer Property are unique and that, in the event of a breach of this Agreement by Developer or any successor owners, the remedy of damages may be inadequate to fulfill the purpose of this Agreement. Therefore, the parties agree that in addition to any other remedies available to any party to this Agreement, the remedy of specific performance shall likewise be available against the party in breach of this Agreement.

4. Indemnification. Developer shall defend, indemnify, and hold harmless the District and its employees and/or agents from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies including, but not limited to, interest, penalties, and reasonable attorneys' fees and costs arising from or related to Housing Project or arising wholly or in part from any negligent or intentional act of omission of Developer and its agents, employees, representatives and/or contractors. Developer shall defend, indemnify, and hold District harmless in any action brought in which (a) the authority of District to enter into this Agreement or the validity of this Agreement is challenged or (b) the alleged basis for liability on the part of District is the failure of District to take action to enforce the obligations of any party to this Agreement or the inadequacy of the District's action in the performance of its obligations under this Agreement.

5. Notice. Any written notice required under this Agreement shall be provided as follows:

To Developer:

Café Tori Investment, LLC
c/o Ricky Nguyen
18900 Portola Drive Suite 200
Salinas, CA 93908
Email: ricky@cnvllp.com

Emergency Contacts:

During Construction

Steve Avila (831) 595-4059

Mike Avila (831) 917-5622

Jeff Nohr (831) 917-5622

Post-Construction

Bob Eric (831) 594-5622

To District:

Boronda County Sanitation District

c/o Director of the Resource Management Agency

1441 Schilling Place, 2nd Floor South

Salinas, CA 93901

Email: 194-RMASpecialDistricts@co.monterey.ca.us

In the event the Developer or District is no longer receiving notices at the above physical and email address, the Developer or District shall notify the other party of the physical and email address change to ensure future notices are promptly received. The Developer shall maintain an emergency contact number the District may call in the event of emergency work or on-site issues that arise and may impede the District's ability to perform maintenance and/or repairs in a timely manner. In the event the Developer emergency contact is no longer those listed above, the Developer shall notify the District of the emergency contact change.

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

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

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

9. Recordation. Upon execution of this Agreement, County at the Developer's expense shall cause recordation thereof with the County Recorder.

IN WITNESS WHEREOF, Developer and District have executed this Agreement on the day and year set opposite their respective signatures.

Dated: July 23, 2020 DEVELOPER: Café Tori Investment, LLC
[Signature]
By: RICKY NGUYEN

Its: Manager

Dated: 7/23/20 DEVELOPER: Café Tori Investment, LLC
[Signature]
By: TOM FLORES

Its: Manager

BORONDA COUNTY SANITATION
DISTRICT

Dated: _____ By: _____
Chris Lopez, Chair, Board of Directors

APPROVED AS TO FORM:

Approved as to Form:

Office of the County Counsel

Leslie J. Girard, County Counsel

By: _____

Mary Grace Perry, Deputy County Counsel

Dated: _____

**EXHIBIT A
LEGAL DESCRIPTION
DEVELOPER PROPERTY**

Certain real property situate in Ranch El Sausal in the County of Monterey, State of California, described as follows:

PARCEL 1

That certain 53.869 acre parcel of land shown on the map recorded July 29, 2014 in Volume 32 of Surveys at Page 109 in the office of the County Recorder of said County.

TOGETHER WITH

Fee title to those certain strips of land running across said 53.869 acre parcel as shown on said map, formerly held in fee title by the Reclamation District No. 1665, as described in the documents recorded in Volume 156, Page 203 (30' wide strip) and Volume 359, Page 49 (40' wide strip), Official Records of said County.

EXCEPTING THEREFROM

That certain 35 foot wide strip of land running across said 53.869 acre parcel as shown on said map, held in fee title by the Boronda Co. Sanitation District, and described as Parcel 1 in the Final Order of Condemnation recorded June 30, 1986 in Reel 1972, Page 169, Official Records of said County.

PARCEL 2

That certain 3.169 acre parcel of land granted from the City of Salinas to Café Tori Investments, LLC per the Grant Deed recorded June 10, 2020, as Document No. 2020027598, Official Records of said County.

