San Francisco Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

August 12, 2016

Heron Bay HOA
C/O Law Office of Alan Berger
95 South Market Street, Suite 545
San Jose, CA 95113

SUBJECT: Request for Amendment No. Three to BCDC Permit No. M1992.057.02 to resolve violations at the Heron Bay HOA, City of San Leandro, Alameda County (Enforcement File No. ER2014.015)

Dear Mr. Berger:

Thank you for responding to the May 26, 2016, enforcement letter that commenced a standardized fine clock for the failure by the Heron Bay Homeowner's Association ("HOA"), your client, to comply with BCDC Permit No. M1992.057.01 ("Permit"). In your response, dated July 13, 2016, received in this office the same day, you include a request to amend the Permit in one of three ways. You express a preference for "Option 1," which requests authorization to retain the as-built public access (after-the-fact) in lieu of constructing the currently-required public access, construct a security kiosk, and provide new public access amenities consisting of bike sharrows, signed public shore parking spaces and public shore signs at Bayfront Drive to offset the difference between the currently-required versus the as-built public access.

Presently, Special Condition II.F.3.c of the Permit requires "a minimum of an 8-foot-wide paved path, with a minimum total of 4 feet of shoulder" on Bayfront Drive.[1]

As you know, BCDC staff will not be able to consider the security kiosk until the City of San Leandro authorizes your proposal. For this reason, among others that are discussed below, staff cannot file your amendment request as complete. Your decision to join the request for the security kiosk with your application to resolve violations to the Permit and Settlement Agreement voluntarily extends the amount of time it will take to resolve the violations, and in turn, allows for more stipulated penalties to accrue.

[1] This public access is also required by the settlement agreement, "Agreement Regarding Limits of Jurisdiction and Land Use," that was entered into by BCDC and Citation Homes on June 16, 1994 and recorded on title with Alameda County on July 22, 1994 ("Settlement Agreement"). Since "Option 1" proposes to retain public access on Bayfront Drive not consistent with the recorded Settlement Agreement, the stipulated document will also have to be amended and rerecorded along with the Permit. I have enclosed a copy of the Settlement Agreement for your convenience.

Our review of the "Option 1" amendment request has determined that it is incomplete pending the submittal of the following items:

1. **Total Project and Site Information.** From reviewing your application, it appears that "Option 1" involves the following activities:

   a. Construct a 12-foot-wide curb and planter with a paved pedestrian path located on the north side of Bayfront Drive, and a 5-and-a-half-foot-wide curb and planter located on the south side of Bayfront Drive (after-the-fact);

   b. Construct a 115-square-foot security kiosk located at the northeast entrance of Bayfront Drive outside of the public access easement with a parking space exclusively reserved for the security kiosk attendant;

   c. Provide six pubic shore parking spaces, two of which will be ADA accessible, located at the northwestern end of Bayfront Drive;

   d. Install license plate reader columns located on Bayfront Drive outside of the public access easement;

   e. Paint bicycle sharrows along both sides of Bayfront Drive; and

   f. Post new public access signage at the security kiosk along Bayfront Drive.

   Staff requires a more information as follows in order to fully understand your proposed project:

   a. Provide the width of the as-built paved pedestrian path located on the north side of Bayfront Drive;

   b. Explain the purpose of the kiosk and its attendant, how the HOA plans to use the kiosk attendant to interact with the public, and finally, how the HOA will ensure the public – whether travelling to or from the shoreline by foot, bicycle or vehicle -- will not be impacted by the presence of the kiosk and its attendant. Additionally, provide the proposed location for the dedicated parking space for the attendant;

   c. Explain why you are proposing six instead of ten public access parking spaces, two of which will be ADA accessible, as proposed on January 7, 2015. There appears to be ample space for fifteen spaces and staff is concerned that six spaces will not be enough to serve the public;

   d. State the purpose of the license plate readers, and provide a site plan that shows what the readers look like, the quantity you are proposing to install, and the specific locations you are planning to install the readers, how the information will be managed and used and explain how the HOA will ensure that the public will not be impacted by their presence;

   e. Provide a site plan to show the location of the proposed bicycle sharrows; and

f. Provide more information about the content and quantity of the public access signs.

