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Recorded at the request of:
BRAY, BALDWIN, EGAN, BREITWIESER & STARR
WARD & FERRY STREETS
MARTINEZ, CA 94553

OCT 31 1977
154513

RECORDED AT REQUEST OF
ATTORNEYS

OCT 31 1977
AT 3 O'CLOCK 8 M.
CONTRA COSTA COUNTY RECORDS
J. R. [illegible]
COUNTY RECORDER
FEE: 15.00

BOOK 8511 PAGE 557

LEASE

1. DATE AND NAMES OF PARTIES: This lease, executed this 12 day of JULY, 1977, at Diablo, California, by and between LAWRENCE CURTOLA, FREDERICKA CURTOLA, ROBERT SMILEY, IRENE SMILEY, JOSEPH EASTOOD III, ELIZABETH EASTWOOD, GEORGE FORTADO and CHERRON FORTADO their heirs successors and assigns Lessors and the Diablo Community Services District, a political subdivision of the State of California, Lessee witnesseth;

2. DEMISE, DESCRIPTION, TERM AND RENT: LESSORS hereby leases to LESSEE and LESSEE hereby leases from LESSOR that certain property hereinafter called the "LEASED PROPERTY" situated in Contra Costa County, California and fully described in Exhibits "A" and "B" which are attached hereto and made a part hereof by reference, for a period of fifty-one (51) years commencing August 21, 1975, and terminating July 31, 2026, for the total rent of One Hundren Dollars ($100.00) receipt of which is hereby acknowledged and other valuable and legal consideration, receipt of which is hereby acknowledged.

3. USE: The property described in Exhibit "A" being a fifteen foot wide path to be used exclusively as a horse and hiking trail, which may, at the option of the LESSEE, link with other trails in the Mount Diablo Area and with roads within Diablo, save and except that nothing outside of this

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agreement shall in any way infringe upon any other properties owned by LESSORS unless by written agreement between LESSEES and LESSORS or their respective successors or assigns. The LESSEE, its successors or assigns shall have the following rights, powers and obligations:

3.1 The right to impose regulations for the use of said property by ordinance or otherwise so long as said regulations do not conflict with the wording of this agreement.

3.2 The right to inpose criminal sanctions for the violation of any regulation or ordinance.

3.3 The right to limit the use of said property of those persons having a valid permit to use the property.

3.4 The right to charge for the use of said property.

3.5 The obligation to prohibit the use of said property from use by any motor or engine driven vehicle and to take reasonable safeguards to prevent such use.

3.6 The obligation to relieve the LESSOR of the responsibility to construct or maintain the trails, fences, or gates, and for policing their use.

3.7 No portion of said property may be used as set forth herein until an adequate fence to protect adjacent landowners from trespassers and vandalism has been constructed by the LESSEE between the demised property and contiguous landowners.

3.8 LESSEE is not obligated to construct the fence

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described in paragraph 3.7 or to commence use of the property as herein set forth either before or after said fence is built. However if after a fence is built and the property is used as herein set forth, and only in such case, a majority of the landowners abutting on the leased property deem the use of the leased premises to be a nuisance, said property owners shall file a written notice with the LESSEE setting forth in detail the alleged nuisance provided, however, the use of the Leased Property as a horse and hiking trail shall not be construed as a "nuisance". The LESSEE shall have a period of thirty (30) days to have each alleged nuisance corrected from the date of said notice to correct the nuisance. In the event a dispute arises over the use of the trail, or the nuisance is not corrected to the satisfaction of the property owners, the matter shall first be submitted to an Arbitrator in accordance with the rules of the American Arbitration Association for resolution. If the ruling of the Arbitrator is unsatisfactory to the LESSEE, the LESSEE shall have the option to close said trail. If the LESSEE elects the aforementioned option, and if after a period of two years said trail has not been reopened, each LESSOR shall have the option to sublease from LESSEE on a month-to-month basis that portion of the leased premises described in Exhibit A which is contiguous to land then owned by said LESSOR, his heirs, sucessors or assigns for a lease price of $10.00 per year.

