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LAND TRUST FOR SANTA BARBARA
COUNTY
P. O. Box 91830
Santa Barbara, California 93190

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Official Records	CC1 CON	1.00
County Of		
SANTA BARBARA		
KENNETH A. PETTIT		
Recorder		
LARRY G. HERRERA		
Assistant	FNM	
08:00AM 16-Oct-2000	Page 1 of 34	

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[GOV. CODE §27361.6]

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LAND TRUST
FOR S.B. COUNTY

**DEED OF CONSERVATION EASEMENT
CARPINTERIA BLUFFS OPEN SPACE PRESERVE**

This DEED OF CONSERVATION EASEMENT is made this 9th day of OCTOBER, 2000, by **CITY OF CARPINTERIA**, a California Municipal Corporation ("LANDOWNER"), in favor of **THE LAND TRUST FOR SANTA BARBARA COUNTY**, a California nonprofit public benefit corporation ("LAND TRUST"), for the purpose of granting in perpetuity the Conservation Easement and associated rights described below.

WHEREAS, LANDOWNER is the owner in fee simple of certain real property located in the City of Carpinteria, County of Santa Barbara, State of California, identified as Assessor's Parcel Numbers 001-170-09 & 12- 001-180-13, 15, 17, 49, 50, 52, 53 & 55, and more particularly described in "Exhibit A" attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, the LAND TRUST and Citizens for the Carpinteria Bluffs purchased the Property in order to protect and preserve in perpetuity its Conservation Values, which are defined for purposes of this Easement as:

- (i) the natural scenic beauty of undeveloped coastal open space within the urban area, which is important to the well being and fullest human experience of people young and old, both in the present and for future generations;
- (ii) the dominant character of the Property as primarily natural, unmanicured grassland with open, spacious vistas of the ocean and mountains, and the paramount Conservation Value being that the Property remain accessible and enjoyable for passive, unstructured, low intensity public uses such as walking, landscape painting, kite flying, outdoor education and the spiritual sustenance which being in nature provides;
- (iii) the opportunity to provide for limited active recreational playing fields on a portion of the Property, to be sized, designed and constructed in a manner as defined herein which has the least visual impact upon the natural, open space aesthetic character of the remainder of the Property;
- (iv) the preservation and protection of the existing eucalyptus grove as a visual hallmark and an evocative segment of California rural history, and the preservation and protection of the existing areas of coastal sage scrub and coastal bluff scrub; and

- (v) at the sole discretion of the LANDOWNER and within available financial resources, the opportunity gradually to enhance the aesthetic and habitat values by planting additional native trees, coastal sage scrub, coastal bluff scrub, native grasses and wildflowers to promote plant and animal diversity on the Property.

WHEREAS, Citizens for the Carpinteria Bluffs and LAND TRUST raised over \$4,500,000 to purchase the Property and to establish an endowment for its maintenance, and LAND TRUST agreed to transfer the Property to LANDOWNER in exchange for this Easement in favor of LAND TRUST; and

WHEREAS, this Easement encompasses the entire Property and is divided into two zones as delineated on the map attached hereto as "Exhibit B" and incorporated herein by this reference. Zone 1 depicts that part of the Property intended by LANDOWNER and LAND TRUST to remain in its current condition as undeveloped open space. Zone 2 depicts that part of the Property intended by LANDOWNER and LAND TRUST to be developed with limited active recreation uses (collectively "Recreation Uses"); and

WHEREAS, LANDOWNER intends that the Conservation Values of the Property be preserved and maintained by permitting only those land uses on the Property which do not significantly impair or interfere with those Conservation Values, limited Recreation Uses, and other permitted uses, as defined herein; and

WHEREAS, the City of Carpinteria has established an Open Space Element and other policies and zoning ordinances to help preserve the City's wildlife habitat and open space lands, which identify the Carpinteria Bluffs as a significant open space resource; and

WHEREAS, LANDOWNER intends as the owner of the Property to convey to LAND TRUST the right to preserve and protect the Conservation Values of the Property in perpetuity, subject to the limited Recreation Uses within the area so designated; and

WHEREAS, LAND TRUST is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code and Section 23701d of the California Revenue & Taxation Code, whose primary purpose is the preservation and protection of land in its natural, open space and scenic condition; and

WHEREAS, the LAND TRUST agrees, by acceptance of this Easement, to honor the intentions of Citizens for the Carpinteria Bluffs, LAND TRUST and LANDOWNER stated herein to preserve and protect in perpetuity the Conservation Values of the Property and to allow limited Recreation Uses within the areas so designated and other appropriate uses and practices as specified herein for the benefit of this generation and future generations to come; and

WHEREAS, the specific Conservation Values of the Property are further documented in an inventory of relevant features of the Property, dated Oct. 3, 2000, on file in the office of LAND TRUST ("Baseline Inventory") and incorporated herein by reference, which consists of reports, maps, photographs and other documentation that the parties agree provides an accurate representation of the Property as of the date of this Easement and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Easement;

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of California, including Sections 815-816 of the California Civil Code, LANDOWNER does hereby voluntarily grant to LAND TRUST a Conservation Easement ("Easement") in perpetuity over the Property of the nature and character and to the extent hereinafter set forth, and LAND TRUST hereby accepts said Easement.

1. **PURPOSE.** It is the purpose of this Easement to ensure that the Property will be retained in perpetuity in its natural, open space, scenic and wildlife habitat condition and use for the benefit of the public, and to prevent any use of the Property that would significantly impair or interfere with its Conservation Values, recognizing the need for limited active Recreation Uses in the area so designated and the appropriateness of other uses and practices as specified herein. The Property subject to this Easement is divided into two zones as delineated on Exhibit B attached hereto and incorporated herein by this reference. This Easement serves a different purpose within each zone ("Zone"). The purpose of this Easement in each Zone is generally described below.

