

Joseph F. Pitta  
Monterey County Recorder  
Recorded at the request of  
**Chicago Title**

CRROBERTA  
12/28/1999  
15:09:02

Recording Requested By and  
When Recorded, Mail To:

Monterey County Parks Department  
Attn: Rich Brandau  
P. O. Box 5249  
Salinas, CA 93915

DOCUMENT: **9994946**



#0009994946#

Titles: 1/ Pages: 13

Fees.... 44.00

Taxes...

Other...

AMT PAID \$44.00

**IRREVOCABLE OFFER TO DEDICATE  
TRAILS AND PUBLIC ACCESS EASEMENT  
AND DECLARATION OF RESTRICTIONS**

This Irrevocable Offer to Dedicate Trails and Public Access Easement and Declaration of Restrictions ("Offer") is made by and between the undersigned, hereinafter referred to as "Developer", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County".

WHEREAS, Developer is the legal owner of a fee interest of certain real property located in the County of Monterey, State of California, commonly known as Cañada Woods, more particularly described in Exhibit "A", attached hereto, hereinafter referred to as the "Property"; and,

WHEREAS, on August 22, 1995, County's Board of Supervisors approved a vesting tentative subdivision map for Cañada Woods (also known as Cañada Woods East), subject to Condition No. 93 as set forth in Board of Supervisors Resolution No. 95-384; and

WHEREAS, Condition No. 93 of Resolution 95-384 provides as follows:

The developer shall irrevocably offer to dedicate to the County of Monterey, concurrently with the recordation of the Final Map, certain trail easements over the southern portion of the Cañada Woods Subdivision for purposes of public recreational trail access.

a) Public Trail Access over the Southern Portion of Cañada Woods Subdivision:

- 1) A fifteen (15) foot public trail easement designated as the "Frontage Trail," generally following an alignment

to Carmel Valley Road from Cypress Lane toward Valley Greens Drive and primarily used for bicycle access.

2) A fifteen (15) foot public trail easement designated as the "River Trail", generally running parallel and adjacent to the Carmel River.

3) A public access easement located within the proposed 60-foot road and utility easement over Williams Ranch Road for purposes of allowing public access from Carmel Valley Road to the River Trail. (Monterey County Parks).

WHEREAS, the County has placed the foregoing condition on the approval of the vesting tentative subdivision map for the Cañada Woods Subdivision because a finding must be made under the law that the proposed subdivision is in conformity with the provisions of the County's General Plan and the Carmel Valley Master Plan and that in the absence of the protections provided by the aforesaid conditions said finding could not be made.

WHEREAS, Developer has elected to comply with the conditions recited above and executes this Offer for two strips of land ("Frontage Trail" and "River Trail", collectively referred to as the "Trails") and a Public Access Easement ("Public Access"), the locations of which are more particularly described in Exhibit "B", attached hereto, so as to enable Developer to undertake the subdivision of the Property; and

WHEREAS, Developer has agreed to the imposition of the foregoing conditions and is ready, willing, and able to comply therewith; and

WHEREAS, it is intended that this Offer shall thereby qualify as enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution, and under the provisions of the California Revenue and Taxation Code Section 402.1;

NOW, THEREFORE, in consideration of the above, the mutual benefits and conditions set forth herein and the substantial public benefits to be derived from the Offer, County and Developer hereby agree as follows:

I. Developer hereby irrevocably offers to dedicate to the County (1) a fifteen foot wide non-exclusive easement over the River Trail, which easement shall be held in perpetuity for pedestrian and equestrian uses; (2) a fifteen foot wide non-exclusive easement over the Frontage Trail, which easement shall be held in perpetuity for pedestrian and bicycle uses; (3) and, a sixty foot wide non-exclusive easement over the Public Access, which easement shall be held in perpetuity for pedestrian and bicycle uses not inconsistent with use of same as a commercial street, all of said easements being described more particularly in Exhibit "B", attached hereto. Use of the Trails and Public Access easements shall not interfere with the operation of the Cañada Woods Commercial Center and shall allow installation, maintenance

and repair of drainage improvements and utilities, access for maintenance of Grantor's property and the improvements located thereon, and any other purpose consistent with use of the Property for commercial business operations.

II. The following declaration of restrictions subjects the Trails and Public Access to the following terms, conditions, and restrictions which shall be effective from the time of recordation of this instrument:

**(A.) CONSTRUCTION AND USE OF TRAILS AND PUBLIC ACCESS.**

(1) The specific alignment and use of the Trails and Public Access shall be consistent with any and all of the proposed commercial, residential or subdivision uses of the Property and shall follow the alignment described in Exhibit "B."

