

Recording Requested By And  
When Recorded Return to:

Monterey County Parks Department  
Attention: David E. Lutes  
P.O. Box 5249  
Salinas, CA 93915

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**IRREVOCABLE OFFER TO DEDICATE A NONEXCLUSIVE  
TRAIL EASEMENT AND DECLARATION OF RESTRICTIONS**

THIS Irrevocable Offer to Dedicate a Trail Easement and Declaration of Restrictions (“Offer”) is made by and between **BANKERS DEVELOPMENT GROUP, LLC** a California limited liability company (“Developer” or “Grantor”) and the **COUNTY OF MONTEREY**, a political subdivision of the State of California (“County”), and their respective successors and assigns;

**WITNESSETH:**

WHEREAS, Developer is the legal owner of certain real property located in the County of Monterey, State of California, commonly referred to as York Highlands and more particularly described in Exhibit “A” attached hereto and made a part hereof (“Property”); and,

WHEREAS, the County is the owner of certain real property known as Jacks Peak Park, located in close proximity to the Property;

WHEREAS, on October 18, 2011, the Board of Supervisors of the County of Monterey approved a vesting tentative map for a Resubdivision under the name of York Highlands subject to Conditions numbered 67 and 68 of Board of Supervisors Resolution No. 11-342;

WHEREAS, Condition Numbers 67 and 68 of Resolution 11-342 provide as follows:

A. Condition No.67

The Applicant shall offer to dedicate a twenty (20) foot public recreational trail easement over the subdivided property in accordance with the Greater Monterey Peninsula Plan Policy 3.11 by providing a portion of a connection trail along the Jacks Peak Park/Laureles Grade ridgeline and in conference with Parks Department. The trail easement shall be offered to the County through an Irrevocable Offer to Dedicate Agreement, which shall set forth the terms, conditions, restrictions and subsequent use and location of the public recreational trail. The specific trail alignment shall be located entirely within the trail easement as described and shown on the Applicant's Final Map. The Director of Parks and the Director of Planning shall approve the final alignment for the trail easement. The trail easement shall not be opened to the public for trail access until such time as the County accepts the trail easement under the terms and conditions of the Irrevocable Offer to dedicate, and thereafter assumes the responsibility for use of the public trail.

B. Condition No. 68

The County shall accept from the Developer the Irrevocable Offer to Dedicate ("IOD") a Trail Easement prior to or within two (2) years from the date of filing the final map for the York Highlands subdivision. The Developer shall be obligated to include in the IOD, an Offer to construct the trail in the general location as illustrated in the Trail Illustration Map dated June 17, 2011, subject to the following conditions:

1. Developer shall provide County with written notice of the Filing of the Final Map, which shall serve to commence the two (2) year time period for County's acceptance of the IOD as well as, but exclusive of, the County's acceptance of the Developer's Offer to construct said trail.
2. The County and Developer, through the Parks Department, shall consider the cost of ongoing maintenance and liability for the use of the Trail, the responsible parties and the Improvements thereon.

3. Should the County accept the Offer to construct said trail in addition to accepting the IOD, the Developer shall have three (3) years within which to construct the trail.
4. Said trail shall consist of a 6- to 8- foot wide path of native materials as available and appropriate or as required for erosion control per engineered plans or County specifications ("Improvements"), as approved by the Parks Department, which approval shall not be unreasonably withheld.
5. County shall inspect the Improvements upon Developers' completion of it to ensure that the Improvements were constructed pursuant to the approved plans.
6. Upon determining that the Improvements are substantially consistent with the plans, County shall accept the Improvements by an action of the Board of Supervisors.
7. Thereafter, the Improvements shall be deemed complete and open to public use.
8. Should the County fail to accept this Offer to construct the trail within two (2) years from the date of filing the final map, Developer shall be relieved of its obligation to construct said Improvements.