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

END OF DESCRIPTION

PREPARED BY:
WHITSON ENGINEERS

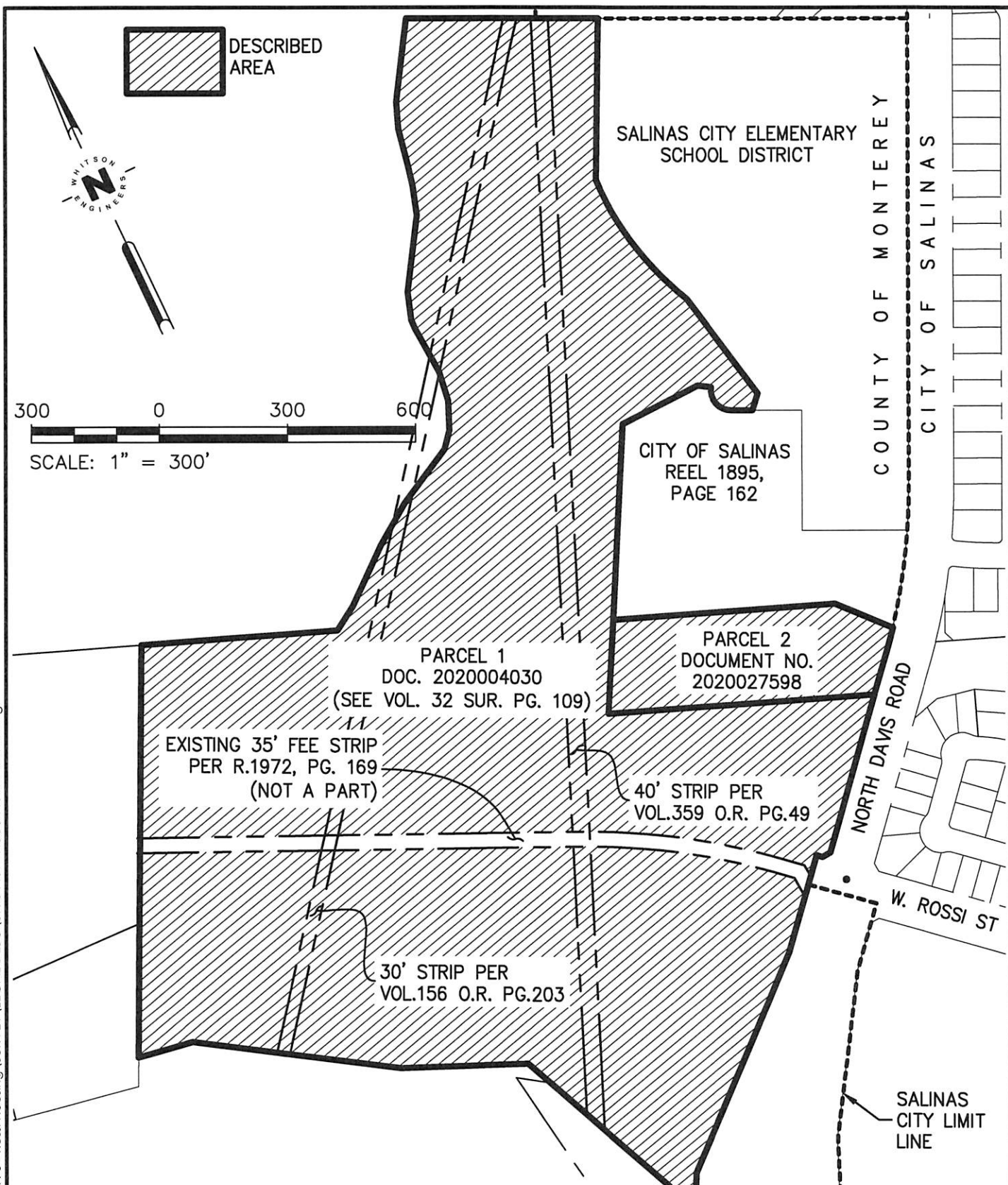


RICHARD P. WEBER, LS
L.S. No. 8002
Job No.: 3970

July 23, 2020
DATE



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PLAT TO ACCOMPANY DESCRIPTION RESULTANT PARCELS

HARVEST MOON AGRICULTURAL HOUSING PROJECT

MONTEREY COUNTY, CALIFORNIA

7/13/2020



Whitson
ENGINEERS

Civil Engineering +
Land Surveying
6 Harris Court
Monterey, CA 93940
831.649.5225
whitsonengineers.com

EXHIBIT B

DISTRICT PROPERTY

A strip of land 35 feet in width centered on the following described line in the real property situate in the County of Monterey, State of California, described as follows:

Beginning at the Westerly corner of that parcel of land conveyed to Salinas, a municipal corporation by deed dated October 19, 1979, and recorded in Reel 1377 page 55, Records of Monterey County; thence departing from the Northerly line of the reclamation ditch; thence

- 1) North 26° 04' 47" East 85.25 feet: thence
- 2) North 47° 51' 40" East 556.01 feet; thence
- 3) North 40° 49' 49" East 160.18 feet to the point of beginning of said easement centerline; thence
- 4) North 4° 10' 11" West 40 feet; thence
- 5) North 49° 10' 11" West 60 feet; thence
- 6) Along the arc of a circular curve to the left, the center of which bears South 40° 49' 49" West 1,590 feet distant through a central angle of 16° 29' 49" and an arc distance of 457.80 feet: thence
- 7) North 65° 39' West to the terminus point of said easement on the Easterly line of that certain "Parcel 3" as described by deed dated December 30, 1981, and recorded in Reel 1526 at Page 796, Official Records of Monterey County, California.