(2) During the term of this Offer, and in the event that the River Trail is accepted by the County, development, including, but not limited to, the removal of trees and other major vegetation, grading, paving, or installation of structures, shall not occur or be allowed on the River Trail with the exception of the following, subject to applicable governmental regulatory requirements:

(i) the removal of hazardous substances or conditions, or non-native and diseased plants or trees;

(ii) the removal of any vegetation which constitutes or contributes to a fire hazard to residential use of neighboring properties;

(iii) the installation, maintenance, and repair of underground utilities;

(iv) the installation of flood control, drainage, or access improvements subject to prior review and approval of County's Director of Planning;

(v) the installation of appurtenant structures, improvements and facilities to the trail system, including fences, subject to the review and approval of the Director of Planning and Building Inspection and the Parks Department.

(vi) the removal of trees and other vegetation as required to construct the trail.

(3) Prior to the County's acceptance of this Offer, County or its agent may enter onto the Trails and Public Access Easement at times reasonably acceptable to Developer, to ascertain whether the use restrictions set forth above are being observed, but the interest offered herein shall not confer any right of entry or use of the property except as set forth herein. Only upon the County's acceptance of this Offer, the County and/or its agents shall have the unrestricted right to enter onto said Trails and Public Access Easement, and the public shall have a right to use the Trails and Public Access for the purposes set forth in paragraph I, above, in accordance with the limitations set forth herein.

(4) Except for costs incurred by County and monitoring compliance with the terms of this offer, Developer shall have the sole responsibility for the Trails and Public Access Easement until acceptance of the Offer.

(i) Frontage Trail and River Trail. Upon acceptance of this Offer by County as to either the River Trail or the Frontage Trail offered herein, the County shall assume liability for the use of the accepted easement(s), and shall be responsible for construction, maintenance and repair of the trail improvements. The County shall be obligated to obtain any permits as may be required for construction of said trail. Thereafter, when the trail is complete and open to public use, the County, through the Parks Department, shall assume the cost of ongoing maintenance and for all liability for the use of the trail and the trail system. The Frontage Trail shall be limited to pedestrian and bicycle uses, and the River Trail shall be limited to pedestrian and equestrian uses.

(ii) Public Access Easement. At such time as the County accepts the Public Access Easement offered herein, the County shall assume liability for the use of the Public Access. The County shall not have any right or authority whatsoever to construct improvements of any kind within the Public Access Easement that do not interfere with use of the Public Access Easement for vehicular traffic or street purposes or interfere with operation of the Cañada Woods Commercial Center. The Public Access Easement is limited to pedestrian and bicycle uses.

(5) Developer or Developer's successors in interest may install a fence to limit public access to the River Trail and may install gates limiting the use of the River Trail and Public Access to daylight hours. Motorized vehicle use of the Trails and Public Access shall be limited to emergency vehicle access and such access as is necessary for the construction and maintenance of the trail, fences and adjacent property. The County shall take affirmative action as necessary to prohibit users of the Trails or Public Access Easement from parking vehicles on Williams Ranch Road and Emily Lane, and to prohibit other user activities which conflict with operation of Cañada Woods Commercial Center.

**(B) BENEFIT AND BURDEN.**

The Offer to Dedicate shall run with and burden the property, and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the property from the date of recordation of this document and shall bind the Developer, the County and all successors and assigns.

**(C) TAXES AND ASSESSMENTS.**

The Developer agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the Trails and Public Access Easement.

**(D) CONSTRUCTION OF VALIDITY.**

If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall thereby be affected or impaired.

**(E) ENFORCEMENT.**

Any act or any conveyance, contract, or authorization whether written or oral by Developer or County which uses, would cause to be used or would permit the use of the protected land contrary to the terms of this Offer will be deemed a breach thereof. Either party may bring any action in court necessary to enforce this Offer, including but not limited to, an injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that both parties may pursue any appropriate legal and equitable remedies. The complaining party shall have the sole discretion to determine under what circumstances an action to enforce the terms and conditions of this Offer shall be brought in law or in equity. Any forbearance on the part of either party to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of that party's rights regarding any subsequent breach.

