

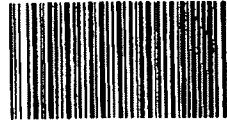
Stephen L. Vagnini
Monterey County Recorder
Recorded at the request of

CRMARIA
1/28/2014
8:00:00

Chicago Title

DOCUMENT: 2014003927

Titles: 2/ Pages: 12



Fees...
Taxes...
Other...
AMT PAID

Recording Requested by and
When Recorded, Return to
Marina Coast Water District
11 Reservation Road
Marina, CA 93933

Exempt from Fee for Recording
per Govt. Code Sec. 6103.

Exempt from Documentary Transfer Tax
per Rev. & Taxation Code Sec. 11911.

Unincorporated area
:Incorporated area

Easement Only - Consideration under \$100.00

100 -

Signature of Declarant or Agent determining tax

APN: 031-101-038 [a portion] and 031-101-052 [a portion]

EASEMENT DEED & MAINTENANCE AGREEMENT

For good and adequate consideration, the receipt of which is duly acknowledged, the City of Marina, a California charter city, GRANTOR, does hereby Grant to the Marina Coast Water District, a California Water District, existing and operating under Division 13 of the California Water Code (hereinafter referred to as "MCWD"), collectively known as the "parties", subject to the terms and conditions set forth below, a non exclusive access and utility easement across, under, and through GRANTOR'S property to construct, reconstruct, install, inspect, maintain, replace, repair, remove, operate, and use facilities and undertake activities of the type hereinafter specified, upon the real property situated in the City of Marina, County of Monterey, state of California described and shown on Exhibit A, attached hereto and incorporated herein by reference, and designated therein as "Easement 1" and "Easement 2" (hereinafter collectively referred to as the "Easement Areas").

See Exhibit "A" (APN 031-101-038 - a portion; and APN 031-101-052 - a portion)

I Said facilities located upon Easement 1 and Easement 2 are described and subject to the terms and conditions as follows:

(a) A sewage lift station on approximately 0.3 acres (14,263 square feet), together with such underground pipelines, conduits, service boxes, wires, cables, and electrical conductors and fixtures, and appurtenances, with necessary and proper valves and other appliances and fittings, and devising for controlling corrosion for use in connection with said pipelines, necessary to any and all thereof, as depicted in the Promontory's civil construction plans dated 01/02/2014 and as MCWD deems necessary for the operation of, control of, and communication with the sewage lift station, all to be located within Easement 1 and Easement 2. GRANTOR shall not be permitted to locate any structures within Easement 1 or Easement 2 or interfere with the operation of the sewage list station facilities in any way. The easement shall encumber Easement 1 and Easement 2 for so long as the

sewage lift station remains in operation. In the event MCWD or its successors and assigns abandon or terminate their use of the sewage lift station or other facilities within Easement Areas for a period of thirty-six consecutive month, the easement granted herein shall terminate. When the easement is terminated or otherwise no longer needed, the parties shall cooperate to create and execute documents and instruments necessary to terminate the easement for its intended purposes.

b) MCWD shall have unrestricted ingress and egress to Easement 1 and 2 with vehicles, tools, implements and other materials for the purpose of constructing, installing, repairing, testing, maintaining, and replacing the sewage lift station and utilities serving the sewage lift station.

(c) MCWD shall be responsible for the maintenance of the sewer lift station and any other equipment and facilities installed by MCWD within Easement 1 and Easement 2. MCWD shall also be responsible for landscape and surface maintenance within the fenced perimeter of the lift station. MCWD shall have the right to trim or cut tree roots and vegetation as may endanger or interfere with the function of the easement within the Easement Area. In doing work on Easement Area, MCWD will conduct work in such a manner as will cause the least injury to the ground or surface around the work and will replace the earth removed and restore the surface of the ground to as near a condition as existed prior to such work as practicable. MCWD's use of the easement shall not unreasonably interfere with GRANTOR'S use of its property.