WHEREAS, the County has placed the foregoing conditions on the approval of the vesting tentative map for the York Highlands Resubdivision, intending to modify and supersede the prior Irrevocable Offers to Dedicate previously recorded in the Official Records in the Office of the Recorder of the County of Monterey including the documents filed for record on February 10, 2000 at Document 20000008969, on December 26, 2001 at Document 2001108510, and on September 29, 1992 at Reel 2851, Page 713 insofar as such prior documents affect the real property described in Exhibit "A" attached hereto.

WHEREAS, the County has placed the foregoing conditions on the approval of the vesting tentative map for the York Highlands Resubdivision because a finding must be made under the law that the proposed resubdivision is in conformity with the provisions of the County's General Plan and the Greater Monterey Peninsula Area 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 an easement over a strip of land (“Trail Easement”), the location of which is shown on that Map, Tract No. \_\_\_\_\_, York Highlands Resubdivision filed for record on \_\_\_\_\_, 2012, in Volume \_\_\_\_\_, Cities and Towns, at Page \_\_\_\_\_, in the office of the Recorder for the County of Monterey, State of California,, so as to enable Developer to undertake the resubdivision 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 and their successors and assigns hereby agree as follows:

I. Developer hereby irrevocably offers to dedicate to the County a non-exclusive easement for a trail for recreational hiking and equestrian purposes, over that area as shown on that Map, Tract No. \_\_\_\_\_, York Highlands Resubdivision filed for record on \_\_\_\_\_, 2012, in Volume \_\_\_\_\_, Cities and Towns, at Page \_\_\_\_\_, in the office of the Recorder for the County of Monterey, State of California, reserving therefrom to Grantor a non-exclusive easement for installation, maintenance and repair of drainage improvements and utilities and access for maintenance of Grantor’s property and improvements located thereon and adjacent to said Trail. The Trail Easement shall be up to twenty (20) feet in width and the specific Trail alignment shall generally follow the alignment illustrated in Exhibit “B” (“Trail Alignment”), and shall be subject to approval by the Directors of the County Department of Planning and County Department of Parks.

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

(a.) **CONSTRUCTION AND USE OF TRAIL**

(1) The specific alignment and use of the Trail shall be consistent with any and all of the proposed residential or subdivision uses of the property and shall follow the alignment generally illustrated in Exhibit "B" attached hereto. Use of the Trail Easement shall be consistent with the uses allowed within the Jacks Peak Park and consistent with any future County trail management plan. Except as set forth in paragraph II(a)(5), below, no motorized vehicles or bikes shall be allowed in the trail or Trail Easement. There shall also be no allowance for picnicking, camping, fires, hunting or consumption of alcoholic beverages, and all pets must be on leash. There shall be no disturbance of residents, and there shall also be no firearms except by peace officers or otherwise authorized under law. The hiking and equestrian trail shall not be opened to the public until the trail is sign posted with these restrictions and directives.

(2) In the event that the Trail Easement is accepted by the County, there shall be no structures allowed to be constructed on the Trail Easement including but not limited to portable toilets or outhouses, parking facilities, garbage bins and/or picnic facilities. 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 Trail Easement 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~~x~~; *(replace colon with semi-colon)*

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

(iv) the installation, maintenance, and repair of flood control or drainage improvements, or removal of obstructions to access subject to prior review and approval of the County's Director of RMA-Planning and Building Inspection Department;

(v) the installation of sign posts or fences, subject to the review and approval of the Director of RMA-Planning and Building Inspection Department and the Parks Department. The restrictions and directives of the Trail Easement may be sign posted by the Owners(s) of the property or Grantee. The Owner(s) of the Property may install "no trespassing" signs on or within the perimeter of the Trail Easement and adjacent to the trail, and may also install guidewires and/or low fencing within their discretion in order to facilitate direction of the trail and prevent trespassing. Any such fencing shall be low enough or open enough so as to not interfere with the passage of native wildlife ~~and~~

(vi) the removal of trees and <sup>maintain</sup> 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 Trail 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. Upon the County's acceptance of this Offer of the NonExclusive Trail Easement, the County and its agent shall have a restricted right to enter onto said Trail Easement; and upon County's acceptance of the Trail Easement and the Improvements constructed thereon pursuant to Paragraph II(a)(4)(i), below, the public shall have an unrestricted right to use the Trail Easement for hiking and equestrian uses during the hours of daylight over the Trail Alignment.