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The LESSORS shall have the option, in case of serious damage to fence or trail, or serious violation of the other terms of this agreement, on written notice to the LESSEE and 10 days having elapsed, to at his own expense, correct said deficient conditions and make corrections or repairs to the trails or fences or gates, pending resolution of the specific problem and determination of the liability therefor by the Arbitrator. In the event of serious violation of paragraph 3.5, or other ordinances, regulations, or laws of the State of California, the Diablo Community Service District hereby agrees to cooperate with the landowner in pursuing appropriate sanctions or relief from the violators; provided, however, the District shall be required to be neither the initiator nor the primary pursuer of either criminal or civil actions.

3.9 No portion of said property may be used until:

3.9.1 LESSEE constructs a fence appropriate to contain horses and cattle between the portion so used and the burdened property.

3.9.2 The LESSEE constructs gates as indicated on Exhibit A.

4. USE: The property described in Exhibit "B" may be improved as an extension of Alameda Diablo. The LESSEE recognizes that said property described in Exhibit "B" has been improved as a road at the expense of LESSOR and that the LESSOR is entitled to a proportionate reimbursement from

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said other property or owners of said other property if the property described in Exhibit "B" is used as ingress or egress to said other property.

5. RENEWAL: This lease shall be automatically renewed for a like period or time under the same terms and conditions as herein contained unless notice of intent not to renew is given by either party at any time during the fiftieth (50th) year. The lease shall thereafter be renewed for successive fifty-one year periods under the same notice requirements and same terms and conditions as herein contained. In the event this provision for any renewal is void, the parties nevertheless intend that all other provisions of this lease shall be effective and in full force and effect.

6. ASSIGNMENT: The LESSEE may assign all rights and benefits of this lease to the following only:

6.1 A governmental agency or non-profit association who agrees with the LESSEE as consideration for the assignment to maintain Alameda Diablo to the same degree of repair as said street has been maintained by the LESSEE.

6.2 Any governmental agency or non-profit association which in fact maintains Alameda Diablo to the same degree of repair as said road has been maintained by Diablo Community Service District.

7. SUCCESSION: In the event that the Diablo Community Service District is dissolved or otherwise ceases to exist, all of the right, title and interest of said Diablo

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Community Service District to this lease and to the land herein conveyed shall automatically inure to the benefit of any organization described in paragraph 6.1 or 6.2 which are herein called Successors.

8. LIMITATIONS ON USE OF CONTIGUOUS PROPERTY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1469, 1470: The property described in Exhibit C which is attached and made a part hereof by reference, is contiguous to the property leased and is owned by the LESSOR and is hereinafter called Contiguous Property.

8.1 LESSOR hereby covenents and agrees to restrict the use of said contiguous property so that no more than twenty (20) single family residential dwelling units constructed on said contiguous property will be allowed to use Alameda Diablo for purposes of ingress or egress. Of said 20 single family units, 6 single family units may be built on Parcel A as described in Book 40 of Maps at Page 49, 50 and 51. Of the remaining 14 single family residential dwelling units allowed on said contiguous property, if it cannot be determined which 14 use Alameda Diablo for purposes of ingress or egress, then such use shall be given to the 14 units which first obtain a building permit. It is the intent that those dwelling units in excess of 20 shall be constructed in such a fashion to preclude the use of Alameda Diablo by the residents of such dwelling units for all purposes of ingress and egress to their dwelling units. Nothing in this paragraph shall limit the use of said property except as herein stated.

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8.2 Except for equestrian and hiking traffic on the property described in Exhibit "A," there shall be no through traffic through the contiguous property between Alameda Diablo and any other street, road, thoroughfare or way.

8.3 LESSOR shall annex all of the land described in Exhibit "C" to the Diablo Community Service District.

9. ABANDONMENT OF EASEMENT: JOSEPH EASTWOOD, III and ELIZABETH EASTWOOD abandon that certain easement as described in Exhibit "D".

10. TAXES: The LESSOR, his heirs, assigns and successors shall pay all property taxes which may accrue on said property while unimproved. The construction of fences, gates, barriers, or leveling and construction of a horse or hiking trail shall not be considered an improvement under this lease.

11. BINDING EFFECT: The owners and LESSORS, and their heirs, assigns and successors are bound by the terms of this lease for the benefit of the demised real property. All benefits of the LESSEE under this lease shall benefit their assigns and successors for the benefit of the demised real property.