(d) MCWD agrees to undertake all activities necessary to maintain the MCWD infrastructure within Easement 1 and Easement 2, at its sole cost and expense.

(e) MCWD shall maintain a fence around the sewage lift station.

II This Easement Deed & Maintenance Agreement is subject to the following terms and conditions:

(a) MCWD shall indemnify GRANTOR against any claim of liability or any other claim or any loss or damage involving the exercise of the rights herein granted to MCWD, the sewage lift station or the pipelines or utilities serving the sewage lift station or any other equipment or facilities installed by MCWD in or around the Easement Area, or otherwise caused by any negligent act or omission of MCWD or of its agents, employees or contractors, or which may arise out of or occur by the performance of work by MCWD, its contractors and agents within the Easement Areas or Grantor's Property, provided, however, that this indemnity shall not extend to that portion of such loss or damage that shall have been caused by GRANTOR'S sole active negligence or willful misconduct.

(b) MCWD shall obtain and maintain during the term of this Easement Deed & Maintenance Agreement general liability insurance including public liability and property damage in commercially reasonable amounts covering the Easement Areas which names the Grantor as an additional insured on a primary and noncontributing basis. All insurance required by this agreement shall contain a provision that coverage may not be canceled or materially changed in the scope or amount of coverage unless thirty (30) days advance written notice is given to the Grantor at its address as set forth below or such other address as the additional insured shall specify.

(c) Before beginning any construction in the Easement Area pursuant hereto, MCWD's construction contractor(s) shall agree in writing to indemnify and hold GRANTOR harmless to the same extent as provided herein, and at all times during the period of any construction activity in or around the Easement Area pursuant to this Agreement. MCWD and/or its construction contractor(s) shall keep in full force and effect, at their sole expense, liability insurance in such form and amount as is consistent with the GRANTOR'S insurance requirements for the work being done. GRANTOR shall be named as an additional insured on each such insurance policy. Such insurance shall be primary to any insurance which may be carried by GRANTOR, and no insurance carried by GRANTOR shall be called upon to contribute to any loss covered by such policy(s). MCWD shall deliver a certificate of insurance to GRANTOR showing proof of required insurance before beginning any construction on Easement Areas.

(d) MCWD shall not cause or permit any "Hazardous Material", as hereinafter defined, to be brought upon, kept, or used in or about the Easement Areas. If MCWD breaches the obligations stated herein or if contamination of the Easement Areas by Hazardous Materials otherwise occurs for which MCWD is legally liable to GRANTOR for damage resulting therefrom, then MCWD shall indemnify, defend with counsel approved in writing by GRANTOR, and hold harmless GRANTOR, its elected or appointed officials, officers, agents, and employees from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of all or any of the Easement Areas or adjacent properties, sums paid in settlement of claims, attorney's fees, consultant fees, and expert witness fees) which arise during or after MCWD's use of the Easement Areas as a result of such contamination. This indemnification includes, without limitation, costs incurred by GRANTOR in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state, or local governmental entity or agency because of Hazardous Material being present in the soil or ground water under the Easement Areas. MCWD shall promptly take all action, at its sole cost and expense, as is necessary to clean, remove, and restore the Easement Areas to their condition prior to the introduction of such Hazardous Material by MCWD, provided MCWD shall first have obtained GRANTOR'S written approval and the approval of any necessary governmental entities or agencies for any such remedial action.

For purposes of this Easement Deed & Maintenance Agreement, the term "Hazardous Material" or "Hazardous Materials" shall mean any hazardous or toxic substance, material, product, byproduct, or waste which is or shall become regulated by any governmental entity, including, without limitation, GRANTOR acting in its governmental capacity, the State of California of the United States government.

