

RESOLUTION 2005-11

RESOLUTION OF THE BOARD OF DIRECTORS OF RANCHO MURIETA COMMUNITY SERVICES DISTRICT APPROVING THE TEMPORARY ACCESS AND CONSTRUCTION LICENSE AND AGREEMENT AND EASEMENT AND MAINTENANCE AGREEMENT

WHEREAS, the Rancho Murieta Community Services District (the "District") is the owner of an easement to maintain the levees south of the Cosumnes River in Rancho Murieta and an easement for a sewage pump station and drainage pump station, together with access easements thereto; and

WHEREAS, the Rancho Murieta Parks Committee proposes to construct a pedestrian bridge across the Cosumnes River and to use a portion of the levee for a pedestrian and small vehicle trail to provide access to the bridge; and

WHEREAS, the District has approved amendments to the Rancho Murieta Parks and Recreation Master Plan and to the description of the trail system in the Park Development Agreements between the District, the Rancho Murieta Homeowners Association, and owners of land designated for residential development in Rancho Murieta, to provide for the proposed Rancho Murieta Pedestrian Bridge and for the revision of the Rancho Murieta trail system; and

WHEREAS, the District, as the Lead Agency, has prepared and adopted a Negative Declaration for the Rancho Murieta Pedestrian Bridge project, including the amendments to the Park and Recreation Master Plan and the Park Development Agreements trail system and the use of the levees for trail purposes, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*, hereinafter "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 *et seq.*, hereinafter the "State CEQA Guidelines") and local procedures adopted by the District pursuant thereto; and

WHEREAS, the Board approved Resolution 2005-04 the use of the levees subject to the maintenance easement of the District for purposes of a community trail, insofar as the use does not interfere with the District's maintenance of the levees for flood control purposes.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE RANCHO MURIETA COMMUNITY SERVICES DISTRICT DOES HEREBY RESOLVE AS FOLLOWING:

The Board approves the granting and executing by the Board President the following:

1. Temporary Access and Construction License and Agreements, Exhibit A hereto;
2. Easement and Maintenance Agreement, Exhibit B hereto.

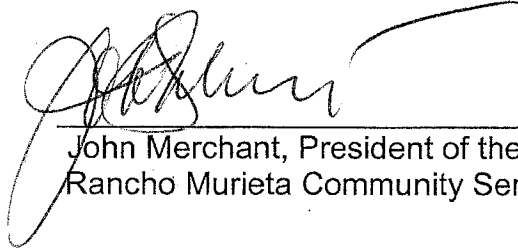
PASSED AND ADOPTED this 15th day of June 2005, by the following Roll Call Vote:

Ayes: *Merchant, Taylor, Brennan, Kuntz, White*

Noes: *None*

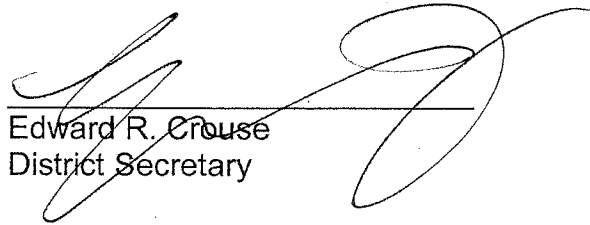
Abstain: *None*

Absent: *None*



John Merchant, President of the Board
Rancho Murieta Community Services District

Attest:



Edward R. Crouse
District Secretary

EXHIBIT A

TEMPORARY ACCESS AND CONSTRUCTION
LICENSE AND AGREEMENT

THIS TEMPORARY ACCESS AND CONSTRUCTION LICENSE AND AGREEMENT (hereinafter "Agreement") is entered into on _____, 2005 by RANCHO MURIETA ASSOCIATION, a California nonprofit mutual benefit corporation ("RMA"), PTF FOR OPERATING ENGINEERS, LLC, a Delaware Limited Liability Company ("PTF"), RANCHO NORTH PROPERTIES LLC, a California limited liability company ("Rancho North"), WINNCREST HOMES, INC., a California corporation subsequently merged into REYDEN & BARDIS CONSTRUCTION, a California corporation ("Winncrest"), RANCHO MURIETA COUNTRY CLUB, a California nonprofit mutual benefit corporation ("Country Club"), RANCHO MURIETA COMMUNITY SERVICES DISTRICT, a public entity chartered under California Government Code section 61000 et seq. ("RMCS D"), and WILLIAM GEYER and NAIDA WEST, husband and wife, as joint tenants ("Geyer and West") (all collectively, "Licensors") and the RANCHO MURIETA PARKS COMMITTEE ("Parks Committee" or "Licensee").