12. WARRANTIES: The LESSOR warrants that he is the owner of the property herein demised and has the right and power in law and equity to execute this lease.

13. ENFORCEMENT: This lease may be enforced by an action at law or equity, with all of the remedies therein available including the remedies of specific enforcement.

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14. ATTORNEYS FEES: If any action is commenced for the enforcement, the prevailing party shall be entitled to reasonable attorneys fees as fixed by the court.

15. LESSORS, their successors and assigns, shall be held harmless by the Diablo Community Service District, its successors and assigns, as LESSEES, for any claims, lawsuits, or damages resulting from a contention from any source, person or organization that there exists a right-of-way between Alameda Diablo and Mt. Diablo Scenic Boulevard over Lot Number 255.

LESSEE

JOHN OLANDER, President
Diablo Community Service District

LESSORS

LAWRENCE CURTOLA

FREDERICKA CURTOLA

ROBERT SMILEY

IRENE SMILEY

GEORGE FORTADO

CHERRON FORTADO

JOSEPH EASTWOOD, III

ELIZABETH EASTWOOD

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RICHARD J. BREITWIESER
NOTARY PUBLIC-CALIFORNIA
COUNTY OF CONTRA COSTA
My Commission Expires May 30, 1979

BOOK 8571 PAGE 565

STATE OF CALIFORNIA,
County of Alameda } ss.

On this 12th day of July in the year one thousand nine hundred and seventy-seven before me, Richard J. Breitwieser, a Notary Public, State of California, duly commissioned and sworn, personally appeared John Olander

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the County of Alameda the day and year in this certificate first above written.

Richard J. Breitwieser

Notary Public, State of California. My Commission Expires

Cowdery's Form No. 34—(Acknowledgment—General) (C. C. Sec. 1189) PRINTED 11/23/65 61-0322

OFFICIAL SEAL
GLADYS M. FLEIGE
NOTARY PUBLIC-CALIFORNIA
CONTRA COSTA COUNTY
My Commission Expires July 15, 1977

STATE OF CALIFORNIA,
County of CONTRA COSTA } ss.

On this 13th day of July in the year one thousand nine hundred and seventy-seven (1977) before me, Gladys M. Fleige, a Notary Public, State of California, duly commissioned and sworn, personally appeared LAURENCE CURTOLA, FREDERICKA CURTOLA, ROBERT R. SMILEY, IRENE SMILEY, GEORGE A. FORTADO and CHERRON FORTADO

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the County of Contra Costa the day and year in this certificate first above written.

Gladys M. Fleige

Notary Public, State of California. My Commission Expires July 15, 1977

Cowdery's Form No. 34—(Acknowledgment—General) (C. C. Sec. 1189) (PRINTED 1/19/66) 61-0420

STATE OF CALIFORNIA
COUNTY OF Alameda } ss.

ON 12 July, 1977, before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph Eastwood III and Elizabeth Eastwood, known to me, to be the person s whose name s are subscribed to the within instrument, and acknowledged to me that ~~the~~ y executed the same.

WITNESS my hand and official seal.

OFFICIAL SEAL
RICHARD MENDELL
NOTARY PUBLIC - CALIFORNIA
PRINCIPAL OFFICE IN
ALAMEDA COUNTY
My Commission Expires July 26, 1977

Richard Mendell

Notary Public in and for said State.

ACKNOWLEDGMENT—General—Wolcotts Form 233—Rev. 3-64

EXHIBIT "A"

A portion of the East 1/2 of Section 15 and a portion of the West 1/2 of the Southwest 1/4 of Section 14, Township 1 South, Tange 1 West, Mount Diablo base and Meridian, Contra Costa County, California being a portion of Parcels "A" "B" and "C" as said parcels are shown on the parcel map filed November 3, 1975, in Book 40 of Parcels Maps, at pages 49, 50 & 51, Official Records of Contra Consta County, California, described as follows:

A right of way over a strip of land ~~0.00~~ 15.0 feet in width, the northern and eastern lines of which are ~~0.00~~ 15.0 feet northerly and easterly, at right angles, from the southern and western lines, said southern and western lines being described as follows:

Beginning at the southwest corner of said Parcel "A" being the southwest corner of the northeast 1/4 of said Section 15; thence North 88°10'51" East along the southern line of said Parcels "A" and "B", 1994.11 feet; thence southerly along the western line of said Parcel "C" South 23°02'30" East, 182.59 feet, South 40°43'10" East, 321.40 feet, South 29°29'40" East, 186.16 feet and South 35°12'40" East, 136.96 feet; thence leaving said western line North 44°17'42" East, 4.91 feet to the western line of the proposed 50 foot right of way as shown on said map; thence southerly along the western line of said proposed 50 foot right of way South 37°17'20" East, 264.75 feet, South 12°13'45" East, 92.12 feet, South 38°02'00" East, 470.65 feet and South 21°34'00" East, 300.48 feet to a point on the northern line of Lot 255, as said lot is shown on the map of Mt. Diablo Estate Park Subdivision Unit No. One, filed May 6, 1916, in Book 15 of Maps, at page 301, Official Records of Contra Costa County, said point bears North 86°53'00" East, 1.05 feet from the northwest corner of said Lot 255.

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EXHIBIT "B"

Lease property, being a portion of Parcels B and C as said parcels are shown as a Road on the Parcel Map filed November 3, 1975, in Book 40 of Parcel Maps at pages 49, 50 and 51, Official Records of Contra Costa County, California, to be used as an extension of Alameda Diablo.

It is expressly agreed by and between LESSORS and LESSEES, that said road, being the portion described above, may be modified with the written consent of all parties.

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EXHIBIT "C"

All that property which appears in the Parcel Map filed November 3, 1975, in Book 40 of Parcel Maps at Pages 49, 50 and 51, Orricial Records of Contra Costa County, State of California.

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EXHIBIT "D"

A non-exclusive easement, 50.00 feet in width, as an appurtenance to Parcel "A" as said parcel is shown on the parcel map filed November 3, 1975, in Book 40 of Parcel Maps, at page 49, Official Records of the County of Contra Costa, State of California, for use as a roadway for vehicles of all kinds, pedestrians and animals and as a right of way for water, gas, oil and sewer pipe lines, and for telephone, electric light and power lines and for television lines, together with the necessary poles or conduits to carry said lines over, under, along and across a 50.00 foot strip of land being a portion of Parcels "C" and "B" as said parcels are shown on said Parcel Map (40 P.M. 49), said 50.00 foot easement being described as follows:

A 50.00 foot strip of land the western and southern lines of which are 50.00 feet westerly and southerly, measured at right angles, to the eastern and northern lines, said eastern and northern lines being described as follows:

Beginning at the centerline of Mt. Diablo Scenic Blvd., as said road is shown on said Parcel Map (40 P.M. 49), on the eastern boundary line of said Parcel "C" (40 P.M. 49); thence along the eastern boundary lines of said Parcels "C" and "B", North 23°26'52" East, 30.17 feet, North 1°55'25" East, 146.89 feet, North 68°05'15" East, 186.19 feet, North 8°55'45" West, 210.00 feet, North 26°16'45" West, 400.00 feet, North 29°17'28" West, 120.89 feet and North 8°27'37" West, 50.00 feet; thence leaving said eastern boundary line of said Parcel "B" South 71°00'00" West, 100.00 feet; thence South 12°00'00" West, 140.00 feet; thence North 9°00'00" West, 100.00 feet; thence North 32°00'00" West, 160.00 feet; thence North 3°30'00" West, 140.00 feet; thence North 24°30'00" West, 230.00 feet; thence North 63°00'00" West, 100.00 feet; thence South 82°30'00" West, 110.00 feet; thence North 69°00'00" West, 180.00 feet; thence North 24°00'00" West, 250.00 feet; thence North 79°00'00" West, 184.37 feet to a point on the eastern boundary line of said Parcel "A", said point bears South 25°24'05" East, 1512.15 feet from the northeast corner of said Parcel "A" (40 P.M. 49).

The western and southern lines of said 50.00 foot non-exclusive easement shall be lengthened or shortened such that said 50.00 foot non-exclusive easement shall extend entirely across said Parcels "C" and "B" (40 P.M. 49).

END OF DOCUMENT