(e) The Easement granted herein is subject to the terms and conditions of that Quitclaim Deed dated ~~12-18-13~~ and recorded in the Official Records of Monterey County as Document No. 2014003925 pursuant to which the Grantor obtained title to the Easement Area and MCWD shall be responsible for complying with all of the requirements of the Quitclaim Deed with regards to its use of the Easement Area. MCWD is accepting the Easement granted herein in "AS IS" condition without representation or warranty, except as set forth in Quitclaim Deed. The Grantor shall not have responsibility for demolition, site preparation, soils condition, or removing or correcting any subsurface condition or hazardous materials condition in the Easement.

In addition the Easement is subject to the Covenant to Restrict Use of Property Environmental Remediation recorded on May 22, 2002 in the Official Records of the County of Monterey as Document No. 2002048597

(f) GRANTOR reserves the right to use the Easement Areas for any and all purposes which will not interfere with MCWD's full enjoyment of the rights herein granted.

(g) MCWD shall submit plans for all improvements to the GRANTOR'S Community Development Department for approval and permits in accordance with GRANTOR'S normal standards and requirements prior to undertaking improvements. Upon GRANTOR'S request, MCWD shall provide GRANTOR with as-built drawings and a survey showing the location and depth of the improvements installed in the Easement Areas.

(h) MCWD shall bear and promptly pay, without the imposition of any lien or charge on or against all or any portion of GRANTOR'S property, all costs and expenses of construction and maintenance of the improvements.

(i) This grant is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect Easement Areas, whether or not of record, including but not necessarily limited to easements granted to AMCAL Monterey Bay, LLC and to Pacific Gas and Electric Company, and the use of the word "grant" herein shall not be construed as a covenant against the existence of any thereof.

(j) Any notice permitted or required by herein shall be deemed received, if delivered when actually received, or if mailed on the third day after mailing by registered or certified mail, postage prepaid, to the party's address set forth below or to such other address designated in writing to the other party.

GRANTOR: City of Marina
Attn: City Manager
211 Hillcrest Avenue
Marina, CA 93933

MCWD: Marina Coast Water District
Attn: General Manager/District Engineer
11 Reservation Road
Marina, CA 93933

(j) In any action to compel performance of, or to recover for breach of, any agreement or condition herein, the prevailing party shall be entitled to recover reasonable attorney's fees in addition to the amount of judgment and costs.

(k) The provisions hereof shall be binding upon and shall insure to the benefit of the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

(l) No alteration or variation of the terms of this Easement Deed & Maintenance Agreement shall be valid unless made in writing and signed by the parties, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties. Any amendment or cancellation of this Easement Deed & Maintenance Agreement shall be recorded in the Official Records of the County of Monterey.

(m) Neither party shall have the right to assign or transfer this Easement Deed & Maintenance Agreement or any of its rights or obligations hereunder without the express prior written consent of the other party, which may be withheld in its sole and absolute discretion

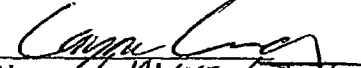
(n) This Easement Deed & Maintenance Agreement shall be effective upon the date it is executed by an authorized representative of each signing party.

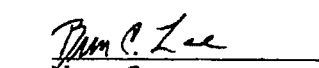
(o) If any term, covenant, condition or provision of this Easement Deed & Maintenance Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall no way be affected, impaired or invalidated thereby.


(p) Each individual signing on behalf of a party to this Easement Deed & Maintenance Agreement state that he or she is the duly authorized representative of the signing party and that his or her signature on this Easement Deed & Maintenance Agreement has been duly authorized by, and creates the binding and enforceable obligation of the party on whose behalf the representatives is signing.