**(F) LIABILITY AND INDEMNIFICATION.**

Except as otherwise provided herein, this Offer is made upon the express condition that until acceptance of this Offer by the County, the County, its agencies, departments, officers, agents, and employees are to be free from all liability and claims for damage by reason of any injury to any person or property of any kind, from any cause, except in matters arising out of the negligence of the County, while in, upon, or in any way connected with the trail easement. Developer hereby covenants and agrees to indemnify and hold the County, its agencies, departments, officers, agents, and employees harmless from all liability, loss, cost, and obligation on account of or arising out of such injuries or losses. County shall have no right of control over, nor duties and responsibilities with respect to, the trail easement by virtue of the fact that the right of the County to enter the land subject to the Offer is strictly limited to preventing uses inconsistent with the interest granted and does not include the right to enter the land for the purposes of correcting any dangerous condition as defined by California Government Code section 830. Developer's obligation to indemnify the County shall be construed as a covenant running with the land to terminate upon the County's acceptance of the offer to dedicate.

**(G) SUCCESSORS AND ASSIGNS.**

Subject to the terms set forth in paragraph II(H), below, the terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Developer and the County, whether voluntary or involuntary.

(H) TERM.

The Irrevocable Offer to Dedicate herein shall be binding upon the Developer and the heirs, assigns, or successors in interest to the property for a period of twenty (20) years and may be accepted by the County or its successor in interest in part or in its entirety. Upon recordation and acceptance of this Offer by the County or its successor in interest in the form attached hereto as Exhibit "C", this Offer and its terms, conditions, and restrictions shall have the effect of a grant of a non-exclusive easement over the Trails and Public Access Easement in perpetuity, and the terms, conditions or restrictions herein shall run with the land and be binding on the party's heirs, assigns, and successors. Acceptance of the Offer is subject to a covenant which runs with the land, providing that any offeree of the Offer may not abandon it but must instead offer the Trail to other public agencies or private associations acceptable to the County Board of Supervisors and its successor in interest for the duration of the term of the original Offer. In the event that this Offer expires prior to acceptance by County, this Offer, together with all of the terms, conditions, covenants and restrictions contained herein, shall terminate and be of no further force and effect.

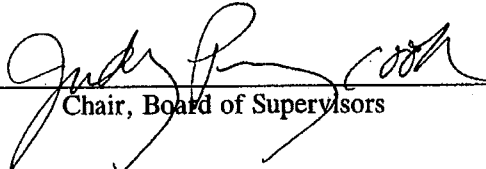
(I) SATISFACTION OF CONDITIONS.

This Agreement shall satisfy Condition No. 93 of Board of Supervisors Resolution No. 95-384 for Cañada Woods Subdivision.

The parties have executed this Agreement on the date set forth beside their respective signatures.

**COUNTY OF MONTEREY:**

Date: December 7, 1999

  
Chair, Board of Supervisors

ATTEST:

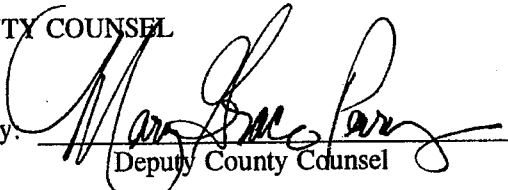
SALLY R. REED, Clerk of the Board

Date: December 7, 1999

By:   
Nancy Lukenbill, Deputy

APPROVED AS TO FORM:  
ADRIENNE GROVER, ACTING COUNTY COUNSEL  
COUNTY OF MONTEREY

Date: 12/6/99

By:   
Deputy County Counsel

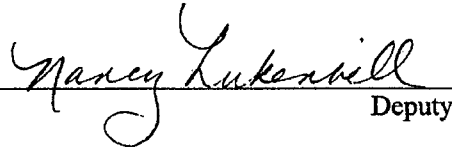
STATE OF CALIFORNIA  
COUNTY OF MONTEREY

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)

On this 7<sup>th</sup> day of December, 1999, before me, Sally R. Reed, Clerk of the Board of Supervisors, in and for said County and State, personally appeared **JUDY PENNYCOOK**, known to me to be the Chair of said Board of Supervisors of the County of Monterey, and known to me to be the person who executed the within instrument on behalf of said political subdivision, and acknowledged to me that such County of Monterey executed the same.

