



PLACER, County Recorder
JIM MCCAULEY

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Thursday, NOV 04, 2004 12:39:03

NOC \$0.00

Ttl Pd \$0.00

Nbr-0001179953

J1F/JL/2-7

RECORDING REQUESTED BY:

Joe Brunell
Auburn Valley Community Services District
P. O. Box 5456
Auburn, Ca. 95604

MAIL RECORDED COPY TO:

Joe Brunell
Auburn Valley Community Services District
P. O. Box 5456
Auburn, Ca. 95604

APN: 026-370-041

**AGREEMENT GRANTING AN EASEMENT
FOR THE SUBSURFACE DISPOSAL OF TERTIARY TREATED WASTEWATER**

THIS AGREEMENT is entered into this 19 day of March 2001, by and between the Auburn Valley Community Services District ("District") and the Auburn Valley Country Club ("Club").

WHEREAS, District is responsible for providing for wastewater treatment services and related facilities for the property and the inhabitants of the District.

WHEREAS, District is expanding the capacity for wastewater treatment services which necessarily includes the construction of additional facilities to treat and dispose of wastewater, including the construction of a system for subsurface disposal of tertiary treated wastewater.

WHEREAS, Club owns real property which it currently operates as a golf course which includes land suitable for construction of a system for subsurface disposal of tertiary treated wastewater.

WHEREAS, a system for subsurface disposal of tertiary treated wastewater is a necessary part of the expanded infrastructure necessary to serve property, and current and future residents of the District, and Club desires to provide land for construction of the system for subsurface disposal of tertiary treated wastewater and District desires to use specific land owned by the Club for subsurface disposal of tertiary treated wastewater.

NOW, THEREFORE, in consideration of the terms and conditions herein set forth, District and Club agree as follows:

1. Easement

- 1.1 Club hereby grants to District an easement for the construction and maintenance of a sewer plant and subsurface disposal of tertiary treated wastewater. The location of the easement is generally described as the fringe along the current 17th and 18th fairway, between the 10th and the 18th fairway, behind the 10th green, the top part of the driving range and a 22-foot wide road from the parking lot to the plant site. If necessary, as determined by test results on the above easement, the parties will identify additional easement property to satisfy the subsurface disposal requirements of the sewer system. The easement is more specifically defined and identified in the Deed of Easement Exhibit A attached hereto and incorporated herein by this reference. The easement does not exceed the boundaries as identified in Exhibit A except that District, its agents and employees may travel on or pass over Club property adjacent to the easement for purposes of construction and ongoing maintenance.

2. Term – Deed of Easement

- 2.1 The Deed of Easement, Exhibit A attached hereto and incorporated herein by this reference shall be recorded in the public records and the easement may be terminated by mutual agreement of the parties and recordation of other easements thereafter. The easement may not be treated as abandoned, at any time, for any reason unless and until District provides written notice to Club that the District intends to and has abandoned the easement.

3. Fee

- 3.1 District shall pay to Club a one time fee of Sixty Eight Thousand Dollars (\$68,000) which shall be paid no later than 10 business days from the date District receives all permits from regulatory agencies governing the design, construction and operation of the wastewater treatment plant and related facilities.

4. Construction

4.1 Construction Schedule

Installation of the system for subsurface disposal of tertiary treated wastewater shall be coordinated with the Club's Grounds Superintendent or other designee. District shall provide Club with a beginning and completion date for construction/installation of the system and shall provide a schedule with specific dates that construction activities will occur on Club property.

4.2 Protection of Property and Persons

District shall be solely responsible for conducting its construction and installation operations in a safe manner and shall be responsible for complying with all standard safety practices, and all safety regulations governing the work of improvement. District or its contractors and/or subcontractors shall provide adequate supervision during all construction activities to minimize risks associated with the use of the Club's facilities during construction operations. District shall coordinate and proceed with its construction in a manner that will minimize any risk of damage to golf course facilities such as fairways, greens or tee boxes or which would negatively impact the play of golfers using the golf course. Upon completion of construction, the District at its sole expense shall return all Club property disturbed or damaged by the construction operations to its original condition.

4.3 Effluent

Effluent discharged through the completed system shall be deemed to be produced by District, and not Club, and shall be considered to be owned by the District for all purposes.

5. Indemnification

5.1 District will indemnify and hold harmless the Auburn Valley Country Club, its Board of Directors, officers, agents and employees from and against all claims, damages, losses, demands, liabilities, cost and expenses arising out of or resulting from the construction, installation and maintenance of the system for subsurface disposal of tertiary treated wastewater and arising out of District's use of the easements set forth herein.