(a) **Zone 1.** Zone 1 includes all areas of the Property delineated on Exhibit B as Zone 1. The purpose of the Easement within Zone 1 is to ensure that those areas will be retained in perpetuity in their natural, open space, scenic and wildlife habitat condition for the benefit of the public, and to prohibit LANDOWNER from engaging in any prohibited activity or prohibited use of the Property, as defined in Paragraph 5 below, within Zone 1. Permitted uses and practices within Zone 1 are more particularly described in Paragraph 3 below. The following names will remain attached in perpetuity to individual trails in Zone 1, as depicted on "Exhibit C," attached hereto and incorporated herein by this reference: Dorothy C. Campbell Trail, Powell Family Loop, John & Maria Van Wingerden Trail, Bob's Trail, and Rhodes-Fleming Coastal Trail. In the event that Landowner determines that any such trail needs to be relocated, its name will remain attached to the trail in its new location. In addition, several natural features, as depicted on "Exhibit C," will retain the following names in perpetuity: Lois Sidenberg Overlook, Rita C. Gover Coastline, Mishopshno Meadow, Artists' Passage, and Anne & Al Drasdo Memorial Grove.

(b) **Zone 2.** Zone 2 includes all areas of the Property delineated on Exhibit B as Zone 2. The purpose of the Easement within Zone 2 is to designate certain areas which are available for future limited active Recreation Uses, as more particularly described in Paragraph 4 below. Such limited active Recreation Uses shall be designed to minimize hardscape and to minimize any obstruction of views from Highway 101 and Carpinteria Avenue toward the Property and the ocean, as well as views from Zone 1 toward the mountains and ocean. LANDOWNER is further prohibited from engaging in any prohibited activity or prohibited use of the Property, as defined in Paragraph 5 below, within Zone 2. Permitted uses and practices within Zone 2 are more particularly described in Paragraph 4 below. The following name will remain attached in perpetuity to the active playing fields in Zone 2, as depicted on "Exhibit C": Viola DeArkland Fields.

2. **AFFIRMATIVE RIGHTS CONVEYED TO LAND TRUST.** To accomplish the purpose of this Easement, the following rights and interests are conveyed to LAND TRUST by this Easement:

(a) **Identify Resources and Values.** To identify, preserve, protect and restore in perpetuity the Conservation Values of the Property.

(b) **Monitor Uses and Practices.** To enter upon, inspect, observe, and study the Property for the purposes of identifying the current uses and practices thereon and the baseline condition thereof, to conduct research on and make scientific observations of the ecological systems, to maintain and/or restore the Conservation Values, and to monitor the uses and practices regarding the Property to determine whether they are consistent with this Easement. Such entry shall be permitted upon prior notice to LANDOWNER and shall be made in a manner that will not unreasonably interfere with LANDOWNER's management and the public's use of the Property.

(c) **Prevent Significant Damage to Conservation Values.** Subject to compliance with the notice provisions contained in Paragraph 9, to prevent any activity on or use of the Property as provided in this Easement that may cause significant damage to the Conservation Values of the Property. In the event that the parties to this Easement agree, or the arbitrator(s) (as provided in Paragraph 11) or the court (as provided in Paragraph 12) determine, based on evidence provided by any qualified person, that any activity or use of the Property which is inconsistent with the purpose of this Easement has caused significant damage to the Conservation Values, to require the restoration of such Conservation Values of the Property, if such damage has been caused by the LANDOWNER or anyone acting under its authority, express or implied (such damage excludes all damage caused by actions by members of the public).

(d) **Provide Signage.** To erect and maintain a sign or signs or other appropriate markers in prominent locations on the Property bearing information indicating that the Property is protected by LANDOWNER and LAND TRUST. The wording of the information shall be determined by Citizens for the Carpinteria Bluffs, LANDOWNER and LAND TRUST, and LAND TRUST shall be responsible for the costs of erecting and maintaining such signs or markers unless LANDOWNER accepts responsibility for such signage.

3. **PERMITTED USES AND PRACTICES IN ZONE 1.** LANDOWNER and LAND TRUST intend that this Easement shall confine the uses of the Property located within Zone 1 to open space, scenic, passive public recreation and such other related uses as are described herein. Passive public recreational use, including but not limited to hiking, strolling, landscape painting, viewing and sitting, shall be a permitted use. In addition, LANDOWNER is authorized to undertake the following uses and practices, if in accordance with federal, state and local laws, ordinances, and regulations, and to the extent not inconsistent with the purpose of this Easement:

(a) **Recreational Trails.** At LANDOWNER's sole discretion, to develop, maintain and improve public recreational trails, as provided in the Management Plan described in Paragraph 10 below. The existing named trails, as reflected in "Exhibit C," shall be maintained or otherwise made available for public use by LANDOWNER. The existing LANDOWNER easement for a hiking/biking trail adjacent to the Union Pacific Railroad right-of-way is acknowledged. Such trail shall be permitted, and be allowed to meander in and out of the LANDOWNER easement on the Property to provide a more natural orientation and reduce grading.

(b) **Educational Uses.** At LANDOWNER's sole discretion, to allow limited public educational uses and events focused on the natural, open space and scenic resources of the Property, provided such uses and events do not interfere with the purposes of this Easement. LAND TRUST and Citizens for the Carpinteria Bluffs shall be entitled to schedule a minimum of three (3) events on the Property each year, consistent with public educational uses, subject to

LANDOWNER's issuance of required permits therefor, which issuance shall not be unreasonably withheld.