(4) Except for the costs incurred by County and County's monitoring of compliance with the terms of this Offer, Developer shall have the sole responsibility for the trail easement area being offered by Developer as described in Paragraph I until acceptance of this Offer to Dedicate. However, in the event that Developer constructs the Improvements upon the Trail as set forth in paragraph II (a)(4)(i) below, Developers' responsibility for said Trail

Easement shall continue until such time as Improvements are complete and accepted by the County pursuant to paragraph II(a)(4)(i), below.

(i) General. In the event that County accepts this Offer prior to or within two (2) years from the date of filing the final map for the York Highlands Resubdivision, Developer shall be obligated to construct a trail in the location generally illustrated in Exhibit “B” herein, subject to the provisions of paragraphs II(a)(4)(ii) and (iii), below, within three (3) years from the County’s acceptance of this Offer. In the event County accepts this offer to construct, Developer shall prepare plans and submit them for approval to the County Parks Department, and the County shall review and approve the plans for construction at their sole expense. Said trail plans shall consist of a 6- to 8- foot wide path of predominately native materials as available and appropriate or as required for erosion control per engineered plans or County specifications (“Improvements”), as approved by the Parks Department, which approval shall not be unreasonably withheld. County shall inspect, at its sole expense, the Improvements during and upon Developer’s completion of it to ensure that the Improvements were constructed in substantial conformance to the approved plans. Upon determining that the Improvements are substantially consistent with the plans, County shall accept the Improvements by an action of the Board of Supervisors. Thereafter, when the Improvements are complete and open to public use, the County, through the Parks Department, shall assume the full responsibility and cost of ongoing operations and maintenance and for all liability for the use of the Trail Easement and the Improvements thereon. The County shall be entirely responsible for patrol, maintenance, repair, and liability and provide indemnification of landowners incidental to such operations consistent with the terms of this Offer of Dedication. The County shall take responsible steps to regularly inspect the Trail Easement to assure compliance with this Trail Easement. Abuse of the Trail Easement will be defined as trespass, and the County shall enforce against any trespass through use of any peace officer including park rangers and deputy sheriffs.

Should the County fail to accept this Offer to construct the trail within two (2) years from the date of filing the final map for the York Highlands Resubdivision, Developer shall be relieved of its obligation to construct said Improvements. Developer shall provide County with written notice of Filing which shall act to commence the two (2) year time period

for County's acceptance of this Offer. The County shall not open the trail easement to the public for trail access until such time as the County accepts the trail easement under the terms and conditions of the Irrevocable Offer to Dedicate, and assumes the full maintenance, operation, patrol and liability responsibility for use of the public trail.

(ii) Upon acceptance of this Offer by the County, Developer shall be obligated to construct the trail as generally illustrated on Exhibit B herein, subject to the terms and provisions of paragraph II(a)(4)(i), ~~except that in the event that the County has not acquired a connecting trail easement upon the real property situated to the east and west of the Property prior to expiration of the two (2) year period referenced in paragraph II(a)(4)(i) above, Developer shall be relieved of its obligation to construct the trail.~~

(5) Developer or Developer's successors in interest may install a fence and gates limiting the use of the Trail Easement to daylight hours consistent with the times and uses allowed within Jacks Peak Park, subject to consistency with any future County trail management plan and the approval of the County's Director of Parks, which approval shall not be unreasonably withheld. Motorized vehicle use of the Trail Easement shall be limited to such access as is necessary for the construction and maintenance of the trail, fences and adjacent property.