EXCEPTING THEREFROM a 30 foot by 30 foot portion of land conveyed by Stanley R. Russell to Reclamation District No. 1665 by deed dated February 28, 1933, and recorded in Liber 359 of Official Records at Page 49, Monterey County Records.

T:\Monterey Projects\3970 - Rossi Housing\CAD\EXHIBITS\3970-EXBT-FEE STRIP.dwg

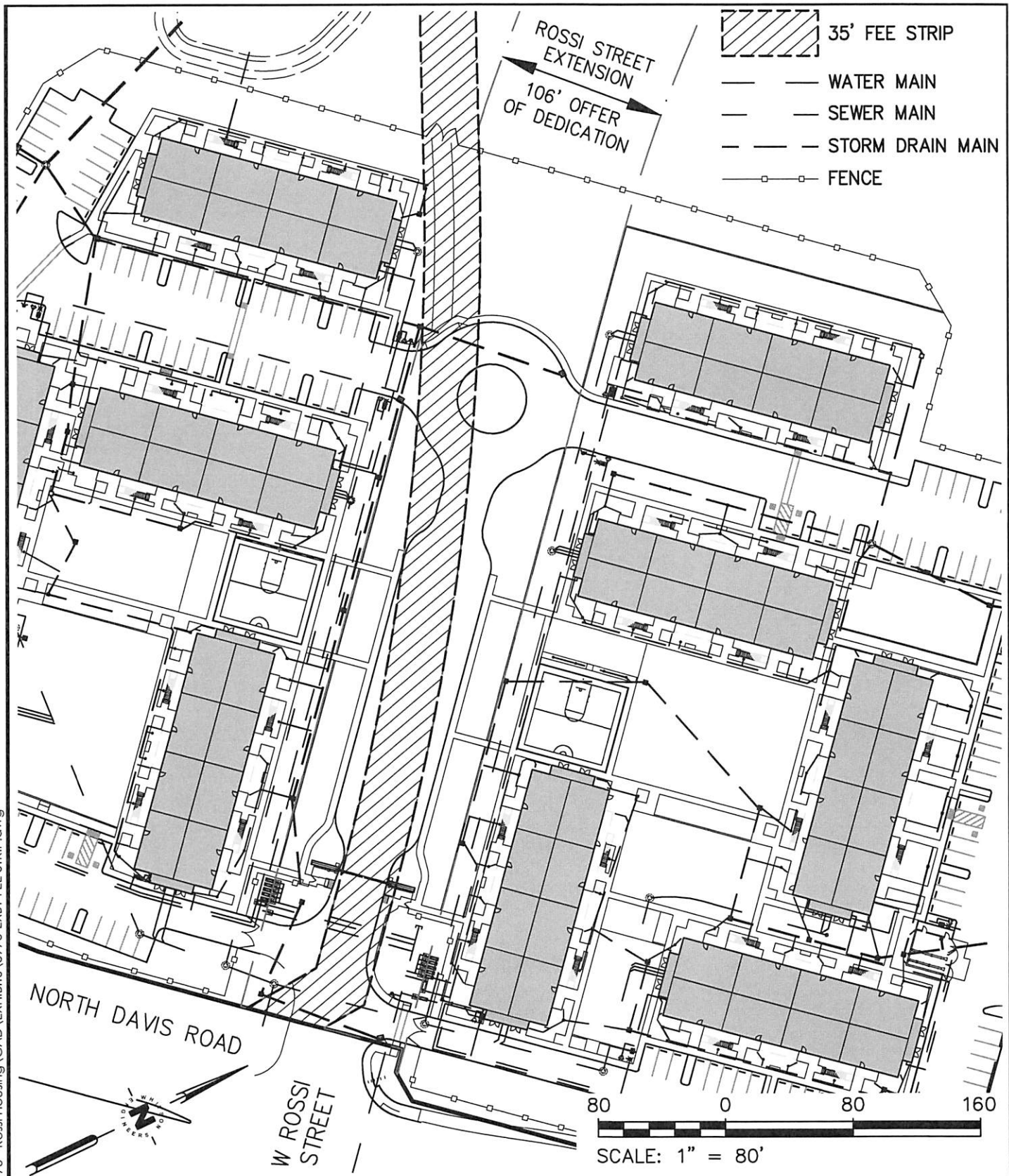


EXHIBIT C

PLAT OF PROPOSED IMPROVEMENTS ACROSS
BORONDA COUNTY SANITATION DISTRICT FEE STRIP

SALINAS, CALIFORNIA
JULY 23, 2020



Civil Engineering +
Land Surveying
6 Harris Court
Monterey, CA 93940
831.649.5225
whitsonengineers.com