(c) **Maintenance and Repair.** At LANDOWNER's sole discretion, to maintain, repair, remove, and replace structures, fences, roads, recreational trails, drainage ditches, underground utilities and other improvements, both existing and as approved in the Improvement Plan, as defined below. The existing road that meanders along the westerly boundary of the property may be relocated so that the road is located entirely on the Property. In addition, structures (excluding buildings and trailers of any kind) and fences may be installed, but only in conformity with Paragraph 5(c).

(d) **Response to Emergency Needs.** At LANDOWNER's sole discretion, to take such actions as LANDOWNER deems necessary to protect the health and safety needs of the public using the Property.

(e) **Water Resources.** At LANDOWNER's sole discretion, to develop and maintain such water resources and improvements, including water wells, as are necessary or convenient for maintenance and/or restoration of natural areas, and, if sufficient additional water resources are available, limited active Recreation Uses within Zone 2 in a manner consistent with the purpose of this Easement, provided such activities will not cause irreparable damage to the Conservation Values of the Property. Structures for any water well system shall be recessed or otherwise designed to minimize visual impacts and shall be subject to the notice requirements set forth in Paragraph 9 herein.

(f) **Restoration and/or Enhancement of Conservation Values.** At LANDOWNER's sole discretion, and subject to the provisions of Paragraph 5(k) below, to make improvements which are intended to manage, restore and/or enhance the Conservation Values of the Property, including but not limited to alterations of topography or water courses, removal of non-native plants including trees, planting of additional native California plant species, modification and/or construction of trails, and installation of related improvements such as benches (limited to not more than two (2) at ocean lookouts), safety barriers, directional signage and/or interpretive signage. All such restoration and/or enhancement activities shall be subject to the availability of funds and permits and, if implemented, shall be in conformity with the Improvement Plan.

(g) **Control of Animals.** At LANDOWNER's sole discretion, to control problem rodents and other animals by the use of selective control techniques.

(h) **Utility Easements.** At LANDOWNER's sole discretion, to provide for underground utility easements to public and quasi-public utilities, provided such uses do not significantly impair or interfere with the property's Conservation Values.

4. **PERMITTED USES AND PRACTICES IN ZONE 2.** LANDOWNER and LAND TRUST intend that this Easement shall confine the uses of that portion of the Property located within Zone 2 to limited active Recreation Uses and such other related uses as are described herein. Until such time as Zone 2 is developed for active Recreation Uses, continued public passive recreational uses, including but not limited to hiking, strolling, landscape painting, viewing and sitting, shall be allowed. When Zone 2 is developed for active recreational uses, passive recreational uses shall be allowed when Zone 2 is not being utilized for active recreational uses. The

following uses and practices, if in accordance with federal, state and local laws and ordinances, and to the extent not inconsistent with the purpose of this Easement, are hereby defined as limited active Recreation Uses and are permitted within the boundaries of Zone 2:

(a) **Limited Active Recreation Uses.** At LANDOWNER's sole discretion, and subject to the availability of funds and permits, to allow multi-purpose recreation turf areas within the boundaries of Zone 2 as depicted on Exhibit B to accommodate not more than two (2) adult regulation soccer fields and two (2) adult regulation softball fields (or a number of smaller youth league fields) or other compatible recreation fields of equivalent acreage. For each of the two (2) permitted softball fields, not more than one (1) permanent, low profile softball backstop, one (1) drinking fountain, two (2) permanent benches for players, one (1) trash and one (1) recycling can for each bench, and two (2) permanent infield fences, not to exceed seventy (70) feet in length and six (6) feet in height ("recreation improvements"), shall be allowed. Such softball fields shall be sited and designed to minimize any resulting visual impacts upon Zone 1. Turf infields and turf baselines should be regarded as the preferred playing field surfaces; however, turf infields with dirt (earth/sand) baseline paths and dirt (earth/sand) pitcher's mounds or all-dirt (earth/sand) infields shall be allowed. All other sports equipment and accessories, including soccer goals, spectators' personal seating, portable tables, umbrellas, shade structures, coolers and temporary fencing needed for health and safety of participants and spectators shall be removed at the end of each day, leaving all of Zone 2 as open and unobstructed viewshed except for the permanent backstops, infield fencing, drinking fountains, trash and recycling cans, and player benches.

- (i) Limited Parking and Total Building Area. A limited public parking area not to exceed sixty five (65) feet in width may be developed along the eastern perimeter of the Property to serve both active and passive recreational users. In addition, one (1) or two (2) small one-story buildings (not to exceed sixteen (16) feet in height above existing or finished grade, whichever is lower) limited to restroom and storage uses not exceeding six hundred twenty-five (625) square feet of total building area, with two (2) trash cans for each building, shall be allowed. The parking area, buildings and trash/recycling cans described above shall be considered recreation improvements. All structures and uses shall be sited and designed to minimize any significant adverse impacts on scenic views from Zone 1, Carpinteria Avenue and/or Highway 101. Buildings shall be sited within one hundred fifty (150) feet of the easterly boundary of Zone 2, or, if this is not feasible, taking into account engineering, soils, and grading conditions, such buildings shall be sited as close to the easterly boundary of Zone 2 as is feasible, and in no event more than one hundred (100) yards from the easterly boundary of Zone 2.
- (ii) Improvement Plan. All recreation improvements shall be included in the Improvement Plan described in Paragraph 10 below. The Improvement Plan shall be consistent with the provisions of this Easement regarding permissible structures and other improvements. The Improvement Plan and any action based thereon shall be subject to appropriate review under the California Environmental Quality Act (CEQA) prior to approval thereof.