(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 Trail Easement area until such time as the County records a valid written acceptance of this Offer under the terms set forth in Section j herein,



which valid written acceptance shall have the effect of a grant of a trail easement in gross and perpetuity, that shall run with the land and be binding on the heirs, assigns and successors of the Grantor. Upon valid acceptance by the County, County shall be responsible for all real property taxes and assessments, if any, assessed against the Trail Easement property.

(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, defend, and hold the

County, its agencies, departments, officers, agents, and employees harmless from all liability, loss, costs, 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. In such event that the County accepts this Offer within two (2) years of Filing the final map for the York Highlands Resubdivision and Developer is obligated to construct the Improvements, the indemnification provided by this paragraph shall be extended until the Improvements have been accepted by the County pursuant to Paragraph II(a)(4)(i) above.

Upon such time as the Improvements are complete and opened by the County for public use, the County, through the Parks Department, shall assume the full cost of ongoing maintenance, management, patrol, safety, and for any and all liability for any and all damages arising from the existence and/or the use of the Trail Easement and the Improvements thereon.

(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 two (2) years from the date of filing the final map for the York Highlands Resubdivision, which two-year period ends on January \_\_, 2014. Upon recordation of a valid acceptance of this Offer by the County, this Offer and its terms, conditions, and restrictions shall have the effect of a grant of the Trail

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.

**SATISFACTION OF CONDITIONS.**

This Agreement shall supersede that certain Offer to Dedicate Non-Exclusive Trail Easements and Declaration of Restrictions document filed for record on September 29, 1992 at Reel 2851, Page 713, that certain Irrevocable Offer to Dedicate A Trail and Declaration of Restrictions recorded on February 10, 2000 at Document 2000000~~88969~~<sup>omit</sup>, and that certain Irrevocable Offer to Dedicate A Trail and Declaration of Restrictions recorded on December 26, 2001 at Document 2001108510, all in the Official Records, in the Office of Recorder for the County of Monterey, California, and insofar as said recorded documents affect the Property described in Exhibit "A", and this Agreement shall satisfy Condition Nos. 67 and 68 of Board of Supervisors Resolution 11-342, as those conditions apply to York Highlands.

(j) **ACCEPTANCE.**

Acceptance of this Offer may be accepted only after the full and complete satisfaction of each of the following conditions precedent:

1. The County's acceptance of this Offer of Dedication shall be in writing and shall expressly state the County's agreement to the specific terms, conditions, restrictions and other obligations contained in this Offer of Dedication relating to the construction, operation, maintenance, and repair of the trail and Trail Easement.

2. The County shall enter into a separate and enforceable written agreement with the Owner(s) of the Property, providing that the County shall assume all liability for, and indemnify and hold harmless the Owner(s) of the Property and their successors in interest, officers, agents, and employees from all claims for injury or death to person or damage to property arising out of the use by the public of the Trail Easement as follows:

County and each subsequent holder of the Trail Easement shall hold harmless, indemnify and defend Grantor and its heirs, personal

representatives, successors, and assigns from and against all liability, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Trail Easement, regardless of cause, unless due solely to the willful misconduct of the Grantor and its heirs, personal representatives, successors, and assigns; (2) the obligations specified in the Trail Easement, and (3) the existing or administration of the Trail Easement. County's obligation to indemnify Grantor shall be construed as a covenant running with the land.

3. The County shall enter into a separate and enforceable agreement with applicable agencies, which shall provide for the routine security and patrol of the Trail Easement and nearby area by an appropriate law enforcement agency or agencies.

4. Prior to County acceptance, the County shall consider the cost of ongoing maintenance and liability for the use of the trail, the responsible parties, and the improvements thereon for the trail system to Jacks Peak Park. ~~The County shall not accept this Offer until the County has obtained trail access east and west of the Property and considered and fully accepted the entire costs for the ongoing maintenance, use, safety, patrol and liability for the trail system to Jacks Peak Park.~~

A copy of each of the separate and enforceable written agreements required for acceptance shall be attached as exhibits to the County's written acceptance of the Offer of Dedication and duly recorded. Upon such recordation of valid written acceptance, this Offer, and its terms, conditions, and restrictions shall have the effect of a grant of a trail easement in gross and perpetuity, that shall run with the land and be binding on the heirs, assigns and successors of the Grantor. Failure by the County to comply with each and every one of the conditions provided above at the time of acceptance of this Offer of Dedication, shall render any such acceptance invalid.

