

*[ADA Compliant Transcription of Original]*

# **Appendix 10**

## **Scenic and Conservation Easement**



## Memorandum

**To:** Permit Applicant, Coastal Development Permit No. \_\_\_\_\_  
**Subject:** Requirements for Compliance With Condition for Scenic and  
Conservation Easement, Condition No. \_\_\_\_\_

Your project has been approved with a condition requiring an offer to dedicate public access in the form of a trail. This memo outlines steps necessary to comply with the condition. Please read and follow the instructions carefully.

The steps are as follows:

1. Complete the attached Easement form and Subordination Agreement, if applicable. Read the attached memo on subordination agreements in order to determine if you must submit a Subordination Agreement along with Easement.

In the Del Monte Forest, substitute the Del Monte Forest Foundation (in place of the County) as the Grantee, if the easement is for the purpose of environmentally sensitive habitat or scenic conservation and is acceptable to the Foundation.

2. Sign the Easement Form and Subordination Agreement, if applicable, and have the documents notarized.
3. Send the documents to the Planning Department. The Planning Department staff and County Counsel staff will review the documents to assure proper form and content. If not acceptable, the documents will be returned to you for correction.
4. Once staff determines the documents to be of acceptable form and content, the documents must be accepted by the Monterey County board of Supervisors. This will typically be done as a routine "consent" item at a regularly-scheduled meeting of the Board. The Planning Department will arrange for the documents to be accepted by the board and will notify you of the date and time the documents will be on the Board agenda.

5. After the documents have been signed, they will be returned to you by the Board Chair, they will be returned to you by the Planning Department.
6. Record the documents at the Monterey County Recorder's Office at the County Courthouse. If a Subordination Agreement must be recorded in addition to the Easement, you must record it as a separate document.
7. After you have recorded the documents, submit to the Planning Department an updated preliminary title report showing the recorded documents in the chain of title and free of prior liens or encumbrances which could affect the interest being conveyed.
8. Planning Department and County Counsel staffs will review the title report to assure that the documents have been recorded and that the offer is free of all prior liens and encumbrances except tax liens. Once assured, the Planning Department shall consider the condition fulfilled.

### **Please Note**

The Above instructions must be followed exactly. Failure to complete each item properly will necessitate return of the document for re-execution and delay issuance of your permits.

All signatures must be complete and properly notarized. Corporations, Partnerships, government entities, and trusts require different forms of notary acknowledgement from the "personal" form provided here. The Signature line must indicate the name of the corporation, etc., and the notary public must use the appropriate form of acknowledgement. If the notary public uses the wrong form, the document will be returned for a new notary acknowledgement.

Recording Requested by and  
When Recorded, Mail To:  
Monterey County Planning Dept.  
P. O. Box 1208  
Salinas, CA 93906

Permit No. \_\_\_\_\_  
Applicant Name: \_\_\_\_\_  
Project Planner: \_\_\_\_\_

**Conservation and Scenic Easement Deed**

**This Deed** made this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,  
by and between \_\_\_\_\_  
\_\_\_\_\_

as Grantor, and the **County Of Monterey**, a political subdivision of the State of California, as Grantee;

Witnesseth:

**Whereas**, the said Grantor is the owner in fee of the real property hereinafter described, situated in Monterey County, California; and

**Whereas**, the said land of said Grantor has certain natural scenic beauty and existing openness; and

**Whereas**, the Grantor and the Grantee desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said property of the Grantor; and

**Whereas**, the California Coastal Act of 1976, (hereinafter referred to as the "Act") requires that any coastal development permit approved by the County must be consistent with the provisions of the certified Local Coastal Program (LCP); and

**Whereas**, pursuant to the Act, and the Local Coastal Program (LCP), Grantor applied to the County for a permit to undertake development as defined in the Local Coastal Program; and,

**Whereas**, a coastal development permit (Permit No. \_\_\_\_\_) was granted on \_\_\_\_\_, 19\_\_\_\_, by the County in accordance with the provision of the Staff Recommendation and Findings, attached hereto as Exhibit B and hereby incorporated by reference, subject to the following condition: \_\_\_\_\_; and

