

Appendix 11
Subordination Agreement



Memorandum

TO: Permit Applicant, Coastal Development Permit No. _____

SUBJECT: Attached Subordination Agreement

Your project has been approved with a condition requiring recordation of one or more legal instruments or documents, such as a dedication of a public access easement, an offer of dedication, or a deed restriction. The permit condition requires that such documents be recorded free of all prior liens or encumbrances except for tax liens which the Planning Director and legal counsel have determined may affect the interest being conveyed.

If a title report shows that the property is encumbered by a lien such as a deed of trust or mortgage, then the beneficiaries of the lien (such as a bank or lender) must execute an agreement which subordinates their claim to the recorded instrument.

The purpose of the Subordination Agreement is to ensure that the County will not lose the power to enforce an instrument which was required by a permit condition, should there be a foreclosure following development of the permitted project.

The beneficiary will not be subordinating to any monetary interest, nor will he/she risk his/her monetary interest by subordinating. In most cases, the beneficiary's interest in the property should be enhanced because the permitted development will increase the value of the property.

Instructions for completing the Subordination Agreement are on the next page. A separate Subordination Agreement is required for each separate deed of trust or other lien being subordinated. If you have any questions, please contact the Planning Department.

Prior to the documents' recordation, the Subordination Agreement (if needed) must be submitted to the Planning Department along with the other documents for review by Planning and County Counsel staffs.

INSTRUCTIONS FOR COMPLETING SUBORDINATION AGREEMENT

PLEASE NOTE: The instructions below must be followed exactly. Failure to complete each item properly will necessitate return of the document for re-execution and delay issuance of the permit.

All signatures must be complete and properly notarized. Corporations, partnerships, government entities, and trusts require different forms of notary acknowledgement from the "personal" form provided here. The signature line must indicate the name of the corporation, etc., and the notary public must use the appropriate form of acknowledgement. If the notary public uses the wrong form, the document will be returned for a new notary acknowledgement.

1. Beneficiary. Enter the name(s) of the beneficiary as appears on the deed of trust or title report (or title insurance). This will usually be the name of a bank or an individual. If the beneficial interest of the deed of trust has been assigned, the new beneficiary must be named here and must sign the document.
2. Trustor. Enter the name of the trustor as shown on the deed of trust or title report. This is usually the owner of the property. If a new owner has assumed the loan, the new owner will be the trustor.
3. Deed of Trust Date.
4. Date Deed of Trust Recorded; and
5. County Recorder's Instrument No. (or Book and Page No.).
6. Legal description of property must be attached as Exhibit A. This should be taken from a deed to the property or from the title report. A parcel number is not an adequate legal description.
7. Trustee. Enter the name of the trustee as shown on the Deed of Trust. If there has been a substitution of trustee, the new trustee should be named on this document.
8. Instrument Acknowledged. Enter the complete title(s) of the document(s) being recorded for the permit condition(s): This will be a Deed Restriction(s) and/or Irrevocable Offer(s) to Dedicate Public Access Easement, and/or dedication of a Public Access Easement.
9. Date of Instrument Acknowledged. (See No. 8.) This is the date the owner signed the Deed Restriction and/or Offer to Dedicate.
10. Signator(s) of Instrument Acknowledged. (See No. 8). This is the owner(s) of the property.

Recording Requested by and
When Recorded, Mail To:
Monterey County Planning Dept.
P. O. Box 1208
Salinas, CA 93906

Permit No. _____
Applicant Name: _____
Project Planner: _____

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT. (THIS NOTICE REQUIRED BY CALIFORNIA CIVIL CODE SECTION 2953.3)

This subordination agreement is made between _____

(1) _____,
hereinafter called "Beneficiary", and _____

(2) _____,
hereinafter called "Trustor". The undersigned beneficiary under Deed or Trust dated (3) _____ and recorded on

(4) _____ as Document No. (5) _____,
Official Records in the Office of the County Recorder of Monterey County, encumbering the real property described in Exhibit A (6) to this document, which Deed of Trust has as Trustee (7) _____

hereby acknowledges the (8) _____

dated (9) _____, executed by (10) _____,
_____ , recorded

concurrently herewith, and does hereby subordinate the interests

of its Deed of Trust thereto on behalf of the People of the State of California.

DATED: _____

BY: _____
SIGNATURE OF BENEFICIARY

SIGNATURE OF TRUSTOR

PRINT OR TYPE ABOVE

PRINT OR TYPE ABOVE

SIGNATURE OF BENEFICIARY

SIGNATURE OF TRUSTOR

PRINT OR TYPE ABOVE

PRINT OR TYPE ABOVE

NOTE TO NOTARY PUBLIC: If any party signing the attached subordination agreement is signing on behalf of a corporation, public agency, trust, partnership, etc., please use the property notary acknowledgement (jurat).

STATE OF CALIFORNIA)
COUNTY OF _____) ss.

On this _____ day of _____, in the year _____, before me _____, a Notary Public, personally appeared _____, personally known to me / or proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to this instrument, and acknowledged that he/she/they executed it.

NOTARY PUBLIC IN AND FOR SAID
STATE AND COUNTY

NOTE TO NOTARY PUBLIC: If any party signing the attached subordination agreement is signing on behalf of a corporation, public agency, trust, partnership, etc., please use the property notary acknowledgement (jurat).

STATE OF CALIFORNIA)
)ss.
COUNTY OF _____)

On this _____ day of _____, in the year _____, before me _____, a Notary Public, personally appeared _____, personally known to me / or proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to this instrument, and acknowledged that he/she/they executed it.

NOTARY PUBLIC IN AND FOR SAID
STATE AND COUNTY