Notices shall be sent by mail to the following:

Clerk to the Board of Supervisors  
168 West Alisal St., 1st Floor, Salinas, CA 93901

- and to -

(k) **NOTICE**

County Parks Department  
255 East Laurel Dr., Bldg. "G",  
Salinas, CA 93905

All notices shall be in writing and shall be given by any method reasonably calculated to give actual notice. If the notice is given by mail, it must be sent first-class, postage prepaid.

(l) **RECORDING.**

The parties or either of them shall cause this agreement to be recorded concurrently with the filing of the final map for the York Highlands Resubdivision in the Official Records of the Monterey County Recorder, California.

(m) **ENTIRE AGREEMENT.**

This Irrevocable Offer to Dedicate contains the entire agreement among the parties respecting trail access for York Highlands, herein, and supersedes all prior Irrevocable Offers to Dedicate previously recorded in the Monterey County Recorder's Office including but not limited to the aforementioned offers filed for record on September 29, 1992 at Reel 2851 at Page 712, on February 10, 2000 at Document 200000~~08969~~<sup>omit</sup>, and on December 26, 2001 at Document 2001108510 insofar as these prior offers affect the real property described in Exhibit "A" attached hereto.

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates set forth beside their respective signatures.

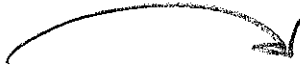
BANKERS DEVELOPMENT GROUP, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY

DATE: \_\_\_\_\_ By: \_\_\_\_\_

reverse: signature line, and then date

COUNTY OF MONTEREY

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



Chair, Board of Supervisors

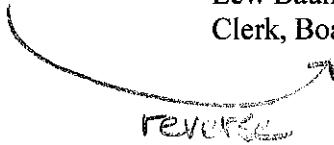


ATTEST:

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



Lew Bauman  
Clerk, Board of Supervisors



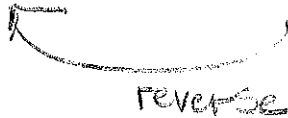
APPROVED AS TO FORM:

CHARLES J. McKEE, COUNTY COUNSEL  
COUNTY OF MONTEREY

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



By: \_\_\_\_\_  
Deputy County Counsel



State of California )  
 ) ss.  
County of \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_\_\_, 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)