Attachment C

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FUNDING AGREEMENT FOR THE PROCESSING OF A MAINTENANCE AGREEMENT AND ACCESS EASEMENT FOR THE HARVEST MOON AGRICULTURAL EMPLOYEE HOUSING DEVELOPMENT PROJECT

THIS FUNDING AGREEMENT, hereinafter, "Agreement", is made and entered by and between the County of Monterey, a political subdivision of the State of California, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), hereinafter, "County BCSD" and Café Tori Investments LLC, a California Limited Liability Corporation, hereinafter, "PROJECT APPLICANT", (collectively, the "Parties") and effective retroactive to July 13, 2020 and with reference to the following facts and circumstances regarding the Harvest Moon Agricultural Employee Housing Development Project (Project):

RECITALS

A. On June 24, 2020, the Monterey County Planning Commission approved a Lot Line Adjustment, Use Permit, Variance and General Development Plan that allows Developer to construct and operate a 150-unit farmworker housing project the Harvest Moon Agricultural Housing Project Planning File No. PLN190127 ("Housing Project") subject to certain conditions. Said Project is described as follows in the project conditions of approval at Condition No. 1 of Permit No. PLN190127:

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Lot Line Adjustment, Use Permit, and Variance (PLN190127) allows a Lot Line Adjustment between two legal lots of record of approximately 48.65 acres (Assessor's Parcel Number 261-011-026-000) and 8.98 acres (Assessor's Parcel Number 261-011-024-000), resulting in two parcels of approximately 51.81 (Parcel 1) acres and 5.81 acres (Parcel 2), a Use Permit and General Development Plan for a 150-unit Agricultural Employee Housing Complex which will accommodate up to 1,200 employees, a Variance to exceed height regulations in the PQP zoning designation, and a Condition Compliance and Mitigation Monitoring and Reporting Plan. The property is located at 800 and 801 Rossi Street in Salinas (Assessor's Parcel Numbers 261-011-026-000 & 261-011-024-000), Greater Salinas Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

B. Project Condition of Approval No. 39 provides as follows:

39. NON-STANDARD: IMPROVEMENTS TO FEE STRIP BORONDA SANITATION DISTRICT

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: The applicant shall provide a Maintenance Agreement that grants the District and successors in interest right of access through the developer's improvements within the fee strip owned by the District, if and when the District or its successors performs necessary maintenance or repairs on its facility or plans future sanitation infrastructure improvements. The developer and successors in interest shall be responsible for any and all repairs to developed improvements, at their cost, that may be affected during repair, maintenance or expansion of the District facility within the fee strip performed by the District. Affected improvements include, but are not limited to, roads, driveways, fencing, gates, curbs, gutters, and landscaped areas. The developer and successors in interest shall be responsible for the ongoing maintenance, at their cost, of the developed improvements within the easement.

Compliance or Monitoring Action to be Performed: Prior to issuance of grading and building permits for the developer improvements within the fee strip, developer shall provide a draft Maintenance Agreement for consideration by the District. Prior to Final Inspection, the required Maintenance Agreement must be approved by the Board of Supervisors, Acting as the Board of Directors of the Boronda County Sanitations District. Developer shall pay the District for staff time and materials associated with processing the agreement.

C. Project Condition of Approval No. 40 provides as follows:

40. NON-STANDARD: SEWER EASEMENT BORONDA SANITATION DISTRICT

Responsible Department: RMA-Public Works

Condition/Mitigation Monitoring Measure: The applicant shall obtain an easement from the District for the improvements to be installed within the Sewer Fee Strip that is located within parcel APN 261-011-026.

Compliance or Monitoring Action to be Performed: Prior to issuance of a grading or building permit for the developer improvements, developer shall provide a draft easement and legal description for consideration by the District. Prior to Final Inspection, the required easement must be approved by the Board of Supervisors, Acting as the Board of Directors of the Boronda County Sanitations District. Developer shall pay the District for staff time and materials associated with processing the easement.

D. Pursuant to Project Condition Nos. 39 and 40, PROJECT APPLICANT has requested the assistance of County BCSD staff with the preparation and review of a (1) Maintenance Agreement and a (2) proposed Access Easement for consideration by the County BCSD pursuant to said conditions of approval for the Project. The two instruments to be reviewed and approved by the County BCSD will be between the PROJECT APPLICANT and the County BCSD. The Project site is identified as assessor's parcel number (APN) 261-011-026-000, located within the unincorporated area of the County of Monterey, and owned by the PROJECT APPLICANT.

E. Due to the magnitude and complexity of the Project, County BCSD and PROJECT APPLICANT have agreed that it is necessary and desirable that County BCSD engage County

BCSD staff to provide assistance with the preparation of said instruments and perform related work in furtherance of Project Conditions of Approval Nos. 39 and 40.

F. County BCSD and PROJECT APPLICANT hereby agree that County BCSD shall engage County BCSD staff to assist with the preparation and review of the two (2) instruments to be submitted by PROJECT APPLICANT pursuant to Conditions of Approval Nos. 39 and 40.