Licensors and Licensee are jointly referred to herein as the "Parties."

RECITALS

This Agreement is made with reference to the following:

A. The Rancho Murieta master planned community ("Rancho Murieta") is located in an unincorporated portion of Sacramento County, California. Rancho Murieta is subject to local government regulation, particularly to Ordinance 77-PD-10 adopted by the County in 1977 and as subsequently amended.

B. The Cosumnes River flows through Rancho Murieta from east to west, separating Rancho Murieta into northern and southern parts. Despite a planned trail system, residents on either side of the river cannot cross the river within Rancho Murieta.

C. The Parks Committee is a committee established to carry out many of RMCS D's responsibilities for managing the development of recreational facilities within Rancho Murieta. The Parks Committee works with various developers, builders, RMA and other participants to ensure appropriate funding, construction and installation of these recreational facilities. The recreational facilities include the Rancho Murieta trail system, which contemplates a bridge for pedestrian and bicycle use over the river is an integral part of such facilities. A copy of the current trail system which RMCS D approved on January 4, 2005, including a bridge spanning the river, is shown in Exhibit A attached hereto ("Trail System Plan").

D. The Parks Committee wishes to construct the bridge at the location within Rancho Murieta indicated on the Trail System Plan. The bridge will connect the northern and southern parts of Rancho Murieta as presently planned and approved by the County.

the south, a portion of the Riverview Parcel is open space between the paved levee road on the PTF Property and the Private Street commonly known as Reynosa Drive.

(5) Country Club. The Country Club leases portions of the PTF Property and the Rancho North Property for private golf course operations ("Leased Property"). The Leased Property includes, from the north, the northernmost portion of Bridge House Lane (but not its entire length) and, from the south, the levee and paved levee road along the southern bank of the river that lie within the PTF Property and the Rancho North Property, respectively. Members, guests and patrons of the Country Club cross over the northernmost portion of Bridge House Lane and over portions of the levee and paved levee road on foot and in golf carts while playing the game of golf.

(6) RMCS D. RMCS D owns an easement over Bridge House Lane to access and maintain a pumping station on the northern bank of the river ("Pumping Station Easement"). The Pumping Station Easement was granted to RMCS D in that certain Easement Grant Deed recorded on September 24, 2004 in Book 20040924 at page 1219, Sacramento County Records. The Pumping Station Easement Area is coextensive with Bridge House Lane as described in Exhibit B attached hereto.

(7) RMCS D. RMCS D further owns an easement over those portions of the PTF Property and the Rancho North Property that contain the levee and paved levee road on the southern bank of the river. The purpose of this easement is to maintain the levee and paved levee road ("Levee Easement"). The Levee Easement was quitclaimed to RMCS D in that certain Easement Quitclaim Deed recorded on September 24, 2004 in Book 20040924 at page 1234, Sacramento County Records. The Levee Easement Area is particularly described in Exhibit D attached hereto.

On January 4, 2005, RMCS D adopted a resolution designating the Levee Easement Area as part of the Rancho Murieta trail system. A copy of the RMCS D Board resolution is attached hereto as Exhibit E.

(8) Geyer and West. Geyer and West own an easement over a portion of Bridge House Lane ("Geyer and West Easement"). Predecessors in interest to Geyer and West originally reserved an easement in or around the area of today's Bridge House Lane in that certain Grant Deed recorded on February 24, 1965 in Book 5185 at page 45, Sacramento County Records, and were reciprocally granted an easement with respect to the reserved easement area in that certain Grant of Easement recorded on February 24, 1965 in Book 5185 at page 50, Sacramento County Records. In the alternative, Geyer and West presumptively have an easement by necessity for access over Bridge House Lane, as their property within Rancho Murieta is otherwise landlocked. The original Geyer and West Easement Area is particularly described in Exhibit F attached hereto. Exhibit F further provides that the Geyer and West Easement Area intended here is an area coextensive with the northern portion of the Pump Station Easement Area.