CITY OF MARINA

MARINA COAST WATER DISTRICT


Name: LAYNE COINE
Its: CITY MANAGER


Name: Brian C. Lee
Its: General Manager

Dated: JAN 24, 2014
~~2013~~


Dated: Jan 24, 2014
~~2013~~


State of California }
County of Monterey }

On _____, 2013, before me, (here insert name and title of the officer), _____
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)

State of California }
County of Monterey }

On _____, 2013, before me, (here insert name and title of the officer), _____
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)

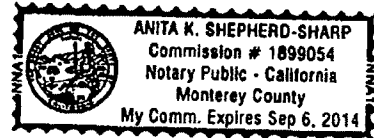
State of California }
County of Monterey }

On Jan 24, 2014 ²⁰¹⁴ Anita K. Shepherd-Sharp, Notary Public
~~On Jan 24, 2013, before me, (here insert name and title of the officer),~~
Personally appeared Hayne Long, 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 Anita K. Shepherd-Sharp (Seal)



State of California }
County of Monterey }

On _____, 2013, before me, (here insert name and title of the officer), _____
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)

EXHIBIT A
EASEMENT AREA

66101\1455912.1
1/24/2014

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EXHIBIT "A"
LEGAL DESCRIPTION

EASEMENT 1

Certain real property situated in the City of Marina, County of Monterey, State of California, described as follows:

A portion of the property described as Portion 8 – Maintenance Center Building – Phase 2 in Document No. 2005091639, Official Records of Monterey County, more particularly described as follows:

Beginning at a point that is distant North 2° 15' 00" East, 4.70 feet from the most southwesterly corner of that certain Parcel 1, as said parcel is shown on that certain map filed February 2, 1996 in Volume 20 of Surveys, at Page 4, Records of Monterey County, California; thence along the westerly boundary of said parcel,

- 1) North 02° 15' 00" East, 55.30 feet; thence departing said westerly boundary
- 2) North 87° 21' 00" West, 42.06 feet; thence
- 3) South 66° 06' 32" West, 81.10 feet; thence
- 4) South 83° 59' 59" West, 60.22 feet; thence
- 5) North 87° 21' 00" West, 151.52 feet, more or less, to a point on the boundary of Parcel 5 between points 27 and 28, as said boundary, parcel and points are shown on that certain map filed October 19, 1994 in Volume 19 of Surveys, at Page 15, Records of Monterey County, State of California; thence along said boundary of Parcel 5
- 6) South 05° 40' 00" West, 10.01 feet; thence departing said boundary
- 7) South 87° 21' 00" East, 326.58 feet; to said **Point of Beginning**.

Easement 1 containing 7,417 square feet, more or less.

EASEMENT 2

Certain real property situated in the City of Marina, County of Monterey, State of California, described as follows:

A portion of the property described as Portion 9 – Maintenance Center Building – Phase 1 in Document No. 2005091639, Official Records of Monterey County, more particularly described as follows:

Beginning at the southwesterly corner of that certain Parcel 1, as said parcel is so designated on that certain map filed February 2, 1996 in Volume 20 of Surveys, at Page

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4, Records of Monterey County, State of California, thence along the westerly boundary of said Parcel 1

- 1) North 2° 15' 00" East, 4.70 feet; thence departing said westerly boundary
- 2) North 87° 21' 00" West, 326.58 feet, more or less, to a point on the boundary of that certain Parcel 5 between points 27 and 28, as said parcel and points are shown on that certain map filed October 19, 1994 in Volume 19 of Surveys, at Page 15, Records of Monterey County, State of California; thence along said boundary of Parcel 5
- 3) South 05° 40' 00" West, 20.03 feet; thence departing said boundary
- 4) South 87° 21' 00" East, 267.31 feet; thence
- 5) South 02° 39' 00" West, 5.00 feet; thence
- 6) South 87° 21' 00" East, 60.50 feet to a point on the boundary of said Parcel 5 between points 35 and 36; thence along said boundary
- 7) North 02° 15' 00" East, 20.30 feet; to said Point of Beginning.

Easement 2 containing 6.846 square feet, more or less.