**Whereas**, the County, acting on behalf of the People of the State of California and pursuant to the Act, granted the permit to the Grantor upon condition (Hereinafter the "condition") requiring inter alia that the Grantor record a conservation and/or scenic easement over the Property and agrees to restrict development on and use of the scenic and/or natural resource values present on the property and so as to prevent coastal resources and public access to the coast which could occur if the property were no restricted in accordance with this easement; and

**Whereas**, the County has placed the Condition on the permit because a finding must be made that the proposed development is in conformity with the provisions of the certified Local Coastal Program and that in the absence of the protections provided by the Condition said finding could not be made; and

**Whereas,** Grantor has elected to comply with the Condition and execute this easement so as to enable Grantor to undertake the development authorized by the permit;

**Whereas,** it is intended that this easement is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution and that said easement shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1.

**Whereas,** the said Grantor is willing to grant to the County of Monterey the scenic use as hereinafter expressed of the said land, and thereby protect the present scenic beauty and existing openness by the restricted use and enjoyment of said property by the Grantor through the imposition of the conditions hereinafter expressed;

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

The restrictions hereby imposed upon the use of said property of the Grantor and the acts which said Grantor shall refrain from doing upon their said property in connection herewith are, and shall be, as follows:

1. That no structures will be placed or erected upon said described premises except \_\_\_\_\_  
\_\_\_\_\_.

2. That no advertising of any kind or nature shall be located on or within said property except \_\_\_\_\_  
\_\_\_\_\_.

3. That the Grantor shall not plant nor permit to be planted any vegetation upon said premises, except \_\_\_\_\_  
\_\_\_\_\_.

4. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian trails, \_\_\_\_\_  
\_\_\_\_\_ the general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

5. That no use of said described property which will or does materially alter the landscape or other attractive scenic features of said land other than those specified above shall be done or suffered.

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

Excepting and reserving to the Grantor:

(1) The right to maintain all existing private roads, bridges, trails and structures upon said land, the right to

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(2) The use and occupancy of said land not inconsistent with the conditions and restrictions herein imposed.

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

To have and to hold unto the said County of Monterey, its successors and assigns forever. This Grant shall be binding upon the heirs and assigns of the said Grantor.

The property owner agrees as a condition of this offer to dedicate or easement required pursuant to Government Code Section 66474.9, defend, indemnify, and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this offer to dedicate or easement, which action is brought within the time period provided for in Government Code Section 66499.37. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless

Executed on this \_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_,  
\_\_\_\_\_ California.

Signed \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name of Above

Signed \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name of Above

**Note To Notary Public:** If you are notarizing the signatures of persons signing on behalf of a corporation, partnership, trust, etc., please use the correct notary acknowledgement form as explained in your Notary Public Law Book.

State of California. )

)SS

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_,  
before me \_\_\_\_\_, a Notary Public, personally  
appeared \_\_\_\_\_,

// personally known to me

// proved to me on the basis of satisfactory evidence to be the person (s)  
whose name is subscribed to this instrument, and acknowledged that he/she/they  
execute it.

\_\_\_\_\_  
**Notary Public In and For Said  
Said State and Count**

This is to certify that the Easement Deed set forth above is hereby acknowledged by the Board Chair on behalf of the Monterey County Board of Supervisors pursuant to the action of the \_\_\_\_\_ when it granted Coastal Development Permit No. \_\_\_\_\_ on \_\_\_\_\_, and the Monterey County Board of Supervisors consents to recordation thereof by its duly authorized officer.

Date: \_\_\_\_\_

\_\_\_\_\_  
Chair, Monterey County Board of Supervisors

Attested By:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ernest K. Morishita  
Clerk of the Board of Supervisors  
County of Monterey  
State of California

Document Content/Form Acceptable:

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Planning Department

**Exhibit "A"**

That certain real property situate in the County of Monterey, State of California, describe as follows:

That area designated as "scenic easement" as shown on that certain map, attached as Exhibit "B," filed this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, in the Volume \_\_\_\_\_ of Parcel Maps at page \_\_\_\_\_, Monterey County Records.

## **Exhibit "B"**

Attach as "Exhibit B" an official surveyor's map, parcel map, or plot plan, accompanied by a metes and bonds description, as prepared by a licensed surveyor. The map, marked as "Exhibit B," must show the exact location of the easement on the subject property, as surveyed by the surveyor.