(b) **Recreational Trails.** At LANDOWNER's sole discretion, to develop, maintain and improve public recreational trails, as provided in the Management Plan described in Paragraph 10 below.

(c) **Educational Uses.** At LANDOWNER's sole discretion, to allow limited public educational uses and events related to the athletic purposes or the natural, open space and scenic resources of the Property, provided such uses and events do not interfere with the purposes of this Easement. LAND TRUST and Citizens for the Carpinteria Bluffs shall be entitled to schedule a minimum of three (3) events on the Property each year consistent with public educational uses, subject to LANDOWNER's issuance of required permits therefor, which issuance shall not be unreasonably withheld.

(d) **Maintenance and Repair.** At LANDOWNER's sole discretion, to maintain, repair, remove, install and replace structures, fences, and roads (if required for public safety purposes), recreational trails, drainage ditches, playing fields, parking areas, restroom and/or storage structures, irrigation systems, underground utilities and other improvements, both existing and as approved in the Improvement Plan, provided that no fencing shall be permitted along the boundary between Zone 1 and Zone 2.

(e) **Response to Emergency Needs.** At LANDOWNER's sole discretion, to take such actions as LANDOWNER deems necessary to protect the health and safety needs of the public using the Property.

(f) **Water Resources.** At LANDOWNER's sole discretion, to develop and maintain such water resources and improvements, including water wells, as are necessary or convenient for maintenance and/or restoration of natural areas, and, if sufficient additional water resources are available, limited active Recreation Uses within Zone 2 in a manner consistent with the purpose of this Easement, provided such activities will not cause irreparable damage to the Conservation Values of the Property. Above-ground structures for any water well systems, unless approved as part of the improvement plan for Zone 2, shall be subject to the notice requirements set forth in Paragraph 8 herein.

(g) **Restoration and/or Enhancement of Conservation Values.** At LANDOWNER's sole discretion, and consistent with the limited active Recreation Uses of Zone 2, to make improvements which are intended to manage, restore and/or enhance the Conservation Values of the Property, including but not limited to alterations of topography or water courses, removal of non-native plants including trees, planting of additional native California plant species, modification and/or construction of trails, and installation of related improvements such as benches, safety barriers, directional signage and/or interpretive signage. All such restoration and/or enhancement activities shall be subject to the availability of funds and permits.

(h) **Control of Animals.** At LANDOWNER's sole discretion, to control problem rodents and other animals by the use of selective control techniques.

(i) **Utility Easements.** At LANDOWNER's sole discretion, to provide for underground utility easements to public and quasi-public utilities, provided such uses do not significantly impair or interfere with the property's Conservation Values.

(k) **Temporary Structures.** At LANDOWNER'S sole discretion and subject to the availability of funds and permits, to allow small temporary structures such as platforms, umbrellas, shade structures, fencing, tables and/or seating to be erected within Zone 2 for periods not exceeding the daylight hours within any one day.

5. **PROHIBITED USES.** Any activity on or use of the Property that is inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are inconsistent with the Conservation Values of this Easement and are expressly prohibited:

(a) **Subdivision.** The division, subdivision, or de facto subdivision of the Property. LANDOWNER may combine or reconfigure the existing parcels at its discretion.

(b) **Residential, Agricultural, Retail, Vending Machines, Commercial or Industrial Uses.** The establishment of any residential, agricultural, retail, commercial or industrial uses, including the construction, placement or erection of any commercial structures, vending machines, or billboards, provided, however, that the limited active Recreational Uses specified in Paragraph 4 above shall not be considered commercial uses if operated by LANDOWNER, a qualified nonprofit organization, or a subcontractor of LANDOWNER. At LANDOWNER's sole discretion, retail sales for the sole benefit of a qualified nonprofit organization shall not be deemed a retail use.

(c) **Roads, Structures or Signs.** The construction, reconstruction, or replacement of any road, structure or sign within the Property, except as otherwise provided in this Easement. Public trails shall not be deemed to be roads or structures within this prohibition. In addition, no permanent fencing, permanent bleachers or picnic tables shall be allowed on the Property, except that structures (excluding buildings and trailers of any kind) and fencing may be allowed if required by federal, state or local health and safety laws, ordinances, or regulations or to respond to emergency needs, if they are installed to minimize any visual impacts, taking into account the purpose for their installation. Approved trails should remain natural or may utilize permeable surface materials, at LANDOWNER's sole discretion.

(d) **Fires or Barbecue Pits.** The use of fires (except by LANDOWNER for fire and/or biological management purposes), fireworks, firearms, firepits, barbecues or similar activities or devices.

(e) **Night Lighting or Amplified Sound.** The use of any night lighting within any areas of the Property, except for security purposes limited to the permitted restroom/storage buildings, provided such lighting is low intensity and shielded to minimize direct glare and spill light outside the immediate area. In addition, the use of any amplified sound, except as allowed with a special event permit issued on an occasional basis for events that do not significantly impact the Conservation Values of the Property. Amplified play-by-play announcements for athletic events are prohibited.

(f) **Motorized Vehicles.** The use of motorized and/or off-road vehicles, except by LANDOWNER or others under LANDOWNER's control for fire and/or biological management, security patrol, restoration, construction, maintenance, health and safety, or law enforcement purposes. Parking of motor vehicles (except on a temporary basis in association with the activities

set forth in this Paragraph) is prohibited on any portion of the Property, with the exception of the 65-foot strip specified for parking along the eastern perimeter of the Property. At LANDOWNER's sole discretion, LANDOWNER as part of any special event permit issued for use of the Property may authorize a limited number of motor vehicles to drive and park along existing roads of Zone 1 and onto the playing fields of Zone 2 for purposes of set-up and/or removal of event-related equipment and of assisting attendance of disabled persons.