H. Bridge construction is expected to begin in June 2005 and continue through the end of the year. A precise window of time for construction cannot be

(ii) A license over that portion of the PTF Property particularly described in and depicted on Exhibit G, upon which the bridge will be constructed and installed, where staging of the bridge construction project will occur and where, if needed, a sedimentation basin will temporarily be located; and

(iii) A license over that portion of the PTF Property within the Levee Easement Area described in Exhibit D, comprised of a six-foot (6') wide right-of-way lying on either side of the centerline of the paved levee road within the PTF Property (for a maximum access route twelve feet (12') in width) and extending along the length of that portion of the paved levee road that lies east of the bridge-crossing site and within the PTF Property.

(c) Rancho North Grant. A license over that portion of the Rancho North Property within the Levee Easement Area described in Exhibit D, comprised of a six-foot (6') wide right-of-way lying on either side of the centerline of the paved levee road within the Rancho North Property (for a maximum access route twelve feet (12') in width) and extending along the length of that portion of the Rancho North Property that contains the paved levee road.

(d) Winncrest / Reynen & Bardis Grant.

(i) A license over that portion of the Riverview Parcel within the Levee Easement Area described in Exhibit D, comprised of a six-foot (6') wide right-of-way lying on either side of the centerline of the paved levee road within the Riverview Parcel (for a maximum access route twelve feet (12') in width) and extending along the length of that portion of the Riverview Parcel that contains the paved levee road; and

(ii) A license over a portion of the Riverview Parcel comprised of a strip of land twelve feet (12') in width whose centerline lies along the most direct access route (accounting for topographical features of the land) between the paved levee road and the Private Street commonly known as Reynosa Drive.

(e) Country Club Consent. Consent to the License, to the extent of its leasehold interest in the PTF Property. The Country Club previously gave its consent in a letter to Mr. David Howard of McMorgan & Company, representing PTF and Rancho North, dated December 29, 2004. A copy of that letter is attached hereto as Exhibit H.

(f) RMCS D Consent. Consent to the License, to the extent of RMCS D's multiple easement interests over Bridge House Lane and the Levee Easement Area. The RMCS D previously authorized the use of the Levee Easement Area for trail purposes in conjunction with the bridge construction, at its January 4, 2005 meeting, as evidenced by the RMCS D Board resolution in Exhibit E.

(g) Geyer and West Consent. Consent to the License, to the extent of Geyer and West's easement interest over Bridge House Lane.

Licensors may, in its or their sole discretion after providing Licensee at least fourteen (14) calendar days written notice and opportunity to cure the failure (or, in the event of an emergency, without notice), repair, refinish or restore such damage and Licensee shall reimburse Licensors all costs and expenses incurred in such repair, refinishing or restoration. If a Licensors performs emergency repairs, that Licensors shall notify Licensee of such repairs as soon as is reasonably practicable.

7. Grant of Easement to RMA. Within one hundred (100) days following the signing of this Agreement by the Parties, all Licensors other than RMA shall execute and deliver to Licensee a grant of easement substantially similar to the document attached hereto as Exhibit I ("Grant of Easement"). Licensee shall thereafter promptly deliver the Grant of Easement to RMA, which Grant of Easement shall promptly be recorded in the Office of the Sacramento County Recorder upon completion of the Work. RMA shall cause a recorded copy of the Grant of Easement to be promptly delivered to all Licensors.

To the extent that formal legal descriptions of the trail system encompassed by the License Area have yet to be prepared, Licensee shall at its sole cost and expense commission a licensed civil engineer or surveyor to prepare proper descriptions and plats for the various areas contemplated in this Agreement to be part of the non-exclusive easements for trails conveyed and consented to in the Grant of Easement. When such descriptions and plats are available, which shall be no more than ninety (90) days following the date all Parties sign this Agreement unless unduly delayed for reasons beyond Licensee's control, Licensee shall distribute copies of such descriptions and plats to all Parties for their review. Thereafter, such descriptions and plats shall be substituted for the narrative descriptions in the Grant of Easement which, upon completion of the bridge project, shall thereupon be recorded.

8. Term. The License granted herein shall expire nine (9) months from the date all Parties sign this Agreement or upon the completion of the Work, whichever occurs first; provided, however, that if the Work has commenced but is not yet complete at the time of expiration, this License shall continue for a reasonable period of time so long as Licensee is diligently pursuing the Work to completion. If the Work has not yet commenced at the time of expiration, Licensee may extend this License for an additional twelve (12) month period upon Licensee's written notice to Licensors, which notice shall also explain the reasons that the Work has not yet commenced.