SALLY R REED, Clerk of the  
Board of Supervisors of Monterey  
County, State of California

By:

  
Deputy

**DEVELOPER:**

CANADA WOODS, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY

DATE: 12/1/99

By: 

Howard Bernstein, Manager

TRUST B U/T/A DATED JULY 27, 1978,  
AS AMENDED AND RESTATED IN ITS ENTIRETY ON APRIL 1, 1991,  
AND AS AMENDED ON MAY 25, 1995

DATE: Nov 26, 1999

By: 

Emily Martin Williams, Trustee

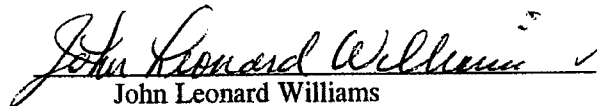
TRUST Q U/T/A DATED JULY 27, 1978,  
AS AMENDED AND RESTATED IN ITS ENTIRETY ON APRIL 1, 1991,  
AND AS AMENDED ON MAY 25, 1995

DATE: Nov 26, 1999

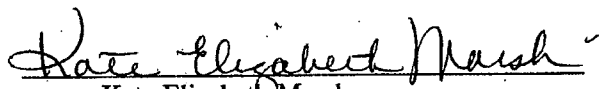
By: 

Emily Martin Williams, Trustee

DATE: Nov. 13, 1999

  
John Leonard Williams

DATE: November 26, 1999

  
Kate Elizabeth Marsh



STATE OF CALIFORNIA

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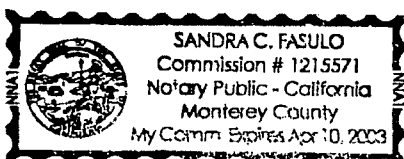
) ss.

COUNTY OF MONTEREY

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On Nov. 26, 1999, before me, Sandra C. Fasulo, Notary Public, personally appeared Emily Martin Williams, 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.



Sandra C. Fasulo  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA

)

) ss.

COUNTY OF MONTEREY

)

On Nov. 26, 1999, before me, Sandra C. Fasulo, Notary Public, personally appeared Kate Elizabeth Marsh, 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.



Sandra C. Fasulo  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA

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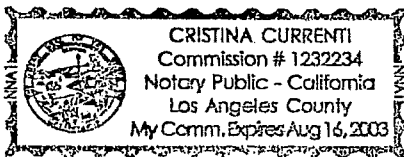
) ss.

COUNTY OF LOS ANGELES

)

On December 1, 1999, before me, Cristina Currenti, Notary Public, personally appeared Howard M. Bernstein, 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.



Cristina Currenti  
Notary Public in and for said  
County and State

STATE OF NEVADA

)

) ss.

COUNTY OF LYON

)

On November 23, 1999, before me, Carole J. Rogers, Notary Public, personally appeared John Leonard Williams, 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.



Carole J. Rogers  
Notary Public in and for said  
County and State

**EXHIBIT "A"**

All that real property shown on that map filed for record on 12 - 28, 1999 in Volume 21, Cities and Towns, at Page 1, in the Office of the Recorder for the County of Monterey, State of California.

**EXHIBIT "B"**

A non-exclusive easement over that certain real property designated as "River Trail", "Frontage Trail", and "Public Access Easement" as shown on that map filed for record on 12-28, 1999, at Volume 21 of Cities and Towns at Page 1, in the office of the Recorder for the County of Monterey, State of California

**EXHIBIT "C"**

Recording requested by and  
when recorded return to:

Monterey County Parks Department  
P.O. Box 5249  
Salinas, CA 93915

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**ACCEPTANCE OF OFFER**

WHEREAS, on August 22, 1995, the Board of Supervisors for the County of Monterey adopted Resolution No. 95-384 approving the Cañada Woods subdivision; and

WHEREAS, Condition No. 93 of said Resolution required the Subdivider to irrevocably offer to dedicate certain public access and trail easements for the public benefit; and

WHEREAS, on December 7, 1999, Developer tendered to the County of Monterey an Irrevocable Offer to Dedicate Trails and Public Access Easement and Declaration of Restrictions ("Offer"), which Offer was recorded as Document No. \_\_\_\_\_ in the Office of the Recorder for the County of Monterey, State of California.

NOW, THEREFORE, in consideration of the above and the substantial public benefits to be derived from the public access and trail easements, the County of Monterey hereby accepts the terms, conditions and restrictions set forth in the Offer and accepts the following components of same:

- (1) River Trail
- (2) Frontage Trail
- (3) Public Access Easement

COUNTY OF MONTEREY

DATED: \_\_\_\_\_

\_\_\_\_\_  
Chair, Board of Supervisors

ATTEST:

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

\_\_\_\_\_  
Sally Reed  
Clerk, Board of Supervisors

**END OF DOCUMENT**