G. A fundamental premise of this Agreement is that nothing herein is to be construed as a representation, promise, or commitment on the part of County BCSD to give special treatment to, or exercise its discretion favorably for the Project, in exchange for PROJECT APPLICANT's obligation to cover County BCSD's staff costs and providing County BCSD staff to work on the Project.

H. The subject matter of this Agreement is the PROJECT APPLICANT's funding of the County BCSD's staff services for the Project pursuant to Conditions of Approval Nos. 39 and 40.

I. County BCSD and PROJECT APPLICANT make this Agreement with full knowledge of the requirements of state and local law, including, but not limited to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter, "CEQA") and the State CEQA Guidelines (California Code of Regulations Title 14, Section 15000 et seq., hereinafter, "Guidelines") and the Monterey County Code.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, PROJECT APPLICANT AND COUNTY BCSD AGREE AS FOLLOWS:

1. Deposits to Fund this Agreement. PROJECT APPLICANT shall deposit an amount equal to the Project Base Budget for County BCSD staff services provided pursuant to Project Conditions of Approval Nos. 39 and 40. This amount totals \$6,480.00.

PROJECT APPLICANT shall deposit a total amount of \$6,480.00 with County of Monterey Resource Management Agency upon approval of this Agreement by the County of Monterey Board of Supervisors acting as the Board of Directors for the BCSD, currently scheduled for July 28, 2020.

PROJECT APPLICANT's deposit of \$6,480.00 with County BCSD shall be a condition precedent to County BCSD's obligation under this Agreement.

2. Fifteen Percent (15%) Project Contingency. An additional fifteen percent to PROJECT APPLICANT's Base Budget shall be included in this Agreement between PROJECT APPLICANT and County BCSD to cover contingencies. This 15% Project Contingency totals \$972.00 and is subject to the procedures set forth in this Agreement. PROJECT APPLICANT shall



deposit an additional amount of \$972.00 to cover contingencies for County BCSD staff services provided pursuant to Project Conditions of Approval Nos. 39 and 40.

3. Maximum Budget Under Agreement. The maximum amount which may be charged to PROJECT APPLICANT under this Agreement is \$7452.00.

4. Progress Reports. Within thirty (30) days after the end of each quarter, County BCSD shall provide progress reports to the PROJECT APPLICANT showing charges from the prior quarter associated with completion of task(s) as specified in this Agreement. Any Base Budget funds remaining at completion of the Project shall be returned to the PROJECT APPLICANT.

5. Payments to County BCSD.

a. County BCSD's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$6,480.00.

Should this Agreement be terminated prior to June 30, 2021, any unearned balance of the Base Budget deposited by PROJECT APPLICANT to fund the Base Budget amount shall be returned to PROJECT APPLICANT within sixty (60) days of receipt of notice of termination by County BCSD.

b. Project Contingency

An additional fifteen percent (15%) of County BCSD's Base Budget, in an amount not to exceed \$972.00 covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of both County BCSD and PROJECT APPLICANT. Within five (5) working days of receipt of a request from County BCSD, PROJECT APPLICANT shall approve or disapprove the Request for Transfer from Project Contingency and, if approved, at the same time submit a check to the County BCSD for the amount requested.

If PROJECT APPLICANT takes more than five (5) working days to respond to a Request for Transfer from Project Contingency, additional costs may accrue to County BCSD, which may result in another Request for Transfer from Project Contingency.

6. No Promise or Representation. PROJECT APPLICANT and County BCSD agree that nothing in Agreement is to be construed as a representation, promise, or commitment on the part of County BCSD to give special treatment to, or exercise its discretion favorably for the Project, it being understood that PROJECT APPLICANT's funding obligation under Agreement is undertaken without regard to County BCSD's actions regarding the Project.



7. Term. Agreement shall become effective retroactive to July 13, 2020 upon the date of Board approval and County BCSD's acceptance of this Agreement and continue through June 30, 2021, unless terminated pursuant to Paragraph 8 or amended pursuant to Paragraph 12 of this Agreement.

8. Termination. Agreement shall terminate on June 30, 2021 but may be terminated earlier by PROJECT APPLICANT or County BCSD, by giving thirty (30) days' written notice to the other. Upon such termination, PROJECT APPLICANT shall immediately pay any outstanding invoices, as well as pay for any work performed by County BCSD through effective date of termination.

9. Entire Agreement. Agreement and its attachments constitute the entire agreement between the PROJECT APPLICANT and County BCSD respecting the matters set forth herein. County BCSD and PROJECT APPLICANT each represent that neither has relied on any promise, inducement, representation, or other statement made in connection with Agreement that is not expressly contained herein.

10. Negotiated Agreement. It is agreed and understood by PROJECT APPLICANT and County BCSD that this Agreement has been arrived at through negotiations and that neither is deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.