**EXHIBIT "A"**

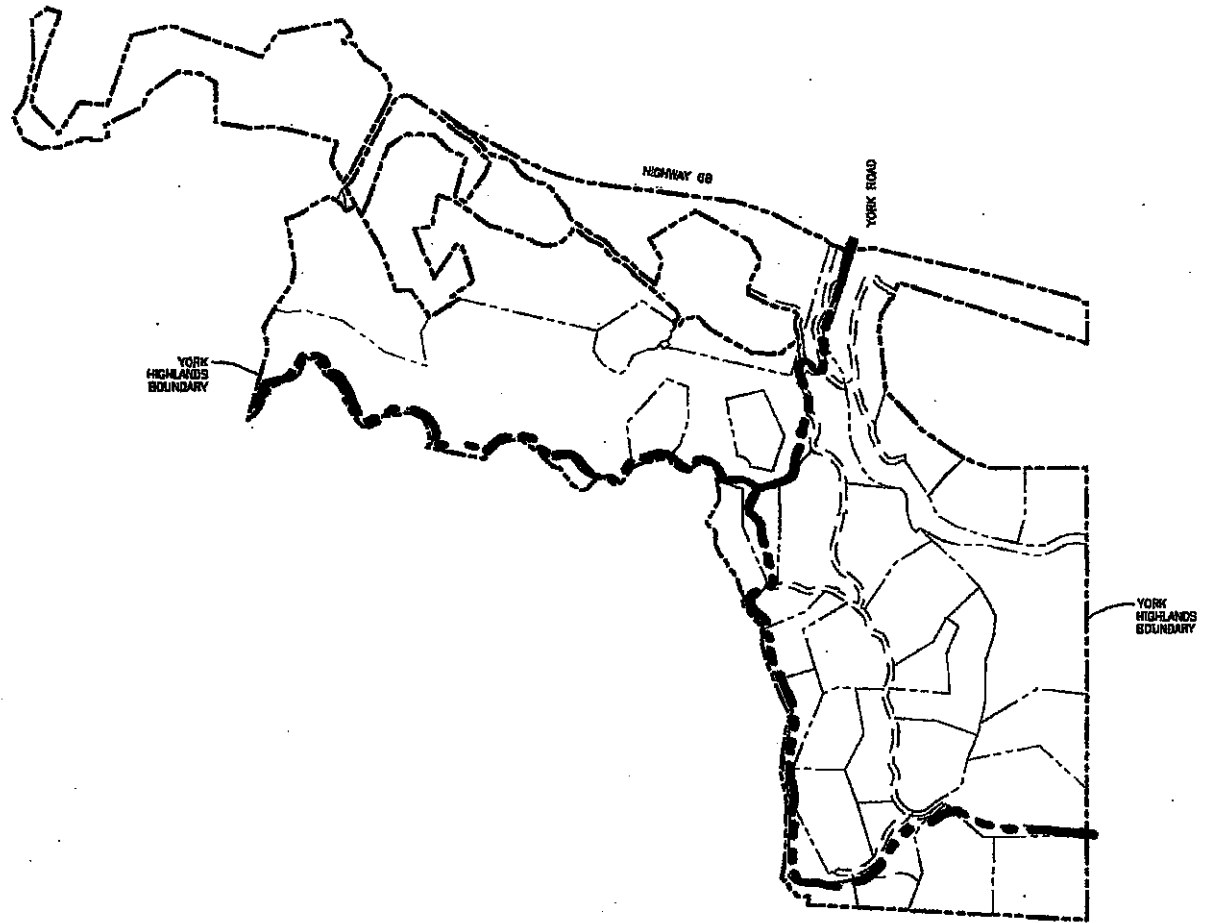
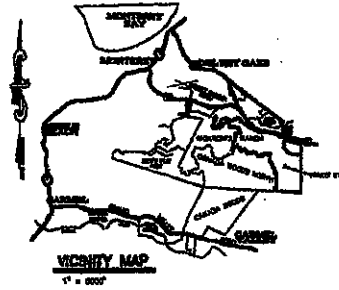
That certain real property including Lots 1-22 and Parcels A, B, C, D, E1, E2, F, G, H, I, J, K, L, M, N and O situated in the County of Monterey, State of California, as shown on that Map, Tract No. \_\_\_\_\_, York Highlands Resubdivision filed for record on \_\_\_\_\_, 2012, in Volume \_\_\_\_\_, Cities and Towns, at Page \_\_\_\_\_, in the office of the Recorder for the County of Monterey, State of California.

**THIS DOCUMENT WAS NEGOTIATED BY THE PARTIES AND  
PREPARED BY SUBDIVIDER/APPLICANT**



**LEGEND**

———— TRAIL AS CURRENTLY ILLUSTRATED IN OFFER TO DEDICATE



**EXHIBIT B**

 **Carroll Development Company**  
E. Ann Wilson  
1st Floor, 402  
Civic Center Building  
201A, 94001

**WWD CORPORATION**  
201 MONTGOMERY CALIFORNIA 94001  
415-778-8778 FAX 415-778-8779

TRAIL ILLUSTRATION MAP

**YORK HIGHLANDS  
RE-SUBDIVISION**

DATE: 12-20-01  
BY: J.S.P.  
DWG NO.: 11  
SHEET: 1 OF 1  