6. Recording of Agreement

6.1 District shall record a copy of this Agreement and shall record the Deed of Easement, in the form set forth in Exhibit A attached hereto, in the Official Records of Placer County.

7. Third Party Beneficiaries

7.1 District and Club agree that this Agreement is by and between the parties named herein, and/or their successors and assigns and no third party is intended, expressly or by implication, to be benefited by this Agreement.

8. Complete Agreement

- 8.1 This Agreement supersedes any and all agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party which is not embodied herein or any other agreement, statement or promise not contained in this Agreement shall be valid and binding.

9. Attorney Fees

- 9.1 In the event of any action or proceeding brought by any party against any other pursuant to this Agreement, the prevailing party shall be entitled to recover all costs and expenses, including the actual fees of its attorneys, including in-house counsel, incurred for prosecution, defense, consultation or advice in such action or proceeding, not limited to but including costs of expert witnesses, attorney preparation, court reporting fees, etc.

10. Binding Agreement

- 10.1 The terms and conditions of this Agreement shall be binding upon the parties hereto and upon their successors and assigns and shall inure to the benefit of said parties and their successors and assigns.

11. Invalid Term

- 11.1 If any provision of this Agreement is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this agreement.

12. Modification

- 12.1 This Agreement may not be altered, amended or modified or changed in any respect or particular whatsoever except by a writing duly executed by all parties hereto.

13. Representation of Comprehension of Document

- 13.1 Each party has reviewed and revised, or had the opportunity to review and revise this Agreement; accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendment of it.

14. Authorization

- 14.1 Each person executing this Agreement represents that the execution of this Agreement has been duly authorized by the party on whose behalf the person is executing the Agreement and that such person is authorized to execute the Agreement on behalf of such party.

15. Execution of Agreement

This Agreement shall not be executed in counterparts and all signatures must be notarized to facilitate recording of this Agreement.

IN WITNESS WHEREOF, the District has caused this Agreement to be properly executed and Club has caused this Agreement to be properly executed, as of the date herein above set forth.

District: Auburn Valley Community Services District

By: Joe Brunell

Joe Brunell, President Board of Directors

State of California }

County of Placer }

ss.

On this 29th day of MARCH, 2001, before me Amy Daniels the undersigned Notary Public, personally appeared Joe Brunell who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Amy Daniels

District: Auburn Valley Country Club

By: C. Scott Huntley, Jr.

State of California }

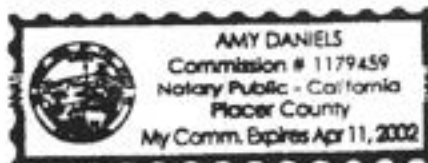
County of Placer }

ss.

On this 26th day of MARCH, 2001, before me Frances Sheridan the undersigned Notary Public, personally appeared C. Scott Huntley, Jr. who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Frances Sheridan



DEED OF EASEMENT

Auburn Valley Country Club, a California Corporation, as Grantor hereby grants to Auburn Valley Community Services District, a Public Agency organized under the laws of the State of California as Grantee, the following easement on real property in the County of Placer, State of California, more specifically described as:

A portion of [legal description], Placer County, California, an easement for installation and maintenance of a system for the subsurface disposal of tertiary treated wastewater, including lines, utilities, pipes and other components of a subsurface tertiary treated wastewater disposal system. Said easement having _____ [insert specific description identifying the easement].

A non-exclusive easement to travel on or to pass over Auburn Valley Country Club property adjacent to the designated easements for the purpose of constructing, installing and maintaining the subsurface disposal system. The legal description is more specifically set forth, shown and described in a map identified as Exhibit 1 to this Deed of Easement and incorporated herein by this reference. District to have and to hold said easements for the purposes designated, together with the right of ingress and egress.

District: Auburn Valley Country Club

By: _____

State of California

County of ~~Placer~~ Nevada

On this 26th day of March, 2001, before me Frances Sheridan the undersigned Notary Public, personally appeared C. Scott Huntley who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal

Frances Sheridan



Exhibit 1

Exhibit A

Attachment F

WASTE DISCHARGE REQUIREMENTS ORDER NO. 5-01
AUBURN VALLEY COMMUNITY SERVICES DISTRICT
AUBURN VALLEY COUNTRY CLUB
HARVEGO REAL ESTATE, LLC.
PLACER COUNTY