11. Assignment. Neither County BCSD nor PROJECT APPLICANT shall have the right to assign its respective rights and obligations hereunder without the written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

12. Amendment. This Agreement may be amended, modified, or supplemented only in writing by both County BCSD and PROJECT APPLICANT.

13. Contracting Officer. The contracting officer of County BCSD, and the only entity authorized by law to make or amend Agreement on behalf of County BCSD, is the County of Monterey Board of Supervisors acting as the Board of Directors for the BCSD or a County BCSD employee whom they have specifically authorized.

14. Waiver. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in any other instance or a waiver of any other condition or breach of any other term.

15. Governing Law. Agreement shall be construed, interpreted, and applied in accordance with the laws of the State of California applicable to commercial contracts entered and to be performed wholly in California.

16. Construction. The language in all parts of Agreement shall be construed, in all cases, according to its fair meaning. The parties acknowledge that each party has reviewed Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of Agreement.

17. Relationship of Parties. The parties agree that this Agreement establishes only a funding arrangement between the parties, and that the parties are not joint venturers or partners.

18. Indemnification. PROJECT APPLICANT agrees to defend, indemnify and hold County BCSD, it's officers, agents and employees harmless in any action brought by any third party in which the authority of the County BCSD to enter into this Agreement or the validity of this Agreement is challenged.

19. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one (1) and the same Agreement.

20. Notices. Notice to the parties in connection with Agreement shall be given personally or by regular mail addressed as follows:

TO COUNTY BCSD: Carl P. Holm, AICP, RMA Director
County of Monterey Resource Management Agency
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527

TO PROJECT
APPLICANT: Café Tori Investments LLC
18900 Portola Drive Suite 200
Salinas, CA 93908

WITH A COPY TO:

TO PROJECT
APPLICANT'S
REPRESENTATIVES Jason Retterer, Partner & Branch Manager
Johnson, Rovella, Retterer, Rosenthal & Gilles, LLP
318 Cayuga Street
Salinas, CA 93901

Jeffrey D. Nohr, Project Manager
Avila Construction Company
12 Thomas Owens Way, Suite 200
Monterey, CA 93940

Notice shall be deemed effective at the time of personal delivery or seventy-two (72) hours after mailing.

21. The RECITALS set forth above are incorporated into this Agreement.

Page 6 of 7


Funding Agreement
Café Tori Investments LLC
Harvest Moon Agricultural Employee Housing Development Project
RMA
Term: Retroactive to July 13, 2020 – June 30, 2021
Not to Exceed: \$7,452.00

IN WITNESS WHEREOF, PROJECT APPLICANT and County have executed Agreement as of the day and year written below.

COUNTY OF MONTEREY

CAFE TORI INVESTMENTS LLC*

By: _____
Carl P. Holm, AICP, RMA Director

By: 
(Signature of Chair, President or Vice President)

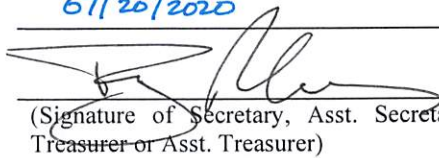
Date: _____

Its: RICKY NGUYEN, Manager
(Print Name and Title)

Approved as to Fiscal Provisions

Date: 07/20/2020

By: _____
Auditor/Controller

By: 
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Date: _____

Its: TONY FLORES, Manager
(Print Name and Title)

Date: 7/20/20

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
Mary Grace Perry
Deputy County Counsel

Date: _____

*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

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Attachment D

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MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director

LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

(831)755-4800

www.co.monterey.ca.us/rma



MEMORANDUM

Date: July 17, 2020

To: Board of Supervisors

From: Carl P. Holm, AICP, RMA Director

Subject: Café Tori Investments, LLC, Harvest Moon Agricultural Employee Housing Project (PLN190127)

cc: Clerk of the Board (112-ClerkoftheBoardEveryone-gp@co.monterey.ca.us)

The Harvest Moon Agricultural Employee Housing Project ("Project") is located off the northwest intersection of West Rossi Street and Davis Road, within an area actively farmed (row crops), and is intended to provide housing for up to 1,200 seasonal agricultural employees during the harvest season from April to November. RMA determined that this is a high priority project because it provides critically needed housing for agricultural employees. As such, staff was directed to afford Special Handling because the project is under a very tight timeline so that it may be complete in time to house agricultural employees for the harvest season starting early spring 2021.

The Project was approved by the Monterey County Planning Commission on June 24, 2020, subject to conditions. A portion of the Project is within a fee strip owned by the District with an existing underground sewer pipeline. Conditions of Approval 39 and 40 placed on the Project by the Boronda County Sanitation District ("District") require that the developer submit a draft easement and draft maintenance agreement to the District prior to issuance of a grading and building permits for the project. These documents provide the developer approval to construct the Project within the fee strip. They also provide protections to the District and establishes the District's right to access its facilities through the developer's improvement at no cost to the District.