(g) **Dumping or Disposal.** The dumping or other disposal of wastes, refuse or debris on the Property.

(h) **Erosion.** Any use or activity which causes significant degradation of topsoil quality, significant pollution or a significant increase in the risk of erosion affecting the Conservation Values of the Property.

(i) **Alteration of Topography.** Any alteration of the general topography or natural drainage of the Property, including, without limitation, the excavation or removal of soil, sand, gravel or rock, except as may be allowed for permitted uses within the Easement area.

(j) **Watercourses.** The alteration or manipulation of watercourses located on the Property or the creation of new water impoundments or watercourses for any purpose other than the enhancement of natural habitat values, except for permitted uses within the Property.

(k) **Removal of Eucalyptus Trees.** The removal of Eucalyptus trees within the designated Eucalyptus Grove areas A & B in Zone 1, as depicted on Exhibit "D" attached hereto and incorporated herein by this reference, unless LANDOWNER determines that continued maintenance is hazardous or not feasible due to disease or other injury. Such protection in perpetuity of the Eucalyptus trees in Grove A should be a conservation priority; however, the Eucalyptus trees in Grove B may be gradually removed, at LANDOWNER's sole discretion, after the year 2050, provided that replacement native trees which should ultimately grow to substantial size are introduced in the general vicinity of Grove B prior to any tree removal.

(l) **Planting of Non-Native Plants.** The intentional introduction of non-native plants, except as to Eucalyptus trees within the designated Eucalyptus Grove in Zone 1 and turf for playing field surfaces within Zone 2.

(m) **Other Incompatible Uses.** Any activity or use which will cause significant damage to the Conservation Values, or interfere with the restoration and/or enhancement of the Conservation Values. Such incompatible uses or activities include, by way of example, overnight camping or similar extended high intensity activity, off-trail equestrian activities, paintball games, bicycle motocross courses (BMX), or other sports or hobby activities which damage grassland areas or coastal sage scrub; harvesting of plants or plant products, except for promotion of Conservation Values; or frequent large gatherings which interfere with the public's passive enjoyment of the natural qualities of the Property. All permitted uses and practices under this Easement constitute compatible uses under this Easement provided however that, to protect the Property's Conservation Values, LANDOWNER in its sole discretion may adopt further restrictions on uses and practices otherwise constituting permitted uses and practices under this Easement.

6. **RESERVED RIGHTS.** LANDOWNER reserves to itself, and to its personal representatives, successors and assigns, all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

(a) **Water Rights.** All right, title, and interest in and to all tributary and non-tributary water, water rights, and related interest in, on, under or appurtenant to the Property; provided, however, that such water rights are used on the Property in a manner consistent with the purpose of this Easement.

(b) **Mineral Rights.** All right, title, and interest in subsurface oil, gas, and minerals; provided, however, that the manner of exploration for, and extraction of, any oil, gas or minerals shall be only by a subsurface method and shall not damage, impair or endanger the Conservation Values of the Property.

7. **ENDOWMENT FUND.** LAND TRUST agrees to provide, maintain and manage an endowment fund, with an initial value of \$500,000, to generate funds annually to be used by LANDOWNER for the maintenance and enhancement of the Property. The primary use of these funds shall be to protect and preserve the Conservation Values of Zone 1, with the secondary use of these funds being to maintain and enhance the recreational fields and other improvements permitted in Zone 2. LAND TRUST shall provide LANDOWNER a reasonable annual disbursement from the endowment fund for maintenance practices and/or enhancements described in the Improvement Plan or, prior to adoption of the Improvement Plan, for maintenance and/or enhancements which are consistent with the Purpose of the Easement. LANDOWNER is not entitled to use these endowment funds to remedy or restore damage to the Conservation Values caused by the LANDOWNER or anyone acting under its authority, expressed or implied. Procedures for management and disbursement of this fund shall be addressed in a separate agreement between the parties.

8. **LANDOWNER ENFORCEMENT OF EASEMENT.**

(a) **Enforcement by LANDOWNER of Laws, Rules and Regulations.** To the extent not inconsistent with the provisions of this Easement, LANDOWNER, in its sole discretion, shall enforce all laws, rules and regulations which apply uniformly throughout the City of Carpinteria in the same manner in which it enforces all such laws, rules and regulations against other property within the City of Carpinteria. Except as provided in Paragraph 8(b) below, LAND TRUST shall have no cause of action or remedy under this Easement against LANDOWNER for LANDOWNER's enforcing or failure to enforce any law, rule or regulation.

(b) **Enforcement by LANDOWNER of Prohibited Uses.** LANDOWNER by ordinance shall prohibit members of the public from engaging in any activity on or use of the Property that is prohibited under Paragraph 5 herein or which is substantially similar to any prohibited use and is inconsistent with the purposes of this Easement. LANDOWNER shall enforce such ordinance by all means it deems appropriate. Should LANDOWNER fail to appropriately enforce such ordinance against members of the public, LAND TRUST's sole cause of action or remedy against LANDOWNER shall be specific performance to compel such enforcement.

9. NOTICE OF ACTIVITIES.

(a) **LANDOWNER Activities.** Prior to undertaking any new physical improvements, alterations and/or restoration/enhancement activities permitted in Zone 1 under Paragraph 3 above or other improvements not specifically authorized herein, LANDOWNER shall notify LAND TRUST in writing not less than thirty (30) days prior to the date LANDOWNER intends to undertake the activity in question. The notice shall describe the nature, scope, design, location and any other material aspect of the proposed activity in sufficient detail to permit LAND TRUST to make an informed judgment as to its consistency with this Easement. In the event of an emergency as defined in Paragraph 3(d) above, LANDOWNER shall consult with LAND TRUST in advance of taking action if feasible. If prior consultation is not feasible, LANDOWNER shall notify LAND TRUST of emergency action taken within ten (10) days after initiating such emergency action.