2. **Project Plans.** Please submit one full size set of project plans and one reduced size set of project plans (8-1/2" x 11") for your proposed project. These plans must include, at a minimum, a vicinity map, site plan, property lines, the as-built public access, the security kiosk, the six public shore parking spaces, the license plate reader columns, the bicycle sharrows, and the public access signage, a scale, a north arrow, and finally, the date and the name of the person who prepared the plans.

3. **Signage Plan.** Please provide a signage plan that shows both the content and quantity of the proposed public access signage plans. For guidance on the content of the public access signs, please refer to our public access signage guide available on our website.

4. **Local Government Approval.** Thank you for your diligence in working with the City of San Leandro to obtain the necessary approval of your proposed project at the local level. Please submit all the relevant documentation, which clearly indicates that all the local government discretionary approvals have been received for the project.

5. **Processing Fee.** Thank you for submitting the $600 application fee. Staff deposited the check on July 13, 2016.

6. **Environmental Documentation.** Please provide environmental documentation, as required under the California Environmental Quality Act (CEQA), in the form of a categorical or statutory exemption, negative declaration, or other certified environmental impact document.

7. **Interested Parties.** Please provide a list of parties interested in this project.

Until the above-mentioned information is submitted and reviewed for adequacy, your application will be held as incomplete. Administrative penalties will continue to accrue until you resolve the violations, as provided in the May 26, 2016 enforcement letter.

Other Issues

1. **Public Notice.** While not required to file your request as complete, we believe it is in your interest to post a notice for the public about the project. To the end, please find enclosed a completed "Notice of Application" to be posted at or near the project site in a prominent location. Please post the Notice so that it will be visible to the members of the public, complete the form that certifies that you have posted the Notice, and return the form to the Commission's office.

2. **Resolution of Current Violation.** Since the onset of our discussions, staff has stated that a minimum of ten[2] public shore parking spaces on Bayfront Drive is necessary to resolve this violation. The public shore parking would serve to offset the as-built condition of the public

[2] On September 16, 2015, fifteen public shore parking spaces were proposed.

access, which is less than what the Commission found to constitute maximum feasible public access. If you do not amend the application to increase the number of proposed public shore parking spaces from six to ten/fifteen, you may face a formal enforcement proceeding to secure additional public shore spaces through a cease and desist and civil penalty order.

If you have any questions, please do not hesitate to contact me at 415-352-3668 or maggie.weber@bcdc.ca.gov.

Sincerely,

Maggie Weber

MAGGIE WEBER
Enforcement Analyst

MW/go

Enc. Settlement Agreement

This is to certify that this is a true and correct copy of Agreement recorded in the Office of the Recorder of Alameda County, California, as Instrument No. 94-259415 in (Book-Reel) (Page-Image) on the 22nd day of July 1994, FIRST AMERICAN TITLE GUARANTY COMPANY
By

Recorder's Copy

AGREEMENT REGARDING LIMITS OF JURISDICTION AND LAND USES

This Agreement is made between the San Francisco Bay Conservation and Development Commission ("BCDC"), an agency of the State of California, and SCS Development Co., a California Corporation doing business as Citation Homes Central ("Citation"). It is effective June 16, 1994.

RECITALS

(1) Citation is the owner and developer of a residential project in San Leandro commonly known as "Roberts Landing." Originally a parcel approximately 490 acres in size, through the entitlements process only 79 approximate acres remain developable. The balance of the property, in the main, will be converted to wetlands or, to the extent it is at present marginally wetland, enhanced as wetland habitat.

(2) The City of San Leandro, acting under its zoning ordinance, has approved a General Development Plan for the 79 approximate acres, being PD 91-3, and as well a Precise Development Plan, PD 91-3 PDP. The City has approved vesting tentative maps for the portion of the property that is the subject of PD 91-3 PDP, being Tracts 6636 and 6648.