Attached hereto is a plat to accompany legal description, and by this reference made a part hereof

END OF DESCRIPTION

PREPARED BY:

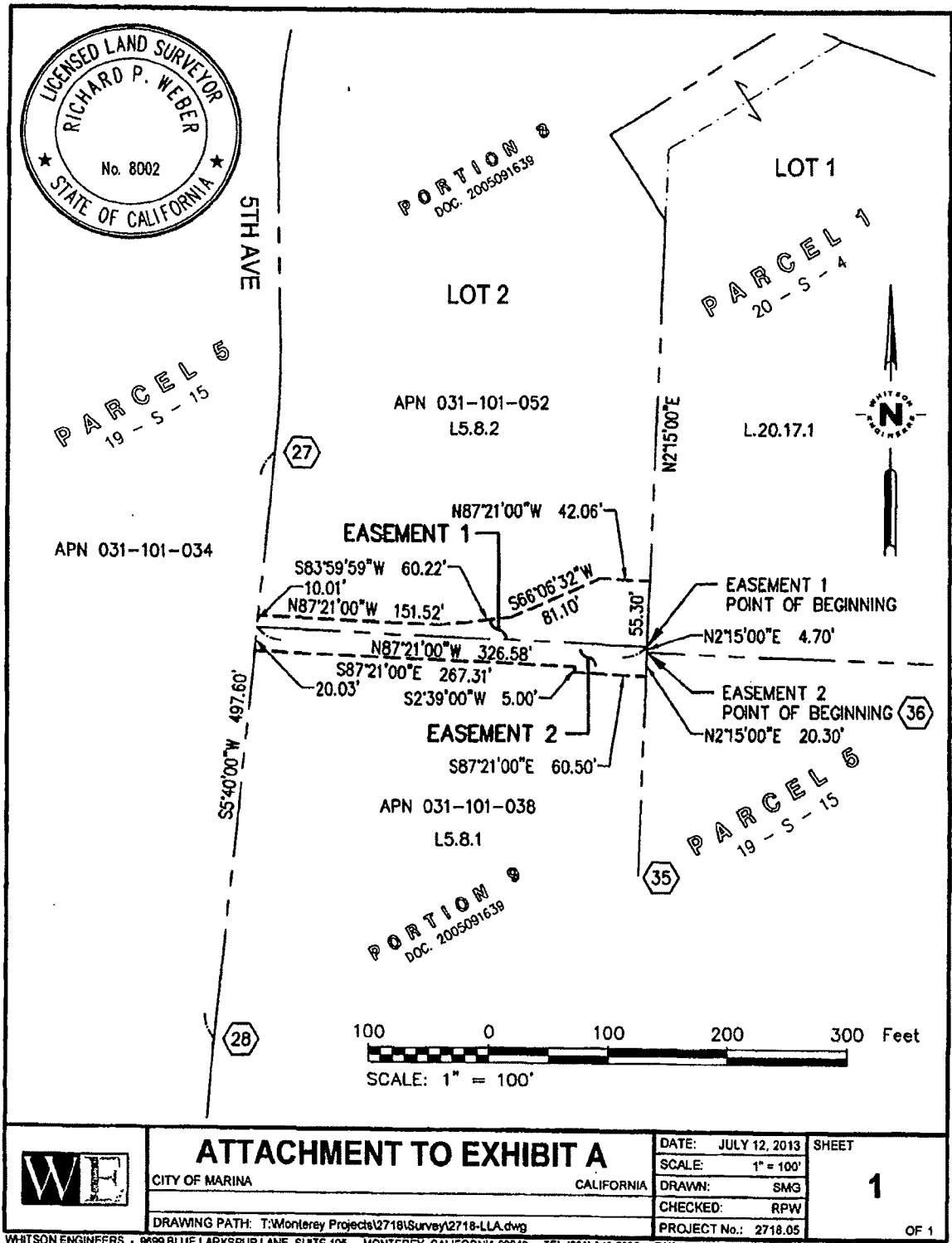
WHITSON ENGINEERS

RICHARD P. WEBER P.L.S.
L.S. NO. 8002



Job No.: 2718.05

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