(b) **LAND TRUST Activities.** Prior to entry on the Property to conduct any activities which involve physical alteration of the Property or its natural resources, including but not limited to restoration and maintenance on the Property, LAND TRUST shall give thirty (30) days written notice to LANDOWNER of its intent to enter the Property and undertake the planned activity. The notice shall describe the extent of the activities to be undertaken by LAND TRUST in sufficient detail to permit LANDOWNER to make an informed judgment as to its consistency with the Easement.

(c) **Notification of Permit Applications.** Both LANDOWNER and LAND TRUST agree to notify the other party upon either party's submission of a permit application for any activity permitted under this Easement.

10. MANAGEMENT PLAN, IMPROVEMENT PLAN, AND BOARD. LANDOWNER, with participation from LAND TRUST and Citizens for the Carpinteria Bluffs, (i) shall prepare a management plan ("Management Plan") for the property, which shall establish a program for management and operation of the Property, (ii) shall prepare an Improvement Plan ("Improvement Plan") which shall set forth all physical improvements to be constructed or installed on the Property, and (iii) shall establish a Management Advisory Board, which shall advise LANDOWNER regarding development and use of the Property, and shall monitor the implementation and effectiveness of the Management Plan and Implementation Plan. The Management Plan, Improvement Plan, and Management Advisory Board composition and functions shall be reviewed at a public hearing and approved by LANDOWNER.

11. **ARBITRATION.** If a dispute arises between the parties concerning the consistency of any existing or proposed use or activity with the purpose of this Easement, either party is encouraged to refer the dispute to arbitration as an alternative to judicial proceedings by request made in writing upon the other. If the other party agrees to such arbitration, any and all disputes, controversies and claims arising out of or relating to this Easement in that dispute or concerning the respective rights or obligations hereunder shall be settled and determined pursuant to the provisions of California Code of Civil Procedure Sections 1280 *et seq.*, as amended or replaced. The arbitration award shall be final and binding upon the LANDOWNER and LAND TRUST, and judgment may be entered in any court having jurisdiction thereof.

12. LAND TRUST'S REMEDIES.

(a) **Notice of Violation.** If LAND TRUST determines that a violation of any of the terms, conditions, covenants or restrictions contained in this Easement has occurred or is threatened by LANDOWNER or anyone acting under its authority, either express or implied, LAND TRUST shall give written notice to LANDOWNER of such violation and demand corrective action sufficient to cure the violation.

(b) **Injunctive Relief.** If LANDOWNER fails to cure the violation threatened or committed by LANDOWNER or anyone acting under its authority, express or implied, within a thirty (30) day period after receipt of notice thereof from LAND TRUST, or fails to continue diligently to cure such violation until finally cured after commencement of cure within said thirty (30) day period, LAND TRUST may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, and to enjoin the violation by temporary or permanent injunction against LANDOWNER and/or anyone acting under its authority, either express or implied. Consistent with Paragraph 8(b) hereof, should a violation be committed by members of the public, LAND TRUST's sole cause of action or remedy against LANDOWNER shall be specific performance to compel enforcement of LANDOWNER's ordinance which prohibits members of the public from engaging in any activity or use which is prohibited by this Easement.

(c) **Damages; Costs of Restoration.** LAND TRUST shall be entitled to recover monetary damages for significant damage to any of the Conservation Values protected by this Easement caused by LANDOWNER and/or anyone acting under its authority, either express or implied. Where LANDOWNER's violation may cause significant damage to the Conservation Values of the Property, the court may order restoration of the Conservation Values of the Property so damaged to the condition that existed prior to any such injury. Without limiting LANDOWNER's liability therefor, LAND TRUST shall apply any damages recovered to the cost of undertaking any action to restore and/or enhance the Conservation Values of the Property after deducting all costs of suit, including reasonable attorney's fees and consultant fees. LANDOWNER shall not be responsible for any damages or costs of restoration necessary to remedy damage to the Property caused by the conduct of third parties acting without authority of LANDOWNER, either express or implied. Such third party conduct includes all conduct by members of the public.

(d) **Emergency Enforcement.** If LAND TRUST, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values protected by this Easement, caused by LANDOWNER or anyone acting under its authority, express or implied, LAND TRUST may pursue its remedies under this Paragraph without waiting for the period provided for correction to expire. LAND TRUST shall notify LANDOWNER in a timely fashion of any action proposed or taken pursuant to this Paragraph.

(e) **Scope of Relief.** LAND TRUST'S rights under this Paragraph shall apply equally to threatened as well as actual violations of the terms of this Easement. LAND TRUST'S remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, except that damages shall be limited to those available pursuant to Paragraph 12(c) above.

(f) **Award of Damages; Costs of Litigation.** Any award of damages and costs of litigation, including reasonable attorneys' fees, shall be as provided by law.

(g) **Enforcement Discretion.** Enforcement of the terms of this Easement shall be at the discretion of LAND TRUST, and any forbearance by LAND TRUST to exercise its rights under this Easement shall not be deemed or construed to be a waiver by LAND TRUST of such rights or of any subsequent breach of the same or any other terms of this Easement, or of its rights under the Easement. No delay or omission by LAND TRUST in the exercise of any right or remedy upon any breach by LANDOWNER shall impair such right or remedy or be construed as a waiver, and LANDOWNER hereby waives any defense of laches, estoppel or prescription.