The conditions were written to require the final easement and maintenance agreement be approved by the Board of Supervisors, acting as the District Board of Directors, *prior to finalizing the permits* for the Project. Staff interpreted this to mean that County could not issue a permit until/unless the District Board approved the easement. The developer satisfied their portion of the District condition by timely submitting the documents, the rest of the process is up to County staff.

On Tuesday July 14, 2020, RMA staff realized and brought to my attention that they made an error in the timing associated with getting the matter before the District Board of Directors. The developer has expressed significant concerns if they would be required to adjust the grading plan to avoid the fee strip while the documents process to the Board for approval, noting that even a week delay in the project

could prove detrimental to the Project timeline. All other applicable conditions have been cleared, so the applicant requested to pull permits to begin work on Monday July 20, 2020.

We typically do not hold up an applicant where they have fulfilled the portion of the condition within their control and the rest is up to staff to process. As such, I have interpreted *prior to finalizing the permits* as meaning prior to permit final, meaning project completion. In an effort keep this high priority project on track, I have directed staff to issue the permits for the project to allow the developer to begin work as planned on Monday, July 20th. In the meantime staff is expediting the easement and maintenance agreement for the Board's consideration, aiming for July 28th, prior the Board's summer recess. As extra precaution and protection for the County until the documents are fully executed, I also requested (received) a letter from the applicant stating that they accept responsibility for any damage to the district facilities (sewer line) and any damage that may be caused if they break the line (e.g. environmental damage).

Attachment E

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ATTORNEYS AT LAW

July 20, 2020

318 Cayuga Street
Salinas, CA 93901
831.754.2444
JRGattorneys.com

SENT VIA EMAIL ONLY

Carl P. Holm, AICP, RMA Director
Resource Management Agency of Monterey County
1441 Schilling Place, 2nd Floor South
Salinas, CA 93901

RE: Letter of Assurance regarding Harvest Moon Agricultural Housing Project (PLN190127)

Dear Mr. Holm,

Our office represents Café Tori Investments, LLC ("Café Tori") on the above referenced project.

With the understanding that the Board of Supervisors will consider the proposed easement and maintenance agreements no sooner than July 28, 2020, we are confirming approval from your office to immediately commence work as planned including any necessary grading and construction within the Boronda County Sanitation District fee strip.

In light of such approval and pursuant to the request by Ms. Beretti, it is our intention to provide assurances to both the Resource Management Agency of Monterey County (the "County") and the Boronda County Sanitation District ("District") in connection with the above-referenced project.

As such, please accept this correspondence as formal assurance of the following:

1. Café Tori and Avila recognize that the District has authorized Café Tori and Avila to begin work on the Harvest Moon Agricultural Housing Project (PLN190127) while the District completes its review of and processes the proposed easement and proposed maintenance agreement provided to the Board of Supervisors. A copy of said agreements is enclosed with this correspondence.
2. Café Tori and Avila understand and agree to comply with the terms of the easement and maintenance agreements, as may be reasonably modified by the District, during this interim period while the District processes them to the Board of Supervisors.
3. Café Tori and Avila shall locate the District facilities (specifically, the sewer pipeline) within the fee strip prior to commencing grading or construction

PARTNERS

Aaron P. Johnson
Paul A. Rovella
Managing Partner
Jason S. Retterer
Robert E. Rosenthal
Jeff R. Gilles
Founding Partner
Stephan A. Barber
Ren Nosky

ATTORNEYS

David W. Balch
Peter D. Brazill
Patrick S. M. Casey
S. Craig Cox
Rudolph P. Darken
David LaRiviere
Jeffrey S. Lind
Natalie M. Lupo
Cat Mineo
J.R. Parker
Sergio H. Parra
Ronald A. Parravano
Matthew R. Rankin
Nelson T. Rivera
Logan R. Walter

OF COUNSEL

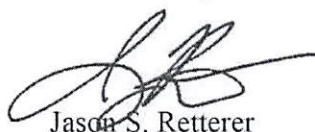
Doug K. Dusenbury

activities within the fee strip, and shall take all reasonable and necessary steps to avoid impact or damage the District facilities or property beyond any impacts or damage that was identified and described in the Pre-Construction Survey and Inspection Report, dated February 5, 2020 (the "Preconstruction Inspection") that Avila prepared to document the existing physical condition of the District's facilities.

4. Except for the pre-existing damages that are described in the Preconstruction Inspection, Café Tori and Avila take full responsibility for any and all damage that may occur to the District's property or facilities in connection with the Harvest Moon Agricultural Housing Project (PLN190127), and that the Café Tori and/or Avila shall indemnify, defend and hold harmless the County, the District, and their employees and/or agents from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies including, but not limited to, interest, penalties, and reasonable attorney fees and costs arising from or related to the Harvest Moon Agricultural Housing Project (PLN190127) or arising wholly or in part from any negligent or intentional act of omission of Café Tori and Avila, and its agents, employees, representatives and/or contractors.