9. Indemnity. Licensee shall indemnify and defend Licensors and hold Licensors harmless with respect to any claims, losses, damages, injuries, liabilities, costs and expenses, including attorneys' fees, (collectively, "Claims") incident to, arising from, or related in any way to the permitting, construction and installation of the bridge on the PTF Property, except to the extent that such Claims result from the negligent act or wilful misconduct of one or more of the Licensors. The provisions of this paragraph shall survive expiration or termination of this Agreement or any renewal thereof.

10. Insurance. Licensee warrants that all Work contemplated herein will be performed by a qualified, licensed general contractor. Licensee shall, at Licensee's sole

RANCHO NORTH:

Rancho North Properties, LLC
c/o McMorgan & Company
Attn: David R. Howard
One Bush Street, Suite 800
San Francisco, CA 94104
415 788-9300
415 616-9399 (fax)

With copy to:

Stanton, Kay & Watson, LLP
Attn: Frederick W. Thompson, Esq.
101 New Montgomery St., 5th Floor
San Francisco, CA 94105
415 512-3501
415 512-3515 (fax)

WINNCREST:

Reynen & Bardis Construction
Attn: Gary T. Parker
9848 Business Park Drive, Suite H
Sacramento, CA 95827
916 366-3665
916 364-3570 (fax)

COUNTRY CLUB:

Rancho Murieta Country Club
Attn: Robert Johnson, General Manager
7000 Alameda Drive
Rancho Murieta, CA 95683
916 354-3400
916 354-0916 (fax)

RMCS D:

Rancho Murieta Community Services District
c/o Edward R. Crouse, General Manager
15160 Jackson Road
Rancho Murieta, CA 95683
916 354-3700
916 354-2082 (fax)

GEYER AND WEST:

William Geyer and Naida West
P.O. Box 809
Sloughhouse, CA 95683
916 985-7411

PARKS COMMITTEE:

Rancho Murieta Parks Committee
c/o Rancho Murieta Association
7191 Murieta Parkway
Rancho Murieta, CA 95683
916 354-3500
916 354-3515 (fax)

18. Binding on Successors-in-Interest. The obligations of Licensors and Licensee set forth in this Agreement shall run with the land and shall be binding on all such Parties' successors in interest, heirs and devisees.

19. Governing Law. This Agreement shall be construed in accordance with the laws of the State of California.

20. Counterparts. This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same document.

21. Recitals and Exhibits Incorporated. The recitals to this Agreement and all exhibits attached hereto are incorporated into this Agreement by this reference.

22. Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision hereof shall not invalidate any other provision hereof.

23. Effective Date. This Agreement shall be effective as of the last date shown below upon which this Agreement is executed.

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

REYNEN & BARDIS CONSTRUCTION, a
California corporation and merging entity for
WINNCREST HOMES, INC, a California
corporation

Dated: _____, 2005

By: _____
Gary T. Parker, _____

With the consent of:

RANCHO MURIETA COUNTRY CLUB, a
California nonprofit mutual benefit corporation

Dated: _____, 2005

By: _____
Jean Bowles, President

With the consent of:

RANCHO MURIETA COMMUNITY SERVICES
DISTRICT

Dated: _____, 2005

By: _____
John Merchant, President of the Board

With the consent of:

WILLIAM GEYER and NAIDA WEST, husband
and wife, as joint tenants

Dated: _____, 2005

William Geyer

Dated: _____, 2005

Naida West

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2005, before me, _____, personally appeared _____, personally known to me or 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.

WITNESS my hand and official seal.

Notary Public

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2005, before me, _____, personally appeared _____, personally known to me or 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.

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Notary Public

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) ss.
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WITNESS my hand and official seal.

Notary Public

EXHIBIT B

Being a Description of PTF Property,
Rancho North Property, and Riverview Parcel



EXHIBIT D

Being a Description and Depiction
of the Levee Easement Area



EXHIBIT F

Being a Description of Real Property Containing
the Geyer and West Easement Area

NOTE: The Geyer and West Easement Area is intended to be the northernmost portion of the Pumping Station Easement Area described in Exhibit E (also referred to in the Agreement as Bridge House Lane). The easement area described in this Exhibit was both reserved to and granted by Geyer and West's predecessors in interest for access in and out of Rancho Murieta over what is today the PTF Property. It is believed to contain the Pumping Station Easement Area.