13. **LANDOWNER'S REMEDIES.** LANDOWNER reserves the right to pursue all remedies available to it at law or in equity.

14. **ACTS BEYOND LANDOWNER'S CONTROL.** Nothing contained in this Easement shall be construed to entitle LAND TRUST to bring any action against LANDOWNER for any damage to or change in the Property resulting from causes beyond LANDOWNER's control, including, without limitation, fire, flood, storm and earth movement, from actions by persons acting outside the authority of LANDOWNER, either express or implied (such actions including all actions by members of the public except as provided in Paragraph 8(b)), or from any prudent action by LANDOWNER under emergency conditions to prevent, abate or mitigate significant damage to the Property resulting from such causes. LANDOWNER shall cooperate with LAND TRUST to remedy any such injuries or damage to the Property to the extent feasible.

15. **COSTS AND LIABILITIES.**

(a) **LANDOWNER Costs and Liabilities.** LANDOWNER retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, including payment of property taxes and assessments of any kind, costs associated with fire management, and maintenance of adequate comprehensive general liability insurance coverage. LANDOWNER remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state and local laws, regulations and requirements.

(b) **LAND TRUST Costs and Liabilities.** LAND TRUST retains all responsibilities and shall bear all costs and liabilities of any kind related to any maintenance or other activities which it performs on the Property, and shall maintain adequate comprehensive general liability insurance coverage. LAND TRUST remains solely responsible for obtaining any applicable governmental permits and approvals for any activities permitted by this Easement which it undertakes on the Property, and all such use shall be undertaken in accordance with all applicable federal, state and local laws, regulations and requirements.

16. **INDEMNIFICATION.** LANDOWNER and LAND TRUST, and each of them, shall release and hold harmless, indemnify, and defend each other and their elected and appointed officials, trustees, officers, members, employees, agents and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with (a) 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 Property, regardless of cause, except to the extent of the adjudicated proportionate fault of any of the Indemnified Parties; and (b) the violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation or requirement, including, without limitation, environmental or hazardous waste provisions.

17. ASSIGNMENT.

(a) The LAND TRUST may assign its rights and obligations under this Easement, but only to an organization which, at the time of transfer, is qualified under Section 170(h) of the Internal Revenue Code, as amended (or any successor provisions), and is authorized to acquire and hold conservation easements under California law, upon obtaining the prior written consent of LANDOWNER, which consent shall not be unreasonably withheld. As a condition of such transfer, LAND TRUST shall require that the conservation purpose set forth in this Easement continue to be carried out and enforced, and that any assignee expressly assume, in recordable form, all covenants and conditions of the Easement binding on LAND TRUST.

(b) In the event that LAND TRUST ceases to qualify as a nonprofit public benefit corporation qualified as a Section 501(c)(3) charity, or ceases to operate or dissolves, then Citizens for the Carpinteria Bluffs, a California nonprofit public benefit corporation qualified as a Section 501(c)(3) charity, shall have a first right to be appointed as the backup holder of this Easement if it continues to qualify as a Section 501(c)(3) charity focused on land conservation. LANDOWNER stipulates that, under such circumstances, Citizens for the Carpinteria Bluffs shall constitute an authorized assignee.

18. SUBSEQUENT TRANSFERS. LANDOWNER agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including, without limitation, any leasehold interest. The failure of LANDOWNER to perform any act required by this Paragraph shall not affect the validity of such transfer nor shall it impair the validity of this Easement or limit its enforceability in any way.

19. EXTINGUISHMENT. If circumstances arise in the future which render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The proceeds, if any, from such extinguishment to which LAND TRUST shall be entitled, as determined by the court, shall be the stipulated fair market value of the Easement, or proportionate part thereof as determined by a qualified appraiser mutually agreed upon by LAND TRUST and LANDOWNER, or a court appointed appraiser if the parties cannot reach mutual agreement. The proceeds received by LANDOWNER and LAND TRUST shall be restricted to uses which are consistent with the preservation of natural, open space, scenic and wild life habitat or use for the benefit of the public. For the LAND TRUST, such uses must be within the Carpinteria Valley; for LANDOWNER, such uses must be within the City of Carpinteria.

20. CONDEMNATION. If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, LANDOWNER and LAND TRUST shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by LANDOWNER and LAND TRUST in connection with the taking

or in lieu purchase shall be paid out of the amount recovered. The LAND TRUST share of the balance shall be determined by the ratio the value of the Easement bears to the value of the Property unencumbered by the Easement, as determined by a qualified appraiser mutually agreed upon by LAND TRUST and LANDOWNER, or a court appointed appraiser if the parties cannot reach mutual agreement. The proceeds received by LANDOWNER and LAND TRUST shall be restricted to uses which are consistent with the preservation of natural, open space, scenic and wild life habitat or use for the benefit of the public. For the LAND TRUST, such uses must be within the Carpinteria Valley; for LANDOWNER, such uses must be within the City of Carpinteria.

21. EXISTING ENCUMBRANCES; SUBORDINATION.

(a) **Existing Encumbrances.** The interests held by LANDOWNER and LAND TRUST under this Easement are conveyed and reserved subject to all pre-existing encumbrances of record.

(b) **Subordination.** If at the time of conveyance of this Easement, the Property is subject to any mortgage or deed or trust encumbering the Property, LANDOWNER and LAND TRUST shall cooperate in obtaining from the holder of any such mortgage or deed of trust an agreement to subordinate its rights in the Property to this Easement to the extent necessary for the LAND TRUST to enforce the purpose of this Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of the mortgage or deed of trust holder.

22. GENERAL PROVISIONS.

(a) **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of California.

(b) **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed to effect the Purpose of this Easement.