(3) Both the General Development Plan and the Precise Development Plan require Citation to provide continuous public access in the form of a pedestrian path along the southwesterly boundary of its property from the extension of Lewelling Boulevard on the north to San Lorenzo Creek on the south. This public access path is to be paved to eight feet in width, and will lie within or adjacent to a buffer area having a width of fifty feet and, in places, one hundred feet. The buffer area lies adjacent and immediately northeasterly of the southwesterly property line. The public access provisions are more specifically provided for in the conditions of approval imposed by the City of San Leandro, both in the General Development Plan, and in the Precise Development Plan.

(4) In 1992, Citation requested and received from BCDC staff a jurisdictional determination. That determination was based on evidence available to the BCDC staff which included a topographic map dated 1969, an older aerial photograph, and BCDC staff inspections of the site. The staff determination was made by letter dated September 8, 1992, and, based on evidence at hand, concluded that the BCDC's "San Francisco Bay" and shoreline band jurisdiction does not extend onto the Roberts Landing project site.

(5) The staff has determined that the elevation of the line of highest tidal action (LHTA) that should be applied to the site is +6.2 feet NGVD. This line is based on the highest tide at Fort Point since September 17, 1965, which has been corrected to the San Leandro location. However, the LHTA excludes the highest El Nino tides observed in January of 1983 because the staff believed these very high tides are too rare to be used as an indicator of tidal action, and the extent of the Bay. The Commission has used the 6.2-foot elevation for many years, and this elevation formed the basis for jurisdictional determination in this area made by the staff on September 8, 1992.

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(6) Since the September 8, 1992 determination, the BCDC staff received, from members of the public, observations and photographs showing portions of "the East Marsh" area submerged and the bayward levees being overtopped by water. Some members of the public believe that, at times of high tides, portions of the East Marsh were submerged by what they believed to be tidal waters overtopping the levees. The East Marsh is bayward of the Citation project site, and is north of San Lorenzo Creek and south of the Lewelling Boulevard extension. The BCDC staff also reviewed new plans that had been subsequently submitted by the City of San Leandro and Citation for marsh restoration projects in the East Marsh and adjacent areas. These topographic maps were based on surveys from 1992 and 1993, and indicate that the bayward levees have either subsided or have been eroded. In light of this information, a public hearing on the extent of BCDC's jurisdiction was held on May 19, 1994.

(7) At the May 19, 1994 public hearing, the Commission received documentary evidence from many parties, including Citation, the Ohlone Audubon Society, and other interested public members. Evidence presented tended to show tidal waters overtopping some portions of the bayside levees, and tended to show water standing in areas of the East Marsh. However, the evidence is inconclusive regarding whether tidal waters touched the Roberts Landing project site, and to what extent tidal waters may have inundated the East Marsh. It is therefore uncertain whether tidal waters "touched" any portion of the Citation project site at any time on or after September 17, 1965, as provided for in Section 10123. A summary of the relevant evidence is as follows.

a. Tidal Overtopping into the East Marsh. Eyewitnesses, supported by photographs, observed water within the area of the East Marsh in January 1983, and on January 27, 1983, December 11, 1993, and February 7, 1994. Although four people stated that overtopping occurred, or that waters flooded the East Marsh at other times, these accounts were not supported by photographic evidence. Evidence of waters within the East Marsh is not by itself conclusive of whether tidal action entered this area. It is not known to what extent these waters may be tidal, ponded rainwater, freshwater runoff or flooding from San Lorenzo Creek through an inoperative flap gate.

Tidal events witnessed and photographed in 1993 and 1994 do not establish jurisdiction because the Commission's Regulation Section 10123(a) requires, since 1987, one-year's written notice to repair the levees before the Bay jurisdiction could be extended. No written notice has yet been provided because clear evidence of overtopping has only now been established. The earliest tidal events that were observed and photographed include one event in 1982, and at least one event in 1983 during the highest El Nino tides.

Several factors will affect a jurisdictional determination, including levee elevations; impact of the law exempting areas from the Bay if tidal action was caused by the destruction of a man-made work; the number of tidal events needed to qualify as "tidal action" and the extent of any tidal waters within the East Marsh.