Please contact me with any questions or concerns you may have. I look forward to working with the County and District regarding this project.

Sincerely,
JRG Attorneys at Law




Jason S. Retterer

Cc: Melanie Beretti (via email)
Shawne Ellerbee (via email)
Jeffrey Nohr (via email)
Richard Weber (via email)

We, the undersigned, acknowledge and agree to the terms set forth in paragraphs 1 through 4 above:

CAFÉ TORI INVESTMENTS, LLC



By: Ricky Nguyen

Title: MANAGER

AVILA BROTHERS, INC. DBA AVILA
CONSTRUCTION COMPANY



By: Michael Avila

Title: CFO / PRINCIPAL

Attachment F

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DETAILED BACKGROUND AND DISCUSSION

Café Tori Investments, LLC (Project Applicant) applied for a Lot Line Adjustment, Use Permit, and Variance (PLN190127) for the Harvest Moon Agricultural Employee Housing Project (Housing Project), which was approved by the Monterey County Planning Commission pursuant to Resolution No. 20-019 on June 24, 2020. The Housing Project is located within the unincorporated area of the County of Monterey, located off the northwest intersection of West Rossi Street and Davis Road. The Housing Project is intended to build 150 housing units to provide housing for up to 1,200 seasonal agricultural employees during the April to November harvest season. It is expected to serve as housing for multiple growers under a contract basis depending on the needs of those in the industry. RMA determined that this is a high priority project because it provides critically needed housing for agricultural employees. As such, staff was directed to afford Special Handling to avoid any delays to the Project. The project timeline is very tight as the housing must be completed by early Spring 2021 prior to the start of the harvest season.

The Housing Project site encompasses approximately 14.7 acres of two (2) undeveloped parcels (Assessor Parcel Nos. [APNs] 261-011-026-000 and 261-011-024-000) totaling 57.6 acres within the Greater Salinas Area Plan - Boronda Community Area and directly adjacent to Salinas city limits and within the City's Sphere of Influence. Access to the site would be provided at the signalized intersection of Rossi Street and Davis Road, and the Project would connect into the City of Salinas sewer system. The Boronda County Sanitation District (BCSD) owns a fee strip that has a sewer pipeline buried within it, traversing through the Housing Project site across APN 261-011-024-000. To enable the Housing Project to move forward, BCSD required that the Project Applicant adhere to Conditions of Approval (COA) Nos. 39 and 40, which require the Maintenance of Developer Improvements Agreement (Maintenance Agreement) and Grant of Easement Deed (Easement), respectively.

The Maintenance Agreement provides that the Developer: 1) Indemnify and hold harmless the County BCSD for the construction and maintenance of the developer's improvements within the fee strip; 2) Grant BCSD the right of access through and under the developer's improvements if and when necessary maintenance or repairs to sanitary sewer facilities located within the fee strip are required; and 3) Bear all responsibility for repair and maintenance of developer improvements located within, underneath, or surrounding the fee strip, including repairs and maintenance which may be the result of the BCSD's work on its facilities within or across the fee strip.

The nonexclusive Easement over the fee strip provides rights of access for the Project Applicant to construct and maintain the developer improvements associated with the Housing Project. Developer improvements covered by the Easement include: constructing, maintaining, and repairing roads, driveways, parking areas, underground private utilities, fencing, gates, curbs, gutters, landscaping, or drainage improvement and facilities (including road surfaces, culverts, detention/retention ponds, sediment traps, catch basins, and other improvements, if any).

Pursuant to COA Nos. 39 and 40, the Project Applicant has requested the assistance of BCSD staff with the preparation and review of the Maintenance Agreement and Easement, and the Funding Agreement provides for reimbursement of BCSD staff time and materials by the developer for processing these documents. On Tuesday, July 14, 2020, staff realized an error in the timing associated with getting these documents before the Board posed a risk to delaying or possibly derailing the Housing Project from meeting its tight construction timeline. In an effort to keep this high priority project on track, the Resource Management Agency (RMA) issued the permits for this Housing Project while the documents were processed for Board approval. This allowed the developer to begin work as planned on Monday, July 20, 2020. The background and justification for this decision was communicated to the Board on July 17, 2020. In return, the developer provided a letter stating they accept responsibility for any new damage to the district facilities (sewer line) and any damage that may be caused if they break the line (e.g., environmental damage), while the Easement and Maintenance Agreement are processed for the July 28th Board meeting. The Funding Agreement term would be retroactive to July 13, 2020, to account for the concurrent and expedited timeline to process the agreements and easement to the Board.

The recommended action will allow the Project Applicant to provide funding to BCSD for staff time and materials to process an Easement and Maintenance Agreement, thereby facilitating this critical Housing Project for Monterey County.