(c) **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. This Easement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Easement and by no other means. Each party waives its right to claim, contest or assert that this Easement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

(e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of LANDOWNER's title in any respect.

(f) **Successors in Interest.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective beneficiaries, personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

(g) **Notices.** Any notice, demand, request, consent, approval, or other communication that either party desires or is required to give to the other party shall be in writing and either delivered personally or sent by first class mail, postage prepaid, addressed to the appropriate party at the address provided in this Easement or at such address as either party or successor in interest shall from time to time designate by written notice to the other.

(h) **Partial Invalidity.** If any term or provisions of this Easement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Easement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Easement shall be valid and be enforceable to the fullest extent permitted by law.

(i) **Headings.** The headings used in this Easement are for convenience and reference purposes only and are not to be used to interpret the substantive meaning of the provisions to which they relate.

(j) **Authority.** Each individual executing this Easement on behalf of LANDOWNER and LAND TRUST represents and warrants that he or she is duly authorized to execute and deliver this Easement on behalf of said entity.

(k) **Number, Gender.** In this Easement, the singular number shall include the plural and the plural the singular unless the context requires to the contrary, and reference to the masculine, feminine or neuter gender shall include the other genders as the context requires.

(l) **Exhibits.** All exhibits and appendices referred to in this Easement are incorporated into this Easement by such references whether or not they are actually attached. References to this Easement include all such exhibits and appendices incorporated by reference.

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, LANDOWNER has executed this Easement and LAND TRUST has accepted this Easement as of the date first written above. This Easement shall become effective as of the date of recordation.

SELLER

BUYER

THE LAND TRUST FOR SANTA BARBARA COUNTY, a California non-profit public benefit corporation

CITY OF CARPINTERIA, a California municipal corporation

By: Kathleen M. Weinheimer
President

By: Bradley Stein
Bradley Stein, Mayor

By: Ken Eberstall
Vice President

By: Gary Neilsen
Gary Neilsen, Vice Mayor

By: Donna Jordan
Donna Jordan, Council Member

By: Michael Ledbetter
Michael Ledbetter, Council Member

By: Richard Weinberg
Richard Weinberg, Council Member

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.

On August 10, 2000, before me, Barbara Medina, personally appeared Kathleen M. Weinheimer, President of The Land Trust For Santa Barbara County,

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.
Barbara Medina
(SIGNATURE OF NOTARY)

STATE OF CALIFORNIA)

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA)

ss.

On August 14th, 2000, before me, WENDY M. FITZ, personally appeared KENNETH EDWARD MARSHALL, Vice President of The Land Trust For Santa Barbara County,

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.

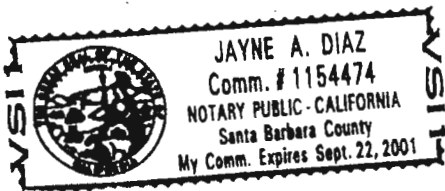
Wendy M. Fitz
(SIGNATURE OF NOTARY)

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA)

ss.

On Oct. 9, 2000, before me, Jayne A. Diaz, personally appeared BRADLEY STEIN, Mayor of The City of Carpinteria,

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.



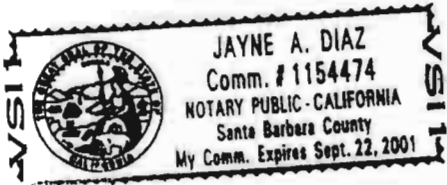
WITNESS my hand and official seal.

Jayne A. Diaz
(SIGNATURE OF NOTARY)

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.

On Oct. 9, 2000, before me, Jayne A. Diaz, personally appeared GARY NEILSEN, Vice Mayor of The City of Carpinteria,

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.



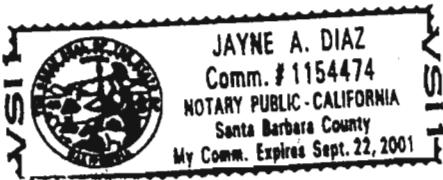
WITNESS my hand and official seal.

Jayne A. Diaz
(SIGNATURE OF NOTARY)

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.

On Oct. 9, 2000, before me, Jayne A. Diaz, personally appeared DONNA JORDAN, Council Member of The City of Carpinteria,

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.



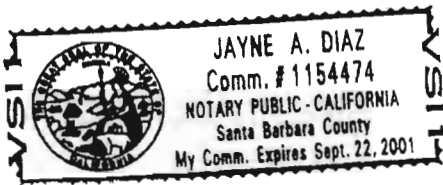
WITNESS my hand and official seal.

Jayne A. Diaz
(SIGNATURE OF NOTARY)

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.

On Oct. 9, 2000, before me, Jayne A. Diaz personally appeared
MICHAEL LEDBETTER, Council Member of The City of Carpinteria,

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.



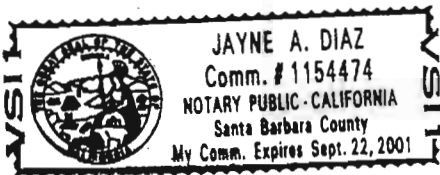
WITNESS my hand and official seal.

Jayne A. Diaz
(SIGNATURE OF NOTARY)

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.

On Oct. 9, 2000, before me, Jayne A. Diaz, personally appeared
RICHARD WEINBERG, Council Member of The City of Carpinteria,

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.

Jayne A. Diaz
(SIGNATURE OF NOTARY)

- "Exhibit A" - Legal Description of Property
- "Exhibit B" - Map Showing Active and Passive Recreation Areas
- "Exhibit C" - Trail Map
- "Exhibit D" - Eucalyptus Grove Exhibit