Topographic maps are available from 1969, 1986 and 1992. Each of these maps includes only spot elevations which do not give a complete picture of the bayside levees. The spot

elevations in 1969 and in 1986 imply that the levee was generally of sufficient height to prevent tides up to +6.2 feet from entering the East Marsh. Thus, it appears that overtopping up to 1986 was likely caused by extreme high tides in excess of the Commission's line of highest tidal action (+6.2 feet NGVD). There is a question whether the Commission has jurisdiction over these excessive tides. The highest El Nino tide of January 27, 1983 had previously been rejected as a measure of the line of highest tidal action. However, more than one event was chronicled during the 1982-83 winter seasons. This raises the question regarding how many events are needed to establish "tidal action."

Further, none of the available evidence identifies the volume of tidal water that overtopped the levee on the dates of observation, or indicates how far those tidal waters would have extended. Photographs of flooding in the East Marsh do not accurately depict the extent of tidal action.

Another factor affecting jurisdiction is the presence of levees which have either eroded or subsided below the line of highest tidal action. Before 1987, property owners had one year to repair the natural destruction of a levee to prevent the Commission's Bay jurisdiction from extending into tidally flooded areas. No significant repairs have been made to the Roberts Landing levees since 1969, although three events of overtopping are reported in 1982 and 1983.

In determining the extent of its Bay jurisdiction, it is not clear whether the Commission should rely on rare tidal events, or whether more regular high tides are required as the basis for jurisdiction. Further, even if these events do establish Bay jurisdiction, the evidence is inconclusive concerning the area of the East Marsh affected by tidal waters.

b. Inoperative Tide Gate. The evidence shows that water enters the East Marsh through a flap gate on a culvert that drains into San Lorenzo Creek. That gate has been inoperative for a significant period of time during the past several years. It is likely that, at high tides, Bay water backs up into the creek and through the culvert into the East Marsh. However, San Lorenzo Creek is not within the Commission's Bay jurisdiction. Any water from the Creek entering the marsh would not, therefore, be a basis for obtaining jurisdiction.

(8) There is a substantial question whether the highest tide ever recorded in San Francisco Bay is the appropriate high tide to be used for BCDC's Bay jurisdiction. As a matter of administrative practice, the Commission and staff have not used the heights reached by that extraordinary event for jurisdictional purposes, but have used instead high-water elevations reached on January 27, 1973. In addition, there is the legal uncertainty whether the "line of highest tidal action" is appropriately the limit of the Commission's Bay jurisdiction under Government Code Section 66610(a). On May 2, 1994, the California Court of Appeal for

the First Appellate District ruled in Littoral Development Company v. San Francisco Bay Conservation and Development Commission that the limit of BCDC's Bay jurisdiction is the line of mean high water, except in marsh areas where it extends to five feet above "mean sea level." The Commission's petition for review is pending in the California Supreme Court.

(9) The parties wish to end this protracted and inconclusive pursuit of the limit of tidal-water incursion into Roberts Landing--whether using the 1983, or the 1973, high water elevation.

(10) The shoreline trail and fifty- to one hundred-foot buffer that Citation must construct in accordance with the City's approval, and in accordance with the terms of this agreement, will achieve the public access goals of the San Francisco Bay Plan and the McAteer-Petris Act.

Therefore, the parties agree as follows:

AGREEMENTS

(1) For the purposes of Citation's Roberts Landing project, the parties agree that the landward limit of BCDC's San Francisco Bay jurisdiction, pursuant to Government Code Section 66610(a), is a line that is fifty feet bayward from, and that follows, the southwesterly boundary of the Roberts Landing property, from San Lorenzo Creek on the south to the extension of Lewelling Boulevard on the north. From there the limit of BCDC's Bay jurisdiction proceeds westerly such that no portion of the Citation property lying northerly of the Lewelling Boulevard extension lies within either BCDC's Bay jurisdiction or its Shoreline Band jurisdiction. Thus, between San Lorenzo Creek and the Lewelling Boulevard extension, BCDC has Shoreline Band jurisdiction within the first 50 feet of the project. The limits of BCDC's Bay and Shoreline Band jurisdictions are shown schematically for illustrative purposes only on the two exhibits to this agreement.