EXHIBIT H

Being a Description of the Country Club Consent Letter
Dated December 29, 2004

EXHIBIT H

EXHIBIT B

RECORDING REQUESTED BY

BERDING & WEIL LLP

AND WHEN RECORDED MAIL TO

RANCHO MURIETA ASSOCIATION
c/o Berding & Weil LLP
3240 Stone Valley Road West
Alamo, California 94507
Attention: Steven S. Weil, Esq.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT AND MAINTENANCE AGREEMENT

This Easement and Maintenance Agreement is entered into by PTF FOR OPERATING ENGINEERS, LLC, a Delaware Limited Liability Company ("PTF"), RANCHO NORTH PROPERTIES LLC, a California limited liability company ("Rancho North"), WINNCREST HOMES, INC., a California corporation subsequently merged into REYDEN & BARDIS CONSTRUCTION, a California corporation ("Winncrest") (collectively, "Grantors"), and RANCHO MURIETA ASSOCIATION, a California nonprofit mutual benefit corporation ("Grantee").

Other parties consenting to this Agreement are RANCHO MURIETA COUNTRY CLUB, a California nonprofit mutual benefit corporation ("Country Club"), RANCHO MURIETA COMMUNITY SERVICES DISTRICT, a public entity chartered under California Government Code section 61000 et seq. ("RMCS D"), and WILLIAM GEYER and NAIDA WEST, husband and wife, as joint tenants ("Geyer and West"), (collectively, the "Consenting Parties")

RECITALS

A. Grantors are the owners of that certain real property situated in the Rancho Murieta master planned community ("Rancho Murieta") in an unincorporated portion of Sacramento County, California ("Grantors' Property"). Grantors' Property is more particularly described in Exhibit A attached to this Agreement and incorporated hereto by this reference.

B. Grantee is the community association created to manage the Rancho Murieta planned development, the private streets within Rancho Murieta, and its many recreational facilities, parks and trails.

C. Grantee wishes to acquire certain rights in a portion of Grantors' Property described as follows: a non-exclusive right-of-way easement over the real property described in Exhibit B attached hereto and hereby incorporated by reference (the "Trail

8. Amendments. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by Grantors, or each of them to the extent of their interest in the amendment, and Grantee.

9. Binding Effect. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of Grantors and Grantee.

10. Disputes. If any dispute shall arise concerning the interpretation or enforcement of the easement or this Agreement, the prevailing party in any action, including arbitration, shall be entitled to reimbursement of reasonable attorneys' fees and costs.

11. Representations. Each person executing this Agreement hereby represents that he or she or the entity such person represents has full legal power and authority to enter into this Agreement and to carry out the obligations set forth in this Agreement to the full extent stated.

12. Binding Nature. The obligations of Grantee set forth in this Agreement shall run with the land and shall be binding on any successor in interest to Grantee.

13. Governing Law. This Agreement shall be construed in accordance with the laws of the State of California.

14. Counterparts. This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same document.

15. Recitals and Exhibits Incorporated. The recitals to this Agreement and all exhibits attached hereto are incorporated into this Agreement by this reference.

16. Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision hereof shall not invalidate any other provision hereof.

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

RANCHO MURIETA COMMUNITY SERVICES DISTRICT

Dated: _____, 2005

By: _____
John Merchant, President of the Board

WILLIAM GEYER and NAIDA WEST, husband and wife, as joint tenants

Dated: _____, 2005

William Geyer

Dated: _____, 2005

Naida West

GRANTEE:

RANCHO MURIETA ASSOCIATION,
a California nonprofit mutual benefit corporation

Dated: _____, 2005

By: _____
Paul Gumbinger, President

Dated: _____, 2005

By: _____
Michael Martel, Secretary

379119.1

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2005, before me, _____, personally appeared _____, personally known to me or 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.

WITNESS my hand and official seal.

Notary Public

CERTIFICATE OF ACKNOWLEDGMENT

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) ss.
COUNTY OF _____)

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WITNESS my hand and official seal.

Notary Public

EXHIBIT A

Being Grantors' Property

EXHIBIT A

Area of Geyer and West Consent.

(1) Consent to the easement, to the extent of Geyer and West's easement interest over Bridgehouse Lane.