(2) Within that portion of the Roberts Landing project lying within BCDC's Shoreline Band jurisdiction as agreed to in paragraph (1) Citation is permitted to construct the shoreline trail and associated buffer landscaping as required by general condition 8 of the Conditions of Approval for Vesting Tentative Tract Map 6636 of the City of San Leandro, adopted October 4, 1993, and condition I.C of the Conditions of Approval of the Roberts Landing General Development Plan adopted April 20, 1992, and in accordance with the terms of this agreement.

(3) Citation agrees that it shall submit its plans for improvements within the public access and buffer areas, as required by the City, for review and approval by the BCDC staff. These improvements will include grading, fill, landscaping and public access improvements that will be located within BCDC's shoreline band jurisdiction and within areas outside BCDC's jurisdiction but within any areas reserved for buffer or public access purposes, in accordance with the following plan review conditions In addition, Citation shall guarantee that the buffer and public access areas shall be permanently reserved for such purposes. Those areas include a public access connection along the Lewelling extension from Lewelling Boulevard to the buffer area, and the 50- to 100-foot-wide buffer area that is located both within and without the 100-foot shoreline band jurisdiction. That permanent guarantee shall be in accordance with the following requirements:

a. Specific Plans and Plan Review

1. Plan Review. No work whatsoever shall be commenced pursuant to this agreement until final precise site, public access, grading, and landscaping plans and any other relevant criteria, specifications, and plan information for that portion of the work have been submitted to, reviewed, and approved in writing by or on behalf of the Commission. The specific drawings and information required will be determined by the staff. To save time, preliminary drawings should be submitted and approved prior to final drawings.

(a) Site, grading, public access, and landscaping plans shall include and clearly label the eastward extent of BCDC's Bay jurisdiction (line of highest tidal action), the line 100 feet inland of the line of highest tidal action, property lines, the boundaries of all areas to be reserved for public access purposes and open space, grading, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, seating, parking, signs, lighting, fences, paths, trash containers, utilities and other proposed improvements.

(b) Plans submitted shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon: (1) completeness and accuracy of the plans in showing the features required above, particularly the limits of the Commission's Bay and shoreline band jurisdictions as agreed herein, and any other matters required by this agreement; (2) consistency of the plans with the terms and conditions of this agreement; (3) the provision of the amount and quality of public access to and along the shoreline and in and through the project to the shoreline required by this agreement; and (4) consistency with legal instruments reserving public access and open space areas.

Plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed.

2. Conformity with Final Approved Plans. All work, improvements, and uses shall conform to the final approved plans. Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the agreement has been performed in accordance with the approved design criteria and in

substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the exterior of any constructed structure, outside fixture, lighting, landscaping, signage, landscaping, parking area, or shoreline protection work without first obtaining written approval of the change(s) by or on behalf of the Commission.

3. Discrepancies between Approved Plans and Special Conditions. In case of any discrepancy between final approved plans and the terms of this agreement or legal instruments approved pursuant to this agreement, the terms of this agreement or the legal instrument shall prevail. The applicant is responsible for assuring that all plans accurately and fully reflect the terms of this agreement and any legal instruments submitted pursuant to this agreement.

b. Public Access

1. Area. The approximately 155,000-square-foot buffer area, along approximately 2,000 lineal feet of shoreline, and approximately 17,400 square feet along the 1,450-foot-long Lewelling extension, as generally shown on the attached exhibits shall be made available exclusively to the public for a wildlife buffer area, and for public access for walking, bicycling, sitting, viewing, picnicking, and related purposes. If Citation wishes to use the public access or buffer area for other than public access purposes, it must obtain prior written approval by or on behalf of the Commission.

The overall proposal for public access improvements for this project includes:

New public access in the shoreline band: approximately 24,000 square feet

New public access out of the shoreline band: approximately 17,400 square feet

2. Permanent Guarantee. Prior to the commencement of any grading or construction activity, Citation shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the new 172,400-square-foot public access and buffer areas. The instrument(s) shall create rights in favor of the public which shall commence no later than after completion of construction of any public access improvements required by this authorization and prior to the use of any structures authorized herein. Such instrument shall be in a form that meets recordation requirements of Alameda County and shall include a legal description of the property being restricted and a map that clearly shows and labels the line

of highest tidal action, the property being restricted for public access, the legal description of the property and of the area being restricted for public access and buffer to the East Marsh, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank of any levees, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following: (a) sufficiency of the instrument to create legally enforceable rights and duties to provide the public access and buffer areas required by this authorization; (b) inclusion of an exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and (c) sufficiency of the instrument to create legal rights in favor of the public for public access and open space that will run with the land and be binding on any subsequent purchasers, licensees, and users.

3. Recordation of the Instrument. Within 30 days after approval of the instrument, Citation shall record the instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.

4. Improvements Within the Total Public Access Area. Prior to the use of any structure authorized herein, Citation shall install the following improvements,:

   (a) An 8-foot-wide paved path, with a total of 4 feet of shoulder, within the approximately 2,000-foot-long buffer area; and within the approximately 1,450-foot-long Lewelling extension to connect Lewelling Boulevard with the buffer area;

   (b) A seating area/overlook site to provide views of the East Marsh, with 4 benches and 4 trash containers; and

   (c) Native upland vegetation planted in the buffer area that is suitable for wildlife habitat but landscaped so as to protect public views to the East Marsh from the public access path; and

   (d) No fewer than 4 public access signs, one at the beginning of each path on the site.

   Such improvements shall be consistent with the plans approved pursuant to the terms of this authorization and those approved by the City of San Leandro.

5. Maintenance. The areas and improvements within the total 172,400-square-foot area shall be permanently maintained by and at the expense of, Citation or its assignees. Such maintenance shall include, but is not limited to repairs to all path surfaces, replacement of any plant materials deposited within the access areas, removal of any encroachments into the access areas, and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, Citation shall correct any maintenance deficiency noted in a staff inspection of the site.

6. Assignment. Citation shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this agreement.

7. Reasonable Rules on Use of Public Access Areas. Citation may impose reasonable rules on the use of the areas required to be provided for public access provided such rules are first approved by or on behalf of the Commission and do not significantly affect the public nature of the area nor unreasonably burden public use. Rules may include restricting hours of use and delineating appropriate behavior.

(4) Citation shall record this document or a notice specifically referring to this document with Alameda County within 30 days after execution of this agreement and shall, within 30 days after recordation, provide evidence of recordation to the Commission.

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

Dated: 7/1/94

By: [signature] FOR
ALAN R. PENDLETON
Its: Executive Director

DANIEL LUNGREN
Attorney General

Approved as to Form
Dated: 6/30/94

By: [signature]
MARJORIE COX
Its: Deputy Attorney General

SCS DEVELOPMENT COMPANY
(a California corporation)

Dated: July 11, 1994 By: _____

EDWARD M. ALVAREZ
Its: Vice President

Approved as to Form
Dated: July 6, 1994 By: _____

JOHN BRISCOE
Its: Attorney
for SCS Development Company
(a California corporation)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT No. 5907

State of CALIFORNIA

County of SAN FRANCISCO

On JULY 1, 1994 (DATE) before me, MYRNA CARTER-LEE, NOTARY PUBLIC (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"),

personally appeared WILLIAM TRAVIS (NAME(S) OF SIGNER(S)),

☒ 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.

MGC1 Myrna Carter-Lee Comm. #992013 NOTARY PUBLIC - CALIFORNIA City & County of San Francisco Comm. Expires April 18, 1997 MGC1

WITNESS my hand and official seal.

Myrna Carter-Lee

SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL

☒ CORPORATE OFFICER

ACTING EXECUTIVE DIRECTOR
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL

☐ ATTORNEY-IN-FACT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

AGREEMENT REGARDING LIMITS OF JURISDICTION AND LAND USES
TITLE OR TYPE OF DOCUMENT

9
NUMBER OF PAGES

JUNE 30,1994
DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

ALAN R. PENDLETON, EXECUTIVE DIRECTOR, SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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State of California

County of Santa Clara

On July 11, 1996 before me, (here insert the name and title of the officer), personally appeared

Eduard M. Alvarez

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 or~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Diana Bergstedt

Print Name Diana Bergstedt (Seal)

E-47

NNA1

DIANA BERGSTEDT
COMM. # 994263
Notary Public — California
SANTA CLARA COUNTY
My Comm. Expires AUG 20, 1997

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